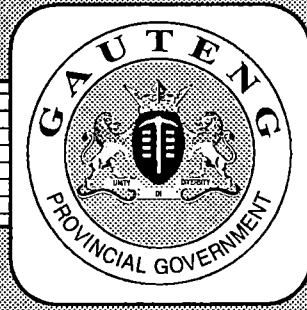


*THE PROVINCE OF
GAUTENG*



*DIE PROVINSIE
GAUTENG*

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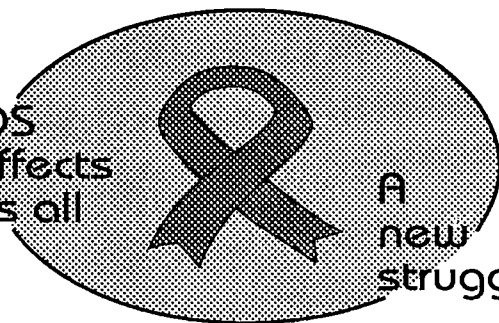
Vol. 8

PRETORIA, 3 JANUARY 2002
JANUARIE

No. 2

We all have the power to prevent AIDS

AIDS
affects
us all



A
new
struggle

Prevention is the cure

**AIDS
HELPLINE**

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DEPARTMENT OF HEALTH

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PREMIER'S NOTICES

OFFICE OF THE PREMIER

No. 1

3 January 2002

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

No. 7 of 2001: Gauteng Public Passenger Road Transport Act, 2001.

ACT

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

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.

(English text signed by the Premier)
(Assented to on 19 December 2001)

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

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PART 1: INTRODUCTORY PROVISIONS

Purpose of this Act

1. (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 to— 25
 - (a) implement provincial and national government policy relating to public passenger road transport services and facilities, monitor the implementation of such provincial policy, conduct investigations into issues arising from the implementation of such policy and make necessary policy adjustments; 30
 - (b) promote and facilitate the increased utilisation and development of public passenger road transport in the Province; 30
 - (c) use the planning and development of public transport as a tool for restructuring society so as to— 35
 - (i) enable and encourage workers to reside nearer to their places of work, especially where locational disadvantages were created by previous discriminatory policies; 35
 - (ii) encourage residential areas to be located nearer to work areas;
 - (iii) promote easier movement of persons in the Province;
 - (iv) promote urban renewal, densification and mixed land uses;
 - (d) 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; 40
 - (e) 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; 45
 - (f) promote co-ordination between modes of public passenger road transport and the seamless movement of passengers in the system;
 - (g) promote public consultation and participation before taking any decision or performing any official act and to prescribe the procedures to be followed in that regard; 50
 - (h) 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 such services;
 - (i) permit motor vehicles to be used for public passenger road transport services only in relation to the types of services offered; 55
 - (j) provide for the registration of operators providing certain types of public passenger road transport services and associations of those operators;

- (k) promote the safety and interests of passengers using public passenger road transport services;
- (l) establish institutional structures to support the objectives of this Act;
- (m) promote effective and efficient enforcement of laws relating to public passenger road transport, including road traffic and road safety laws; 5
- (n) promote professional operating practices by the operators of public passenger road transport services;
- (o) promote the co-ordinated provision of adequate and accessible public passenger transport infrastructure, subject to specific legislation dealing with roads, railway lines and other transport infrastructure; 10
- (p) promote a system where users pay for the services they receive, except where subsidies are needed to enable affordable transport and effective land use, to provide for the accessibility and mobility of special categories of passengers or for other sound policy reasons, and to ensure that services are subsidised only in those circumstances; 15
- (q) provide for competitive tendering for subsidised public passenger road transport services;
- (r) provide for effective and integrated data bases and management information systems for public passenger road transport operations;
- (s) provide for a demerit system for operators of public passenger road transport services; and 20
- (t) promote small, medium and micro enterprises and operators previously disadvantaged by unfair discrimination.
- (2) This Act replaces Chapter 3 of the National Act with regard to matters dealt with in this Act. 25

Definitions

2. 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 in compliance with the National Road Traffic Act; 30
- “**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; 35
- “**Appeal Board**” means the Gauteng Public Passenger Appeal Board referred to in section 55;
- “**association**” means a grouping of persons operating public passenger road transport services— 40
- (a) whose object is not to make profit;
- (b) whose object is to promote the interests of its members; and
- (c) whose funds are to be applied in promoting those interests; 45
- “**authorised 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, motor vehicle licences or control traffic; 50
- (d) a road transport inspector referred to 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; 55
- “**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) is designed or adapted solely or principally for the conveyance of the driver and at least 100 other persons; 60
- (d) has a continuous passageway over its length;

- “**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, referred to 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 issued in respect of the vehicle; 5
- “**charter service**” means a public passenger road transport service involving the hire of a vehicle and a driver at a charge, for a journey arranged beforehand with the operator, where— 10
- (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 luxury motor vehicle with air conditioning facilities, a public address system and other attributes that may be prescribed by regulation or by the Board; 15
- “**coach-type service**” means a scheduled public passenger road transport service, using a coach operating on pre-determined routes and tariffs referred to in section 16; 20
- “**Constitution**” means the Constitution of the Republic of South Africa, 1996 (Act No. 108 of 1996);
- “**contract**” means a subsidised service contract, unsubsidised service contract, current tendered contract or interim contract;
- “**contracting authority**” means— 25
- (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; 30
- “**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 area, and includes any municipality which, after the commencement of this Act, is so designated;
- “**courtesy service**” means a complementary transport service for customers or clients provided by an organisation which is not an operator, where the organisation provides its own vehicle or where a vehicle is provided by an operator in terms of a contract with that organisation with no direct charge to the passengers for the transport; 35
- “**cross-border road transport**” means international cross-border transport as defined in the Cross Border Road Transport Act, 1998 (Act No. 4 of 1998); 40
- “**current tendered contract**” means a contract entered into 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 a 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) and which is still binding, the term of which expires only after the commencement of this Act, and includes a contract which is binding between the— 45
- (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 50
- (b) operator and a transport authority, municipality or core city to which the Province, after the commencement of the National Act— 55
- (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 in the Province responsible for public transport;
- “**double decker bus**” means a motor vehicle with two decks with a capacity of not more than 110 passengers; 60
- “**education service**” means a public passenger road transport service restricted to the scheduled conveyance of learners, students, pre-school children, and super-

- visors between their places of residence and educational institutions and on unscheduled trips to and from their educational institution, that are concerned exclusively with education-related activities, as referred to in section 11;
- "Gauteng Interim Minibus Taxi-Type Services Act"**, means the Gauteng Interim Minibus Taxi-Type Services Act, 1997 (Act No. 11 of 1997); 5
- "Gauteng Tourism Act"**, means the Gauteng Tourism Act, 1998 (Act No. 18 of 1998);
- "Gazette"** means Provincial Gazette;
- "holder"** means the holder of a valid permit or operating licence;
- "Income Tax Act"** means the Income Tax Act, 1962 (Act No. 58 of 1962); 10
- "inspector"** means an inspector designated under section 96;
- "integrated transport plan"** means an integrated transport plan referred to 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 date of commencement of the National Act and which— 15
- (a) was entered into 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 20
- (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 referred to in paragraph (a);
- "interprovincial transport"** means a public passenger road transport service 25 operating between two or more provinces;
- "intraprovincial transport"** means a public passenger road transport service operated within the boundaries of the Province;
- "limousine"** means a luxury motor vehicle approved by the Board as a limousine with a capacity of four to eight passengers; 30
- "long distance service"** means a scheduled or unscheduled public passenger road or rail 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 35 by means of a motor vehicle which is designed, or lawfully adapted by a registered manufacturer in compliance with the National Road Traffic Act, to carry fewer than nine seated persons, including the driver, where that vehicle—
- (a) is available for hire by hailing, by telephone or otherwise; 40
- (b) may stand for hire at a rank; and 40
- (c) is equipped with a sealed meter, in good working order, for the purpose of determining the fare payable;
- "metropolitan authority"** 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); 45
- "midibus"** means a motor vehicle designed or lawfully adapted by a registered manufacturer in compliance with the National Road Traffic Act, 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, to carry from nine 50 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, midibus or adapted light delivery vehicle; 55
- "motor car"** means a motor vehicle, other than a motor cycle, motor tricycle or motor quadrucycle as defined in the National Road Traffic Act, designed or lawfully adapted by a registered manufacturer in compliance with that Act to carry not more than eight persons, excluding the driver;
- "motor vehicle"** and **"vehicle"** mean a motor vehicle as defined in section 1 of 60 the National Road Traffic Act;
- "municipality"** includes all municipalities referred to in section 155(6) of the Constitution, and in the case of a category C municipality referred to in section 155(1)(c) thereof, also includes the Category B municipalities referred to in section

155(1)(b) in its area;

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

“National Road Traffic Act” means the National Road Traffic Act, 1996 (Act No. 93 of 1996); 5

“non-contracted service” means a public passenger road transport service other than one operated in terms of an unsubsidised service contract, subsidised service contract, current tendered contract or interim contract;

“non-member” means any person, whether a natural person or a juristic person, who is not a member of an association; 10

“open double decker bus” means a double decker bus specially designed or adapted by a registered manufacturer in compliance with the National Road Traffic Act, for tourist or charter services and which conforms to prescribed safety standards and has been approved by the Board for that purpose;

“operating licence” means a public transport operating licence required by section 33 of the National Act, granted and issued in accordance with Part 6; 15

“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; 20

“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 regulation; 25

“Province” means the Province of Gauteng;

“Provincial Public Passenger Transport Forum” means the Provincial Public Passenger Transport Forum established in terms of 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— 30

(a) a tuk-tuk service;

(b) a metered taxi service;

(c) a minibus taxi-type service; 35

(d) a bus-type service;

(e) an education service;

(f) a tourist service;

(g) a charter service;

(h) a staff service; 40

(i) a courtesy service;

(j) a coach-type scheduled service;

(k) a shuttle service;

“registered manufacturer” includes a manufacturer, importer or builder of motor vehicles registered under section 5 of the National Road Traffic Act; 45

“Registrar” means the Gauteng Transport Registrar appointed under section 60;

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

“semi-trailer” means a semi-trailer as defined in section 1 of the National Road Traffic Act; 50

“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 referred to 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 between their places of residence and work, or for work-related trips and free of direct charges; 55

“standard bus” means a motor vehicle designed or lawfully adapted by a registered manufacturer in compliance with the National Road Traffic Act, with a capacity of 36 to 70 seated passengers and the number of standing passengers authorised by the relevant road worthy certificate; 60

“**subsidised service contract**” means an agreement, other than an interim contract or a current tendered contract, concluded between the Department, a transport authority, a municipality or a core city on the one hand, and an operator on the other hand, to operate a scheduled service and in terms of which the operator, in addition to the passenger fares paid, receives financial support in terms of a tendered contract; 5

“**this Act**” includes regulations;

“**Tourism Act**” means the Tourism Act, 1993 (Act No. 72 of 1993);

“**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); 10

“**Transport Appeal Tribunal Act**” means the Transport Appeal Tribunal Act, 1998 (Act No. 39 of 1998);

“**transport authority**” means an authority referred to in section 10(1) of the National Act; 15

“**transport operating licence administrative body**” means a transport operating licence administrative body referred to in section 34;

“**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 four passengers; 20

“**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 a speed less than 45 kilometres per hour as referred to in section 7;

“**unauthorised public passenger road transport**” means public passenger road transport not authorised 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 terms and conditions of the operating licence or permit; 25

“**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; 30

“**unsubsidised service contract**” means a commercial service contract referred to in the National Act, being an agreement entered into 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; 35
- (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. 40

PART 2: PUBLIC PASSENGER ROAD TRANSPORT SERVICES

Principles for specifying public passenger road transport services in transport plans 45

3. (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— 50

- (a) subsidised service contracts for scheduled services;
- (b) unsubsidised service contracts for—
 - (i) scheduled services; 55
 - (ii) unscheduled services;
 - (iii) area services;
- (c) non-contracted services for—
 - (i) scheduled services;
 - (ii) unscheduled services; 60

- (iii) area services; operating without subsidy.
- (3) A person undertaking a public road transport service must—
 - (a) have the necessary permit, operating licence or ad hoc authorisation; and
 - (b) be registered in terms of this Act in the case of minibus taxi-type, metered taxi, bus-type and coach-type services subject to section 69, section 77 and section 81. 5
- (4) An association may not be the holder of a permit or operating licence.
- (5) Only one operating licence may be issued for any motor vehicle.

Exemptions 10

4. For the purposes of this Act, the definition of “public passenger road transport” is deemed to exclude the following:
- (a) the conveyance by means of an ambulance of a patient to or from a place where such a patient is to receive medical treatment;
 - (b) the conveyance of persons by a motor car as part of a lift club, where 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 and where no direct or indirect payment is made for the conveyance. 15

Provisions relating to drivers and vehicles 20

5. (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; and
 - (c) have a good knowledge of the area in which the services are operated. 25
- (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. 30
- (4) The Board—
- (a) must approve the type and condition of vehicles to be used for particular public passenger road transport services;
 - (b) or an authorised officer may require an applicant for an operating licence to submit a vehicle for retesting where it suspects that the vehicle is not roadworthy, notwithstanding that a valid roadworthy certificate has been issued in respect of the vehicle; and
 - (c) may refuse to issue an operating licence if in its opinion a vehicle is not roadworthy. 35
- (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. 40
- (6) In addition to the requirements of the National Road Traffic Act, vehicles used for public passenger road transport services must be kept in a good condition both inside and outside. 45
- (7) (a) A 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. 50
- (b) The fire extinguisher and first aid box must be placed or fixed in the prescribed manner and place in the vehicle, and fire extinguishers must be replaced at prescribed intervals.

Categories of services

6. (1) Operating licences for public passenger road transport services are issued in respect of the following services:
- (a) a tuk-tuk service referred to in section 7; 55
 - (b) a metered taxi service referred to in section 8;
 - (c) a minibus taxi-type service referred to in section 9;

- (d) a bus-type service referred to in section 10;
- (e) an education service referred to in section 11;
- (f) a tourist service referred to in section 12;
- (g) a charter service referred to in section 13;
- (h) a staff service referred to in section 14; 5
- (i) an accessible transport service;
- (j) a shuttle service referred to in section 17;
- (k) a courtesy service referred to in section 15;
- (l) a coach-type scheduled service referred to in section 16.

(2) The MEC may, by notice in the *Gazette* and after consultation with the Provincial Public Passenger Transport Forum, add services to, alter or remove services from the list provided in subsection (1). 10

(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. 15

Tuk-tuk services

7. A tuk-tuk service may—

- (a) not carry more than three passengers;
- (b) be provided only by a tuk-tuk vehicle, where the Board prescribes in the relevant operating licence— 20
 - (i) an urban route or road network on which or an area within which it may operate;
 - (ii) a maximum speed of operation of 45 kilometres per hour.

Metered taxi services

8. (1) A metered taxi service may be provided only by a motor car or minibus, but— 25
- (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 must be approved by the Board after consultation with the metered taxi associations operating in the area; 30
 - (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; 35
 - (f) the vehicle must be marked in the prescribed manner.

(2) The Board may determine minimum or maximum fares for metered taxi services which must be published in the *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 and where such a determination is made, it must be stated in the relevant operating licence. 40

(4) Metered taxis may leave their defined areas of operation if—

- (a) they carry the same passengers to and from their destinations;
- (b) the taxi returns empty; or 45
- (c) they are required to do so in terms of a contract approved by the Board.

(5) Despite 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.

Minibus taxi-type services

9. (1) Minibus taxi-type services may be provided only by motor cars, minibuses, midibuses or adapted light delivery vehicles. 50

(2) The operating licence granted for a minibus taxi-type service must provide that the service is route or network based, except in the special circumstances allowed by this Act.

(3) Minibus taxi-type services are unscheduled public passenger road transport services for not more than 35 passengers that are not subject to restrictions in respect of fares and timetables. 55

Bus-type services

10. (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 may restrict the service in the operating licence to specified areas or road networks. 5

(3) Bus-type services must be scheduled services operating on specified routes or networks according to published tariffs and timetables which, in the case of subsidised services, must be approved by the authority paying the subsidy.

Education services

11. (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 to and from the educational institution in question if these are concerned exclusively with education-related activities. 10

(2) Education services may be provided by motor cars, minibuses, midibuses, standard buses, double decker buses, bus trains or adapted light delivery vehicles. 15

(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 in the prescribed manner, and must consider any such comments and recommendations that are received. 20

Tourist services

12. (1) Tourist services must be pre-booked services catering for leisure travel where the tourists are accompanied by a tour guide registered under section 21 of the Tourism Act.

(2) No operating licence authorising tourist services may be granted unless the Board has obtained and considered recommendations from a tourism authority recognised by the MEC, but the Board may proceed without such recommendations where such authority has not supplied them in the time specified in the Board's request. 25

(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. 30

(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. 35

(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 as prescribed. 40

(7) Tourist services may not be provided by bus-trains.

Charter services

13. (1) Charter services may only be provided where passengers are conveyed to a common destination and where the destination, date and time of departure are pre-determined by the person or organisation booking the trip. 45

(2) Charter service may not be provided by tuk-tuks.

Staff services

14. Staff services may be provided using vehicles approved by the Board, excluding a tuk-tuk, if the operating licence granted for the staff service stipulates that the service is route or network based or area bound. 50

Courtesy services

15. Courtesy services may not be provided by a double decker bus or a bus-train.

Coach-type services

16. (1) A coach-type service may be provided only by means of a coach but—
- (a) seats must be provided for all passengers;
 - (b) the vehicle must be equipped with a toilet where passengers will be conveyed for sections of journeys exceeding 200 kilometres; 5
 - (c) the service must operate on a scheduled basis on pre-determined routes and with pre-determined tariffs.
- (2) The Board may prescribe additional attributes for coaches.

Shuttle services

17. (1) A shuttle service may be provided only by means of a limousine, motor car, 10
minibus, midibus, standard bus, double decker bus or coach.
- (2) Shuttle services must include a predetermined tariff per route which is advertised in any manner approved by the Board.
- (3) The Board may prescribe a maximum number of passengers that may be carried by a vehicle used for a shuttle service, despite the fact that the capacity of the vehicle is 15
greater.
- (4) 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.
- (5) In granting an operating licence for a shuttle service, the Board may impose 20
conditions that the vehicle must be equipped with air conditioning or other equipment determined by the Board.

Categories of vehicles

18. (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 25
otherwise provided in sections 7 to 17:
- (a) tuk-tuks;
 - (b) limousines;
 - (c) motor cars;
 - (d) minibuses; 30
 - (e) midibuses;
 - (f) standard buses;
 - (g) double decker buses;
 - (h) bus-trains;
 - (i) adapted light delivery vehicles; 35
 - (j) semi-trailers;
 - (k) coaches.
- (2) The MEC may by notice in the *Gazette* and after consultation with the Provincial Public Passenger Transport Forum, add, alter or remove vehicles from the list provided in subsection (1). 40
- (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 45**Powers of the MEC**

19. Apart from the powers mentioned elsewhere in this Act, and in the National Act, the MEC may in consultation with the MEC for Finance—
- (a) finance research on public passenger road transport services;
 - (b) finance demonstration or pilot projects on such services; 50
 - (c) disseminate information on 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; 55

- (f) give guidance to associations or bodies of persons working towards the promotion of public passenger road transport;
- (g) enter into agreements with other provinces regarding the interprovincial movement of vehicles used for public passenger road transport services and related matters. 5

Duties of the MEC

20. The MEC must—

- (a) monitor the implementation of provincial public passenger road transport policy, conduct investigations into issues arising from the implementation of the policy and make necessary policy adjustments; 10
- (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; 15
- (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; 20
- (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— 25
 - (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; 30
 - (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; 35
- (h) promote public passenger road transport so as to achieve— 40
 - (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.

Regulations

45

21. (1) The MEC may make regulations prescribing—

- (a) the information to be submitted with an application for the granting, renewal, amendment or transfer of an operating licence;
- (b) the manner and form in which applications regarding operating licences must be made; 50
- (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 or Registrar;
- (e) the information to be supplied by the Board or Registrar 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; 55
- (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; 5
- (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; 10
- (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— 15
- (i) public passenger road transport information;
- (ii) public hearings and public participation in public passenger road transport planning and policy formulation;
- (iii) performance auditing of the progress of transport authorities, core cities and municipalities in implementing public passenger road transport policy; 20
- (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; 25
- (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 the Board or Registrar to give evidence or to produce a book, plan or other document or article; 30
- (t) rules concerning the safety and comfort of passengers on public passenger road 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 or Registrar to prescribe the form thereof; 35
- (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; 40
- (w) rules for operational safety of vehicles used in public passenger road transport; 45
- (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; 50
- (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; 55
- (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; 60
- (ee) the provision of training for drivers or operators undertaking public passenger road transport services;
- (ff) the transporting of learners and students;

- (gg) the membership and functioning of local taxi liaison committees referred to in section 91 or local liaison forums referred to 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 permits or operating licences that are valid for longer than one year; 5
- (jj) any other matter that will promote the objects of this Act.
- (2) The MEC may make regulations requiring the payment of fees for—
 - (a) an application for the granting, renewal, amendment or transfer of an operating licence; 10
 - (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, 15
 and prescribing the amount of the fee, the circumstances in which the fees paid will be forfeited or refunded in whole or in part, the amount of a partial refund and the circumstances in which the fees 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 Minimum Standard Constitution for associations and a Code of Conduct for non-members, and may make additional rules governing the manner in which— 20
 - (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. 25
- (5) Regulations envisaged in 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.
- (6) Any regulation made in terms of a law repealed or excluded by this Act and in force immediately before the commencement of this Act with regard to matters in relation to which the MEC is competent to make regulations in terms of this section, is regarded for the purposes of this Act, as regulations made in terms of this section until the MEC makes a superseding regulation under this section. 30

By-laws 35

- 22. (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; 40
 - (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 dropping off 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 dropping off may take place. 45
- (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 public passenger road transport services, and the form and issuing of distinguishing marks in that regard; 50
 - (b) the allocation of facilities to particular 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. 55
- (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 relevant transport plans. 60

Information requirements and reporting systems**23. The MEC—**

- (a) 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; 5
- (b) may withhold from a municipality or transport authority appropriations or grants from a date determined by him or her, unless the authority is complying with the reporting requirements referred to in paragraph (a);
- (c) must publish requirements or regulations prescribing the system referred to in paragraph (a) in the *Gazette*; 10
- (d) may undertake the collection of information in connection with public passenger road transport and make it available to interested persons and disseminate information in connection with such transport by means of the press, radio, television or other media. 15

Delegation

24. 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 ROAD TRANSPORT PLANNING 20**Principles for public passenger road transport planning**

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

- (a) integrated, comprehensive planning must occur within a broader developmental vision that integrates transport and spatial planning; 25
- (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 with providers of rail services;
- (d) through-ticketing and similar methods must be used to reduce travel times and enhance convenience for passengers; 30
- (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.

Public passenger road transport plans 35

26. (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. 40
- (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) timetables for scheduled services;
 - (c) existing capacity determined on such routes;
 - (d) passenger demand on such routes; 45

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 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. 50

(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. 55

Duties of transport authorities, core cities and municipalities relating to planning

27. (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. 5

(3) Transport authorities, core cities and municipalities must ensure, as far 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. 10

(4) Where a transport plan shows an oversupply of services on a route, the transport authority must— 15

- (a) not invite applications for new operating licences on that route;
- (b) request the Board in writing not to issue any new operating licences, or amend any operating licence to authorise additional services on the route; and
- (c) 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. 20

(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.

Transitional matters relating to planning 25

28. (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. 30

(2) Any public transport record prepared in terms of section 3 of the National Land Transport Interim Arrangements Act, 1998 (Act No. 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 by agreement allocate responsibilities to particular transport authorities or municipalities by notice in the *Gazette*. 35

(4) Where at the commencement of this Act, the Province has been undertaking planning of public transport, other than of services referred to 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. 40

PART 5: THE GAUTENG TRANSPORT OPERATING LICENCE BOARD

Establishment and constitution of Gauteng Transport Operating Licence Board

29. (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 changed to the Gauteng Transport Operating Licence Board and is deemed to be the board referred to in section 30(1) of the National Act. 45

(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. 50

(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 55

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. 5

(c) The MEC must give due consideration to any comments and representations so received.

(5) A person may not be appointed or remain 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 road 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; 10

(b) is subject to any legal disability;

(c) is an unrehabilitated insolvent; or 15

(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 road transport industry, and failure to do so will constitute an offence. 20

(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 this Act, hold office on conditions as to remuneration and otherwise as the MEC may determine when they are appointed. 25

(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, is eligible for re-appointment. 30

(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.

Resignation, vacation of and removal from office of Board members

30. (1) A Board member may resign on two months' written notice to the MEC. 35

(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; 40

(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— 45

(a) becomes subject to any of the disqualifications for appointment mentioned in section 29(5);

(b) is removed from office under subsection (2).

Powers of the Board

31. (1) Apart from the other powers conferred by this Act, the Board may— 50

(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 this Act, an application made to it thereunder—

(i) for the granting of an operating licence authorising public passenger road transport within Gauteng; 55

(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— 5
 - (i) in its discretion allow a person affected by or interested in the matter, or the duly authorised representative of that person, to appear before it and—
 - (aa) give evidence or make oral representations relevant to the matter;
 - (bb) call witnesses and lead evidence on a question relevant to the 10 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 15 book, plan or other document or article in his or her possession or under his or her control;
 - (iii) call upon a person present 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; 20
 - (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 referred to in subsection (1), may administer an oath or affirmation to the person so appearing. 25

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

Meetings and decisions of the Board

32. (1) Meetings of the Board must be held according to the prescribed procedures and at the prescribed times and places. 30

(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 vote in addition to his or her deliberative vote. 35

(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 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. 40 45

Establishment of advisory panel to the Board

33. (1) The MEC may, if requested by the Board, establish an advisory panel called the Gauteng Operating Licence Board Advisory Panel to advise the Board.

(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. 50

(3) (a) The Panel must 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: 55

- (i) one representative from the Department; 55
- (ii) one representative from each metropolitan authority;
- (iii) one representative from the minibus taxi industry;
- (iv) one representative from the metered taxi industry;
- (v) one representative from the organized bus industry;

- (vi) one representative from the emerging or small bus industry;
- (vii) one representative from the rail commuter industry;
- (viii) one representative from providers of education services;
- (ix) one representative each from other types of public passenger road transport services defined in this Act, if so decided by the MEC; 5
- (x) 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;
- (xi) not more than three representatives from organised labour relating to the public transport industry, each representing workers from a different category of service. 10

(b) If one of the appointed representatives referred to in paragraph (a) is unavailable, the organisation concerned may substitute such representative but such substitution may not be permanent.

(4) The chairperson of the Board will be the chairperson of the Panel. 15

(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 when required to do so by the MEC, and other members must be appointed for a period not exceeding two years and must, subject to the provisions of this Act, hold office on such conditions and on such remuneration as the MEC may, with the concurrence of the Member of the Executive Committee for Finance, determine when the member is appointed. 20 25

Establishment of transport operating licence administrative bodies

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

(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 whether the application forms have been properly completed and that all the necessary accompanying documentation have been submitted and is valid and acceptable, and enter details of the applications into the relevant data banks in the manner prescribed. 30 35

(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 in the prescribed manner.

(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 or needs on a route basis, availability of ranking space and traffic and other metropolitan or local considerations. 40

(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. 45

(6) The transport operating licence administrative body must collect all the representations and submit them with the application form and other supporting documentation to the Board for a decision. 50

(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 referred to in subsections (3) to (6) and return the application with applicable recommendations to the first transport operating licence administrative body. 55

(8) Where a 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 referred to in subsection (3). 60

PART 6: OPERATING LICENCES

Conversion of permits to operating licences

35. (1) Permits remain valid until a date determined in terms of section 32(2) of the National Act.
- (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. 5
- (3) Permits that have not been in use during the period determined by the MEC by notice in the *Gazette* shall not be converted to operating licences and shall lapse on the date specified in such notice. 10
- (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, suspension, amendment and lapsing of permits or operating licences. 15
- (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) applies 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. 20
- (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, but a defined area may be authorised in exceptional circumstances, such as informal settlements where there are no defined roads. 25
- (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. 30
- (11) The procedure for and manner of lodging applications to be made under subsection (2) will be as prescribed.

Contracts for services

36. (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 National Act. 35
- (2) Subsection (1) will likewise apply to unsubsidised service contracts, unless the MEC exempts specified services or types of contracts from this requirement by notice in the *Gazette*.
- (3) Contracts must be awarded by the Department or relevant transport authority in accordance with such transport plans, subject to section 39(5) with the necessary changes. 40

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

37. (1) When any contract terminates, all permits or operating licences 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 lapsing. 45
- (2) Where tenders are invited for a subsidised service contract—
- (a) no operator may tender for such a contract unless the operator surrenders to the Board for cancellation, all permits and operating licences held by such operator authorising services on the routes involved in such services; 50
- (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 referred to 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). 55

Applications concerning operating licences

38. (1) Where a transport plan shows a need for additional services on a route, the transport authority may invite applications to the Board for operating licences to provide public passenger road transport services that are not subject to a contract on that route.

(2) A person or body wishing to undertake a public passenger road transport service other than a service referred to in section 52(1), must apply to the Board for the granting of the appropriate operating licence. 5

(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. 10

(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; 15

(d) be accompanied by the prescribed fee and the costs of publishing the application under section 42, as estimated by the Board but no fee shall be payable where the operating licence will be based on a contract;

(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; 20

(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 dropped off; and

(h) be lodged with the transport operating licence administrative body established for the relevant metropolitan area. 25

(6) The application form in respect of applications referred to 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. 30

(7) Applicants must state on the application form under oath or affirmation whether they have been convicted of criminal offences of a nature prescribed and if so, list the convictions and state whether they or their spouses, partners or their immediate family members, dependants, business partners or employers are authorised officials or officials of the Public Service or Provincial Administration or of a municipal administration. 35

(8) (a) The Board must submit applications for non-contracted services to the relevant metropolitan transport forum referred to in section 87 for recommendations, in the prescribed manner, before disposing of the application. 40

(b) Where a council or forum, which is recognised by the MEC, exists for the type of service involved, the metropolitan transport forum must consult it in the prescribed manner before submitting its recommendations to the Board.

(9) The Board may issue, on application in the prescribed manner and on payment of the prescribed fee, an interim operating licence for not more than 60 days where a contract has been awarded to the applicant by an organ of state and the relevant operating licence referred in section 39(1) has not been issued on the date of commencement of the contract. 45

(10) The Board must issue, on application by the holder of a permit or operating licence in the prescribed manner and on payment of the prescribed fee, a copy of a permit or operating licence, certified by an official of the Board, for use by the holder under section 47(b), where an application for the transfer or amendment thereof has been lodged with the Board and is pending. 50

Disposing of an application for an operating licence 55

39. (1) (a) 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.

(b) 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 is entitled to issue operating licences under subsection (1), despite 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, subject to subsection (5). 5

(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. 10

(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. 15

(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— 20

(a) 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 25

(b) consider—

(i) whether the make, model, manufacture, condition, capacity and acceptability of the vehicle to which the operating licence relates is suitable for the service which it is to operate;

(ii) whether, according to the Board's discretion or criteria, as prescribed, the applicant has the ability to provide the service for which the operating licence is sought, in a manner satisfactory to the public; 30

(iii) all representations duly submitted in respect of the application;

(iv) relevant previous convictions for offences committed by the applicant according to the Board's discretion, or criteria as prescribed; 35

(v) the size of the business operated by the applicant, preference being given to small business enterprises;

(vi) the fact that the applicant has been previously advantaged, preference being given, to previously disadvantaged persons;

(vii) the number of permits or operating licences already held by the applicant, preference being given to holders with no or few permits or operating licences; 40

(viii) the length of time that the holder has been a provider of services, preference being given to holders who have provided services the longest; 45

(ix) 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; or

(x) other factors which, in the opinion of the Board, may affect the desirability of granting or refusing the application. 50

(8) The Board may not consider an application for an operating licence from an employee of the transport authority, a law enforcement agency or a firm responsible for monitoring public passenger road transport services in the area.

(9) Despite 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, if the vehicle is of a category that may be used for the service in question in terms of Schedule A, after— 55

(a) considering 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 60

(b) ensuring that the applicant has supplied the prescribed information; and such an application does not need to be published under section 42.

(10) The Board may refuse to consider an application for the granting, renewal, amendment or transfer of an operating licence if it has considered and refused a previous, application that was received within six months preceding the date on which the first-mentioned application was received, which in its opinion had the same or substantially the same object as the first-mentioned application. 5

(11) The Board may, in granting an application, impose conditions which may not be inconsistent with this Act or the National Act.

Interprovincial transport

40. (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. 10

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

(3) In the case of doubt as to where the services will commence, the applicant must apply in the province where the motor vehicle in question is registered. 15

(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 for conducting of services in another province, except with the agreement of the operating licence issuing authority established for that province. 20

(5) Where the Board is unable to obtain the necessary responses from the operating licence issuing authority of another province in a referral referred to 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, in the manner prescribed in terms of that Act. 25

(6) Appeals concerning interprovincial services must be made to the Transport Appeal Tribunal as required in terms of the Transport Appeal Tribunal Act.

(7) In the case of interprovincial services, passengers may not be picked up or dropped off except at pick-up points or destination, unless there is no alternative service between the pick-up points or destination and the drop-off or pick-up point, or, in the case of minibus taxi-type services, the relevant associations whose members operate on the route or routes have agreed to the contrary. 30

Cross-border road transport

41. Applications for cross-border road transport for 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 in terms of that Act. 35

Publication of an application in respect of an operating licence

42. (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. 40

(2) An application need not be published under subsection (1) where it is an application—

(a) to amend the particulars of the same vehicle specified in the operating licence; 45
or

(b) based on a contract referred to 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— 50

(a) must allow a person who, within the time prescribed, submits representations 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. 55

(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.

Period and renewal of an operating licence

43. (1) (a) 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. 5

(b) 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. 10

(3) Subject to section 35(5), operating licences for vehicles to operate non-contracted services must on the recommendation of the transport authority, be for a fixed period of not more than five years and must have regard to— 15

(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; 20

(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; and

(e) the likelihood that the service applied for, may be submitted to tender. 25

(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, subject to section 39(5).

Issue of an operating licence and provisions thereof

44. (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. 30

(2) The Board may not issue an operating licence unless— 35

(a) 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); and

(b) the holder has furnished proof to the satisfaction of the Board that the holder is registered as a tax payer under the Income Tax Act, or, in terms of that Act, is not required so to register. 40

(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— 50

(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— 55

(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 timetables;
- (g) in the case of an operating licence granted for a vehicle to operate minibus taxi-type services— 5
- (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 pick-up and drop-off points where applicable; 10
- (h) other conditions which the Board imposes under section 39(11); 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. 15

Records of operating licences

45. 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. 20

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

46. (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 permission for another motor vehicle to be used in its place, subject to subsections (2) and (3). 25
- (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. 30
- (4) The replacing vehicle must, during the period of replacement, be deemed to be the vehicle for which the operating licence or permit was issued.

Duties of the holder of a permit or operating licence 35

47. The holder of a permit or operating licence must—
- (a) operate the service authorised by the permit or operating licence in terms of its conditions and the applicable transport plans;
- (b) carry the original or a duplicate original of the permit or operating licence or the written permission referred to in section 46(1), or a copy contemplated in section 38(10), and the holder's registration certificate issued in terms of section 66, in the motor vehicle and produce them on demand to an authorised officer: but the Board may direct in writing that the annexures to a permit or operating licence do not have to be kept in the vehicle where they are so bulky as to make this impractical; 40 45
- (c) keep the permit or operating licence and duplicate originals thereof in such a condition that the letters and figures on them are clearly legible and, if the permit or 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 permit or 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; 50
- (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; 55

- (g) apply not later than 30 days before expiry of the permit or operating licence for renewal thereof in the case of an operating licence or, in the case of a permit, for conversion of the permit to an operating licence, as the case may be, if he or she wishes to renew or convert it;
- (h) ensure that all information contained in the permit or operating licence is kept up to date by appropriate applications for amendments; 5
- (i) return to the Board within 14 days a permit or 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. 10

Authority conveyed by an operating licence

48. 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; 15
- (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.

Withdrawal, suspension or variation of an operating licence

49. (1) Where an operating licence has been granted on the basis of a contract, the contracting authority must request the Board to withdraw the operating licence where the contract has been terminated for any reason. 20

(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 the operating licence for such period as it may deem fit, if— 25

- (a) the holder of the operating licence or employee of the holder has been convicted of an offence under this Act, under a law relating to motor vehicles, the regulation of traffic, occupational safety or labour relations; 25
- (b) in the opinion of the Board, the holder of the operating licence has not carried out the conditions of the operating licence; 30
- (c) 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) the holder of the operating licence has ceased to operate the service or any part thereof for 180 consecutive days. 35

(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 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 40
- (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. 45

Cancellation of operating licences not brought into use

50. (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 reasons, to the satisfaction of the Board and within the period stated in the notice for— 50

- (a) not having commenced operating the public passenger road transport service to which that operating licence relates; and
- (b) 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 55

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 to the Board together with the distinguishing marks with regard thereto, within seven days after the date of the notice. 5

Withdrawal of surplus operating licences or permits

51. 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; 10

(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 permit or operating licence permit in terms of section 51 of the National Act, if agreement has been reached with the holder to compensate the holder for the loss of economic benefits in a fair and reasonable manner calculated in accordance with the guidelines determined in terms of section 51(4) of the National Act. 15

Ad hoc authorizations 20

52. (1) No one may undertake public passenger road transport services 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) Subsection (1) shall not apply where—

(a) a charter service will be operated in terms of an appropriate operating licence or permit; or 25

(b) the operator will provide the service in terms of an operating licence or permit which already authorises the relevant transport on the route or in the area in question.

(3) A holder may apply to the Board for the issue, on payment of the prescribed fee, of a series of *ad hoc* authorizations. 30

(4) 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.

(5) Before commencing services referred to in subsection (1), the holder concerned must complete an *ad hoc* authorization for the trip 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 authorised officer. 35

(6) 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, as well as to the association to which he or she belongs, if the holder is a member of an association, and the relevant registered association operating on the route or network in question. 40

(7) The Board may disqualify a holder who habitually undertakes temporary transport services without completing the necessary authorizations, or who habitually abuses *ad hoc* authorizations. 45

(8) *Ad hoc* authorisations must be in the prescribed form.

(9) *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 dropped off *en route*; 50

(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.

Special circumstance operating licences

53. (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. 55

(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 a member or official of the Board.

Increase of certain tariffs prior to application for amendment of relevant permit or operating licence

54. Whenever a permit or operating licence authorizing conveyance for reward stipulates that the holder must comply with a condition that the conveyance must be undertaken at tariffs approved or laid down by the Board, that holder may at any time after an increase in the price of petroleum fuel in the Republic, increase the tariffs by so much, but by not more than 10%, if within 10 days after the coming into effect of a tariff so increased, the holder applies to the Board for an appropriate amendment of the relevant permit or operating licence under this Act.

PART 7: GAUTENG PUBLIC PASSENGER APPEAL BOARD

Establishment, constitution and functions of Gauteng Public Passenger Appeal Board

55. (1) The name of the Provincial Transport Commission established by section 27 of the Gauteng Interim Minibus Taxi-Type Services Act, is changed to the Gauteng Public Passenger Appeal Board and is deemed to be a provincial transport appeal body referred to in section 128(1) of the National Act.

(2) The Appeal Board consists of a chairperson and at least one other member appointed by the MEC—

- (a) at least one of whom has the appropriate experience in practice as an advocate or attorney,
- (b) 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 road 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, in accordance with this section, take immediate steps to fill the vacancy by the appointment of a fit and proper person who is not subject to a disqualification mentioned in subsection (5). 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. 10

(11) The function of the Appeal Board shall be to hear appeals relating to applications for intraprovincial transport.

Resignation, vacation of and removal from office of Appeal Board members 15

56. (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; 20
- (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. 25

(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 55(5);
- (b) is removed from office under subsection (2). 30

Powers of the Appeal Board

57. (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 authorised representative of that person, to appear before it and— 35
 - (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; 40
- (c) call upon a person present 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 his or her possession;
- (d) question a person appearing before it as a witness; 45
- (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 referred to in subsection (1), may administer an oath or affirmation to the person so appearing. 50

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

Meetings and decisions of the Appeal Board

58. (1) Meetings of the Appeal Board must be held according to the prescribed procedures and at the prescribed times and places. 55

(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 vote in addition to his or her deliberative vote. 5

(5) No act, direction or decision of the Appeal Board may be held to be invalid by reason 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 55(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. 10

(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. 15

Appeal to Appeal Board against decision of Board or Registrar

59. (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, renewal, amendment or transfer of a permit or operating licence or whose permit or operating licence has been withdrawn, varied or suspended by the Board; 20
- (b) is the holder of a permit or operating licence issued by the Board;
- (c) in the manner and within the time prescribed, submitted representations to the Board; or 25
- (d) has applied to the Registrar for registration under this Act, or has been the subject of an inquiry conducted by the Registrar;

and is affected by a decision of the Board or Registrar, 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 referred to in subsection (1), the date of that written notification shall be deemed to be the date on which that decision was given. 30

(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 35
- (b) uphold the appeal, set aside the decision, and—
 - (i) substitute the Board's decision with another decision; or
 - (ii) remit the matter to the Board for reconsideration; or
- (c) uphold the appeal partially and vary the decision.

(4) The Appeal Board may grant or refuse an application for suspension of the operation of a decision of the Board or Registrar that is appealed against, and such application must be made in the prescribed manner and within the prescribed time. 40

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

Appointment of Gauteng Transport Registrar and panel of assessors 45

60. (1) The Provincial Registrar appointed under section 4 of the Gauteng Interim Minibus Taxi-Type Services Act is deemed to be the Gauteng Transport Registrar, being the Registrar referred to 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. 50

(3) The assessors appointed before the commencement of this Act in terms of section 9 of the Gauteng Interim Minibus Taxi-Type Services Act continue in office as assessors until their period of appointment expires unless the MEC terminates their appointment earlier. 55

(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. 5

(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 road 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; 10

(b) is subject to any legal disability;

(c) is an unrehabilitated insolvent; or 15

(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 road transport industry, and failure to do so will constitute an offence. 20

(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. 25

(9) When the office of an assessor is to or has become vacant, the MEC must appoint a new assessor who must be a person who possesses wide experience of, and has shown ability in, public passenger road transport. 30

(10) A person whose period of office as Registrar or assessor has expired, is 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. 35

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

61. (1) The Registrar or an assessor may resign on two months' written notice to the MEC. 40

(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 or failed to discharge those duties fairly and impartially;

(c) who is unable to perform efficiently his or her duties; 45

(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 60(5); 50

(b) is removed from office under subsection (2).

Duties of the Registrar

62. 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; 55

(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 prescribed minimum standard constitutions, or in the case of a non-member, with the prescribed code of conduct; 5
- (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; 10
- (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; 15
- (i) consider and decide on the suspension or cancellation of the registration of an association or any member thereof or of any non-member.

Powers of the Registrar

63. (1) In dealing with any matter referred to in section 62(a) or (i), the Registrar may— 20
- (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; 25
 - (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; 30
 - (c) order any person present 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 at that place; 35
 - (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. 40
- (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.

Meetings and decisions of the Registrar and assessors 45

64. (1) Meetings of the Registrar and assessors must be held according to the prescribed procedures and at the prescribed times and places.
- (2) Decisions at such meetings shall be taken by consensus, with the Registrar having the final say in the absence of consensus.
- (3) No decision taken at such a meeting may be held to be invalid by reason 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 60(5). 50

Application for registration

65. (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. 55

(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. 5

Issuing of certificates and distinguishing marks upon registration

66. (1) Where an association, member or 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. 10

(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 permit or operating licence. 15

Associations, members and non-members undertaking interprovincial transport

67. (1) Upon registration of an association, a member or a non-member that undertakes 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. 20

(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. 25

Reservation of privileges for registered associations and operators

68. (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. 30

PART 9: REGISTRATION OF MINIBUS TAXI ASSOCIATIONS AND OPERATORS

Compulsory registration of associations, members and non-members in respect of minibus taxi-type services 35

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

Associations and operators registered under Act 11 of 1997

70. (1) An association which has been fully registered in terms of section 7 of the Gauteng Interim Minibus Taxi-Type Services Act, will be deemed to have been registered under this Act. 40

(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, will be deemed to have been registered as such under this Act. 45

Elections and referendums

71. (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). 5

Registration of associations

72. 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; 10
- (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; 15
- (e) that the association enjoys the support of relevant municipalities and transport authorities;
- (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; 20
- (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, 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. 25

Registration of members of registered associations

73. 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 and who holds a valid and appropriate permit or operating licence, as a member of that association. 30

New members of registered associations

74. (1) Where a registered association has admitted a new member to membership who holds an appropriate permit or operating licence 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. 35

(2) Where an association has provisionally admitted an operator to membership who does not hold an appropriate permit or operating licence 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. 40

(3) An operator referred to 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. 45

(4) The fact that an operator who has been provisionally admitted as referred to in subsection (2), or that such an operator has applied for an operating licence as referred to 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. 50

(6) On receipt of such copy and particulars, the Registrar must register the person as a member of the association. 55

(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.

Registration of non-members

75. (1) A non-member qualifies for registration and, upon having applied therefor, must be registered, where the non-member— 5

- (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 a public passenger road transport service;
- (c) operates the public passenger road transport service to which such a permit or operating licence relates, in compliance with the terms of, and conditions attached to, the permit or operating licence; 10
- (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, or, in terms of that Act, is not required so to register; and 15
- (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;
 - (ii) where there is such a registered association, if— 20
 - (aa) the applicant has been refused membership of the association;
 - (bb) the association's requirements for admission to membership are unfair;
 - (cc) in view of the prevailing circumstances, the applicant reasonably cannot be expected to become a member of the association; or, 25
 - (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. 30

(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. 35

(5) On receipt of such particulars, the Registrar must register the non-member.

Disciplinary measures

76. (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 minimum standard constitution or code of conduct for non-members, as the case may be, or for other conduct that has been prescribed as improper conduct. 40

(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. 45

(3) Before conducting an inquiry, the Registrar must address a written warning to the association or operator requiring him, her or 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— 50

- (a) impose a fine not exceeding the amount prescribed;
- (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. 55

(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.

PART 10: REGISTRATION OF METERED TAXI ASSOCIATIONS AND OPERATORS

Registration of metered taxi associations, members and non-members

77. Sections 69, 73, 74 and 76 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". 5

Registration of metered taxi associations

78. 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; 10
- (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; 15
- (d) that the association enjoys the support of relevant municipalities and transport authorities;
- (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; 20
- (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 or, in terms of that Act, is not required so to register; and 25
- (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.

Registration of non-members operating metered taxi services

79. (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— 30

- (a) has subscribed to the prescribed code of conduct;
- (b) holds an appropriate permit or operating licence for each vehicle by means of which the non-member operates a metered taxi service; 35
- (c) operates the metered taxi service to which such a permit or operating licence relates, in compliance with the terms of, and conditions attached to the operating licence;
- (d) is in possession of a valid radio frequency licence;
- (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, or, in terms of that Act, is not required so to register; and 40
- (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. 45

(2) Where a non-member wishes to apply for a permit or 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. 50

(4) Should the Board grant and issue an appropriate permit or operating licence to such non-member, the Board must notify the Registrar within 14 days and supply to the Registrar a copy of the permit or operating licence.

(5) On receipt of such particulars, the Registrar must register the non-member. 55

Special requirements for drivers of vehicles engaged in metered taxi services

80. (1) As from a date determined by the MEC by notice in the *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. 5

(2) The requirements of subsection (1) shall be in addition to, and not in substitution of, the requirements of the National Road Traffic Act.

PART 11: REGISTRATION OF BUS-TYPE AND COACH-TYPE ASSOCIATIONS AND OPERATORS**Registration of associations, members and non-members operating bus-type and coach-type services 10**

81. 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". 15

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

82. The Registrar must grant registration to an association of operators of bus-type and coach-type services which on application satisfies the Registrar—

- (a) that it has been in existence for a period not less than the minimum prescribed period; 20
- (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; 25
- (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, or, in terms of that Act, is not required so to register, and 30
- (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. 35

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

83. (1) A non-member operating or wishing to operate bus-type or coach-type services qualifies for registration and, on submission of an application must be registered, where the non-member—

- (a) has subscribed to the prescribed code of conduct; 40
- (b) holds an appropriate permit or operating licence for each vehicle by means of which the non-member operates the bus-type or coach-type service;
- (c) operates the services to which such a permit or operating licence relates, in compliance with the terms of, and conditions attached to, the permit or operating licence; and 45
- (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, 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. 50

(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.

PART 12: TRANSPORT FORUMS

5

General provisions

84. (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 users, operators or drivers.

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(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.

Provincial Public Passenger Transport Forum

85. (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—

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- (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 road transport industry or be persons who have wide experience of or have shown ability in matters related to transport or environmental or financial matters;
- (k) two must represent driver unions.

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(2) If an appointed representative is not available, the MEC may substitute such representative but such substitution may not be permanent.

(3) 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.

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(4) 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.

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(5) 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.

(6) The PPPTF must determine procedures at and the frequency of its meetings, provided that it must meet not less than once per quarter.

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(7) 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.

(8) 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;
- (b) is unable to perform his or her duties as a member of the PPPTF efficiently;
- (c) has failed to attend three consecutive meetings of the PPPTF without a reason that is acceptable to the MEC; 5
- (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.

Functions of the Provincial Public Passenger Transport Forum

86. The functions of the PPPTF will be to advise the MEC at the MEC's request on the following matters in the Province: 10
- (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; 15
 - (d) the necessity for additional or amending legislation to enable public passenger road transport policy to be realised;
 - (e) affirmative action, transformation and change management in institutions involved in public passenger road transport;
 - (f) the collection and display of public passenger transport information; 20
 - (g) communication between public passenger transport modes;
 - (h) integration between public passenger transport modes, including through ticketing;
 - (i) liaison with passengers and groupings or institutions representing passengers, and dealing with complaints and concerns of passengers. 25

Metropolitan transport forums

87. (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 road transport affairs and planning; 30
 - (b) one must represent the Department;
 - (c) two must represent passengers using the transport system in the area;
 - (d) two must represent the minibus taxi industry and be members of the relevant metropolitan taxi council or forum; 35
 - (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; 40
 - (i) one must represent persons with disabilities;
 - (j) two must be recognized experts in the public passenger road 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) If an appointed representative is not available, the metropolitan authority may substitute such representative but such substitution may not be permanent. 45
- (4) 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.
- (5) 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. 50
- (6) 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. 55
- (7) The MTF must meet at times and in the manner and according to procedures prescribed.

(8) 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.

(9) The metropolitan authority may remove from office any member of the MTF who— 5

- (a) has failed to comply with a condition of his or her appointment;
- (b) has been guilty of improper conduct or has regularly neglected his or her duties as a member of the MTF;
- (c) is unable to perform efficiently his or her duties as a member of the MTF;
- (d) has failed to attend three consecutive meetings of the MTF without an acceptable reason; 10
- (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.

Functions of metropolitan transport forums 15

88. Metropolitan transport forums must—

- (a) act as a means of liaison between the relevant metropolitan authority, and the public passenger road transport industry;
- (b) act as a means of resolving problems and issues in the public passenger road transport industry and facilitating conflict resolution in the area concerned; 20
- (c) disseminate information on new developments and other matters affecting the public passenger road transport industry;
- (d) provide input to joint policy and action plans on matters such as, but not limited to—
 - (i) training and skills development; 25
 - (ii) regulation and control;
 - (iii) conflict resolution;
 - (iv) fare structures;
 - (v) driver and employee relations and working conditions;
 - (vi) modal integration; 30
 - (vii) information and data banks;
 - (viii) ranks, stands, terminals and other facilities and their development;
 - (ix) safety issues; and
 - (x) the scheduling of services.
- (e) provide input to public passenger road transport planning authorities, the Board and other authorities, and 35
- (f) undertake other functions prescribed by the MEC or in municipal by-laws, or recommended in guidelines published by the MEC or metropolitan authority.

Metropolitan taxi forums

89. (1) Each metropolitan authority must establish a metropolitan taxi forum. 40

(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; 45
- (d) representatives of organisations such as driver unions;
- (e) representatives of relevant passenger associations or groups;
- (f) other persons and bodies as prescribed. 50

(3) If one of the representatives referred to in subsection (2) is unavailable, the relevant authority may substitute such representative but such substitution may not be permanent.

(4) The metropolitan taxi forum must elect one of its members as chairperson.

(5) Metropolitan taxi forums must meet at times and in the manner and according to procedures prescribed. 55

Functions of metropolitan taxi forums**90. 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; 5
- (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) provide input to joint policy and action plans on matters such as, but not limited to— 10
 - (i) training and skills development;
 - (ii) regulation and control;
 - (iii) conflict resolution;
 - (iv) fare structures; 15
 - (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; 20
- (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; 25
- (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); 30
- (k) consider methods to improve profitability and economy in taxi operations;
- (l) undertake other functions prescribed in municipal by-laws or recommended in guidelines. 35

Local taxi liaison committees

91. (1) Every municipality other than a metropolitan authority must establish a local taxi liaison committee in respect of its area of jurisdiction or for defined areas within that area.

(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. 40

(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 must be restricted to registered locally based associations and registered non-members. 45

Establishment and functioning of other metropolitan or local liaison forums

92. 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. 50

PART 13: LAW ENFORCEMENT**Special emergency measures**

93. (1) The MEC may by notice in the *Gazette*, declare an area 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 characterised by violence, unrest or instability.

(2) (a) 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, are 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. 5

(b) The regulations may provide that the contravention thereof will constitute an offence and prescribe penalties in respect thereof. 10

(3) Before making regulations under subsection (2), the MEC must cause a notice to be published in the *Gazette* or in a newspaper circulating in the declared area stating—

- (a) a brief description of the nature and purpose of the intended action;
- (b) the route or routes and rank or ranks that will be closed, or that it is proposed to close all routes or ranks in the declared area; 15
- (c) the period for which the proposed regulations will be in force;
- (d) that interested or affected persons may request reasons for the proposed regulations;
- (e) that any interested or affected persons may make representations;
- (f) the time within which representations may be made, which may not be less than 24 hours; 20
- (g) the address to which representations must be submitted; and
- (h) the manner in which representations may be made.

(4) The MEC must consider any representations received under subsection (3) before making regulations under subsection (2). 25

Offences

94. (1) A person is guilty of an offence—

- (a) who operates a public passenger road transport service in contravention of section 3(3) or section 69;
- (b) who operates or undertakes a public passenger road transport service contrary to the terms and conditions of an operating licence or permit; 30
- (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; 35
- (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; 40
- (g) if, knowing that a document is not an operating licence or permit, or such other 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; 45
- (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; 50
- (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 permit, operating licence, registration certificate or a distinguishing mark to the Registrar or the Board as the case may be, if required to do so by this Act; 55
- (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 60

- (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 5
 - (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 10
 - (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. 15
- (2) 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— 20
- (a) the holder—
 - (i) connived at or knowingly permitted the act or omission concerned; or 25
 - (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.

Penalties 30

95. 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.

Designation of inspectors

96. The Head of Department may designate an officer or employee of the Department as a transport inspector. 35

Impounding and forfeiture of vehicles

97. (1) Where an authorised officer is satisfied on reasonable grounds that a vehicle is being used for public passenger road transport and finds that the necessary permit, operating licence, ad hoc authorisation or written permission referred to in section 46(1) is not in the vehicle as required by section 47(b) or 52(4), the officer must impound the vehicle. 40

(2) A vehicle impounded under subsection (1) must be delivered to the depot referred to in subsection (6), and must be retained in the depot and released to the person concerned only after— 45

- (a) a valid permit, operating licence, ad hoc authorisation or such written permission is shown to an authorised officer, who has certified in writing that it has been shown, and the operator has paid the fine for the offence under section 94(1)(o) for failure to keep the necessary documentation in the vehicle, if such fine was imposed; or 50
 - (b) such person satisfies an authorised officer that the vehicle was not being used for public passenger road transport, and such officer has certified this in writing; or
 - (c) all charges for offences in connection with the relevant unauthorised public passenger road transport have been withdrawn or the persons charged with such offences have been acquitted. 55
- (3) Where the vehicle has not been released within 90 days of its impoundment, it will

be forfeited to the Province, unless it is shown that delays in obtaining its release are not due to the fault of the person requiring such release.

(4) A forfeiture under subsection (3) shall not affect any rights which a person has to the vehicle if it is proved that he or she did not know that the vehicle was being or would be used to provide unauthorised public passenger road transport or that he or she could not prevent its use. 5

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

(6) The MEC or a municipality by notice in the *Gazette* may designate a 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 notice. 10

(7) In impounding vehicles under this section, authorised officers must act according to prescribed procedures and complete the prescribed documentation.

Presumptions

98. In prosecutions under this Act— 15

- (a) a person who has conveyed someone by means of a motor vehicle, or who has permitted the conveyance by that means of a person in addition to the driver of the vehicle, is presumed to have undertaken public passenger road transport, unless the contrary is proved;
- (b) the owner of the motor vehicle in which a person is conveyed is presumed to have conveyed that person, unless it is proved that he or she was not the driver of the motor vehicle at the time of the conveyance in question and did not authorise or permit the use of the vehicle for the conveyance. 20

Other powers of authorised officers

99. (1) An authorised officer may seize by order of the Board, a permit or operating licence that has expired or has been withdrawn, cancelled or suspended in terms of this Act. 25

(2) Apart from the duties and powers referred to in this Act, an authorised officer may in relation to public passenger road transport—

- (a) cause a motor vehicle to be stopped in the prescribed manner 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 authorised act; 30
- (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; 35
- (c) require that the driver or other person in charge of a motor vehicle forthwith produce for inspection documents or other records in the vehicle or in his or her possession that in any way relate to the persons being conveyed by means of that vehicle; 40
- (d) require that a person in a motor vehicle believed to be used for public passenger road transport, 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; 45
- (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; 50
- (f) enter premises at a reasonable time, to conduct an investigation within the ambit of his or her duties as authorised officer, and may, while he or she is on or in the premises or at another reasonable time—
 - (i) question a person who, in his or her opinion, may be able to furnish information required by him or her; 55
 - (ii) 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 this Act; and

- (iii) examine the book or document and make extracts therefrom or copies thereof, and demand an explanation of entries therein, but 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; 5
- (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 or Registrar 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 marks relating to the vehicle, and that he or she ceases his or her activities until the defect has been remedied; 10
- (i) upon the order of the Board impound every operating licence or permit specified in the order and hand it over to the Board. 15

Demerit system

100. (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 referred to in the Administrative Adjudication of Road Traffic Offences Act, 1998 (Act No. 46 of 1998), and whereby provision is made— 20
- (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; 25
- (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— 30
- (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— 35
- (i) a reprimand and a warning issued in writing;
- (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; 40
- (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— 45
- (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. 50
- (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. 55

PART 14: GENERAL

Compulsory insurance for operators

101. (1) The MEC may make regulations providing that holders of permits or

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. The regulations may also specify qualifications or requirements for insurers providing such insurance. 5

(2) (a) The Board may impose conditions on operating licences regarding requirements for insurance referred to in subsection (1) that are not inconsistent with such regulations.

(b) 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. 10

(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. 15

(4) The MEC must make regulations under subsection (1) in respect of tourist services within 180 days of the commencement of this Act.

Measures to support public passenger road transport

102. (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. 20

(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; 25

(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. 30

Transitional provisions

103. (1) Where, at any time before the commencement of this Act—

(a) a person was convicted, in terms of any law repealed by section 104, 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 35

(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. 40

(2) An appointment, designation, regulation, notice or document made, published or issued, or another thing done, under an Act repealed by section 104, is deemed to have been declared, established, made, published, issued or done under the corresponding provisions of this Act. 45

(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.

(4) The date of 1 July 1999 published in terms of section 25(1) of the Gauteng Interim Minibus Taxi-Type Services Act, in Notice 1211 of 1998 (*Provincial Gazette Extraordinary* 495 of 22 May 1998) is deemed to have been extended to the date of commencement of Part 6 of this Act. 50

(5) An appeal noted with the MEC in terms of section 8(5) of the Gauteng Interim Minibus Taxi-Type Services Act, but not disposed of at the commencement of this Act, is deemed to be an appeal to the Appeal Board under section 59. 55

(6) (a) Wherever this Act requires regard to be had to any transport plan, the Board, contracting authority, transport authority, core city or municipality may proceed with the relevant matter, with the approval of the MEC, despite the fact that the relevant transport

plan has not been prepared or has not been submitted for required approvals, or has not been published under section 29(1) of the National Act.

(b) The MEC may grant such approval either in general or in specific terms.

(c) Such board, authority, core city or municipality must have regard to any available transport planning or other matter which it regards as relevant. 5

(7) Any power exercised or duty or function validly performed by the Gauteng Transport Permit Board referred to in section 29(1) in terms of a law repealed by section 104 after the commencement of the National Act, is deemed to have been validly exercised or performed under the corresponding provision of this Act.

Repeal of laws and exclusions 10

104. (1) The following laws are hereby repealed:

(a) The Gauteng Interim Minibus Taxi-Type Services Act; and

(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. 15

Act binds State

105. This Act binds the State.

Short title and commencement

106. (1) This Act is called the Gauteng Public Passenger Road Transport Act, 2001, and shall come into effect on a date determined by the Premier by Proclamation in the *Gazette*. 20

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

(3) Section 29(1) is deemed to have come into operation on 1 December 2000.

**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* e.g. 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* e.g. motor car	no	yes	GH	no	yes	yes	N	G/C	yes	yes	yes	no	
9 to 18* minibus	no	E F M	GH	yes	yes	yes	N	G/C	yes	yes	yes	no	
19 to 35* midibus	no	no	PQR	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	
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	yes	I	I	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	shuttle	accessible transport service	courtesy	coach-type
Subsidised service contracts	scheduled service	No	No	Yes	Yes in principle	No	No	No	Yes	Yes	No	No
	unscheduled service	Yes in principle	No	Yes	Yes	No	No	No	Yes	Yes	No	No
Unsubsidised service contracts	unscheduled service	Yes in principle	Yes	No	Yes	No	No	No	Yes	Yes	No	No
	area service	Yes in principle	Yes in principle	No	Yes	No	No	No	Yes	Yes	No	No
Non-contracted services	scheduled service	Yes	No	Yes	Yes	No	No	No	Yes	Yes	No	Yes
	unscheduled service	Yes	No	Yes	Yes	No	Yes	Yes	Yes	Yes	Yes	No
	area service	Yes	Yes	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	To be discussed	Yes	Yes in principle	No	No	No	Yes	Yes	No	No
Unsubsidised service contracts	scheduled service	No	No	Yes	Yes	No	No	No	Yes	Yes	No	No
	unscheduled service	Yes in principle	Yes	No	Yes	No	No	No	Yes	Yes	No	No
Non-contracted services	area service	Yes in principle	Yes	No	Yes	No	No	No	Yes	Yes	No	No
	scheduled service	Yes	No	Yes	Yes	No	No	No	Yes	Yes	No	Yes
Non-contracted services	unscheduled service	Yes	Yes	No	Yes	No	Yes	Yes	Yes	Yes	Yes	No
	area service	Yes	Yes	Yes	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 | 5 |
| 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 to Interim Taxi Bill | |
| I | restricted to adventure tours | 10 |
| 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 | 15 |
| M | number of passengers to be limited by the operating licence (e.g. to seven for minibuses) | |
| N | holder to possess public passenger permit for vehicle already (i.e. minibus taxi-type, bus-type, scholar, coach-type or tourist service) | |
| O | services must be provided for in relevant transport plans | 20 |
| P | appropriate ranking facilities must be available | |
| Q | relevant associations must consent | |

OFFICE OF THE PREMIER

No. 2

3 January 2002

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

No. 8 of 2001: Gauteng Transport Infrastructure Act, 2001.

ACT

To consolidate the laws relating to roads and other types of transport infrastructure in Gauteng; and to provide for the planning, design, development, construction, financing, management, control, maintenance, protection and rehabilitation of provincial roads, railway lines and other transport infrastructure in Gauteng; and to provide for matters connected therewith.

(English text signed by the Premier)
(Assented to on 19 December 2001)

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

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| 5. | Phases of route determination and design of provincial roads and railway lines | |
| 6. | Determination of the route | |
| 7. | Regulatory measures in respect of routes | |
| 8. | Preliminary design | 15 |
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20.	Entering upon or taking possession of land	
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PART 1: INTRODUCTORY PROVISIONS**Definitions and interpretation**

1. In this Act, unless inconsistent with the context—
- (i) "access road" means an access road contemplated in section 13;
- (ii) "advertisement" means any visible representation of a word, name, letter, figure, object, mark or symbol or of an abbreviation of a word or name, or of any combination of such elements having the effect of transferring information or drawing attention to something, and includes a board or object normally used for such purposes, even though actual information is not transferred thereby, but does not include a road traffic sign; 20 25
- (iii) "bridge" includes a culvert, a causeway and a pedestrian bridge;
- (iv) "building restriction area" means, subject to section 12, the area consisting of land (but excluding land in an urban area)—
(a) situated alongside a provincial road or railway line within a distance of 95 metres from the centre line of the road or rail reserve in question; or 30
(b) situated within a distance of 500 metres from a point of intersection of a provincial road and any other road, or of a provincial road and a railway line;
- (v) "Constitution" means the Constitution of the Republic of South Africa, 1996 (Act No. 108 of 1996); 35
- (vi) "construct" or "construction" includes planning, design, surveying, laying out, clearing of vegetation, excavation, forming and making of transport infrastructure and the construction of a bridge or drift to service a road or railway line or proposed road or railway line, all signs and markings and necessary approaches, excavations, embankments, subways, furrows, drains, curbs, weigh-bridges and other control stations, fences, parapets, guards or drainage works within or outside such road or railway line, or other works or things forming part of or connected with or relating to such transport infrastructure; and further includes an alteration, deviation, widening, rehabilitation or improvement of such transport infrastructure; 40 45
- (vii) "date of expropriation" means the date on which ownership of expropriated land will pass to the Province as a result of an expropriation under section 19, as stated in a notice of expropriation in terms of section 23(1);
- (viii) "Department" means the Department in the Gauteng Provincial Government responsible for provincial roads; 50
- (ix) "ECA" means the Environment Conservation Act, 1989 (Act No. 73 of 1989);

- (x) **“fideicommissary”** means a person who has the right to inherit property on the death of the registered owner of the property and whose rights are defined by the common law;
- (xi) **“fideicommissum”** means a right to inherit property on the death of the registered owner of the property within the meaning of the common law; 5
- (xii) **“freeway”** means a road or section of a road designated as a freeway by the MEC in terms of section 11(6) or is deemed to be a freeway under section 11(7);
- (xiii) **“interested and affected parties”** includes any person or institution whose rights or interests are likely to be affected by the action or decision in question;
- (xiv) **“lessee”** includes a labour tenant as defined in the Land Reform (Labour Tenants) Act, 1996 (Act No. 3 of 1996) and a sub-lessee by virtue of a written contract of sub-lease; 10
- (xv) **“maintain”** or **“maintenance”** includes the maintenance in good order of transport infrastructure, together with all bridges, approaches and drifts within the road reserve, all road and traffic signs, signals, traffic control devices and markings, excavations, embankments, subways, furrows, drains, curbs, weigh-bridges, fences, parapets, guards, drainage works within or outside such infrastructure, and any other work or thing forming part of or connected with or relating to such infrastructure; 15
- (xvi) **“MEC”** means the Member of the Executive Council of the Province contemplated in section 132 of the Constitution responsible for provincial roads; 20
- (xvii) **“municipality”** means a municipality referred to in section 155(6) of the Constitution, and includes all categories of municipalities;
- (xviii) **“municipal road”** or **“municipal street”** means a road under the control of a municipality in terms of section 63 of the Local Government Ordinance [Transvaal], 1939 (Ordinance No. 17 of 1939), section 84(1)(f) of the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998), or any other law; 25
- (xviii) **“NEMA”** means the National Environmental Management Act, 1998 (Act No. 107 of 1998); 30
- (xix) **“occupier”** means a person residing on land which belongs to another person and who has on 4 February 1997 or thereafter had consent or any other right in law to do so, but excluding—
 - (a) a labour tenant as defined in the Land Reform (Labour Tenants) Act, 1996 (Act No. 3 of 1996); 35
 - (b) a person using or intending to use the land in question mainly for industrial, mining, commercial or commercial farming purposes, but including a person who works the land himself or herself and does not employ any person who is not a member of his or her family; and
 - (c) a person who has an income in excess of the prescribed amount; 40
- (xx) **“owner”** means, in relation to land or a registered right in land, the person in whose name such land or right is registered, and includes—
 - (a) if the owner is deceased, the executor of the deceased estate;
 - (b) if the estate of the owner has been sequestrated, the trustee of the insolvent estate; 45
 - (c) if the owner is a company or other juristic person;
 - (d) if the owner is a company or other juristic person that is being wound up, the liquidator thereof;
 - (e) if the owner is under a legal disability, the owner’s legal representative;
 - (f) the authorised representative of the owner; or 50
 - (g) in the case of a road or public place under the control of a municipality, that municipality;
- (xxi) **“preliminary design”** means the technical design of the vertical and horizontal alignment of a provincial road or railway line including access roads, with the aim to determine the boundaries of the road or rail reserve in terms of co-ordinates and in relation to cadastral boundaries and data, and “basic planning” has a corresponding meaning; 55
- (xxii) **“prescribe”** or **“prescribed”** means prescribed by this Act or by the MEC by regulation in the *Provincial Gazette*;
- (xxiii) **“Province”** means the Province of Gauteng; 60

- (xxiv) **“provincial road”** means the full road reserve of any road proclaimed or designated as such for the use of the general public under this Act or under a law repealed by this Act in terms of section 60, and includes a temporary deviation thereof, but excludes—
- (a) access roads, and 5
 - (b) roads falling under the jurisdiction of a municipality in terms of this Act or any other law;
- (xxv) **“rail reserve”** means the full width of a railway line as proclaimed or expropriated, including stations and signalling and marshalling facilities, and other related facilities including commercial facilities; 10
- (xxvi) **“railway line”** means a right of way for the use of heavy or light rail proclaimed, designated or expropriated as such under this Act and includes a temporary deviation thereof;
- (xxvii) **“relevant municipality”** means the municipality in whose area of jurisdiction transport infrastructure is situated and, in the case of a category B or C 15
municipality contemplated in section 155(1)(b) or (c) of the Constitution, the municipality which by law or by agreement between the category B and category C municipalities, has control and supervision of the infrastructure in question;
- (xxviii) **“road”** means a road intended for vehicular or animal traffic, including cycle traffic, and includes a bridge or drift traversed by a road and intended for use in connection therewith; 20
- (xxix) **“road reserve”** means the full width of a road, and includes the roadside and the roadway;
- (xxx) **“roadway”** means that part of a road made and intended or used for traffic or reasonably usable by traffic in general; 25
- (xxxi) **“route”** means a route contemplated in section 6;
- (xxxii) **“service provider”** means any sphere of government, an institution or organ of state as defined in section 239 of the Constitution, company, corporation, or other person providing or empowered or entitled to provide services in connection with the provision of electricity, water, sewerage, gas, telephone lines, or similar services; 30
- (xxxiii) **State** means any department of state or administration in the national, provincial or local sphere of government;
- (xxxiv) **“township”** means an area divided into erven or plots, whether with or without public open spaces, and into streets bounded by the erven, plots or open spaces and— 35
- (a) established or recognised as a township under any law; or
 - (b) recognised by the MEC as a township for the purposes of this Act, to the extent so recognised;
- (xxxv) **“Townships Board”** means the Townships Board established by section 3 of the 40
Town Planning and Townships Ordinance, 1986 (Ordinance No. 15 of 1986) and in the event of the Townships Board being disestablished, any appeal tribunal established to hear appeals on decisions of the nature contemplated in this Act;
- (xxxvi) **“township owner”** means the owner of a township;
- (xxxvii) **“traffic”** includes vehicular, motor cycle, cycle, pedestrian and animal traffic; 45
- (xxxviii) **“traffic sign”** means a road traffic sign as defined in the National Road Traffic Act, 1996 (Act No. 93 of 1996), and also includes a rail signal;
- (xxxix) **“transport infrastructure”** includes provincial roads, railway lines, parking areas and sites, bridges, tunnels, resting places, stopping places, weighbridges, stations, sidings and other traffic control centres and facilities for the use of 50
motor vehicles, buses, taxis or trains and their passengers, and includes similar or related structures, and all immovable property and servitudes, including commercial facilities, used in connection with such infrastructure;
- (xl) **“urban area”** means an area consisting of— 55
- (a) a township mentioned in paragraph (a) of the definition of “township”, but excluding land in that area—
 - (i) which is commonage land; or
 - (ii) which is used or destined to be used mainly for farming or horticulture or the keeping of animals or is an agricultural holding as defined in section 7 of the Agricultural Holdings 60
(Transvaal) Registration Act, 1919 (Act No. 22 of 1919); or
 - (iii) which consists of any other open space which has not been developed or reserved for public purposes; or

- (b) a township mentioned in paragraph (b) of the definition of "township" which the MEC by notice in the *Provincial Gazette* has declared to be an urban area for the purposes of this Act;
- (xli) "vehicle" or "motor vehicle" means a motor vehicle as defined in the National Road Traffic Act, 1996 (Act No. 93 of 1996).

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Standard width of provincial roads, railway lines and access roads

2. The statutory width of the road reserves of the various types of provincial roads and railway lines are as prescribed, subject to section 11(1).

List of provincial roads

3. (1) Within 12 months after the commencement of this section the MEC must compile a list of provincial roads, excluding access roads, which must include—

- (a) all provincial roads proclaimed as such under this Act or situated on land expropriated under this Act;
- (b) all freeways deemed to be such under section 11(7);
- (c) all roads declared as or deemed to be public roads under the Roads Ordinance, 1957 (Ordinance No. 22 of 1957) or public roads situated on land acquired under that Ordinance, that were listed as numbered roads by the Department before the commencement of this section, as contemplated in regulation 81(a) of the Roads Regulations, 1957 (promulgated under the Roads Ordinance 1957 (Ordinance No. 22 of 1957)) but excluding roads contemplated in subsection (2).

(2) The MEC may decide to exclude a road contemplated in paragraph (c) of subsection (1) from the list contemplated in that subsection, depending on factors such as—

- (a) the volume of traffic on the road;
- (b) the availability of funds to maintain the road;
- (c) any other factor that the MEC regards as relevant.

(3) Before finalising the list, the MEC must—

- (a) submit a draft thereof to all relevant municipalities; and
- (b) request their comments in relation to the draft list, and
- (c) give due regard to any comments received in terms of paragraph (b).

(4) The MEC must allocate a number to each road listed under subsection (1).

(5) Only provincial roads listed in terms of subsection (1) shall be under the control and supervision of the MEC and the MEC shall not be obliged to control, maintain, protect or rehabilitate any road that is not so listed.

(6) The list contemplated in subsection (1) must be—

- (a) available for inspection by the public during office hours; and
- (b) updated whenever a new provincial road is proclaimed.

PART 2: ROUTE DETERMINATION AND PRELIMINARY DESIGN OF PROVINCIAL ROADS AND RAILWAY LINES

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Application of this Part

4. This Part applies where the MEC exercises the powers in terms of section 50(2)(a) in respect of the route determination and design of provincial roads or railway lines.

Phases of route determination and design of provincial roads and railway lines

5. For the purposes of this Part, the route determination and design of a provincial road or railway line must be carried out in the following phases:

- (a) Determination of the route; and
- (b) preliminary design.

Determination of the route

6. (1) In determining the route of a provincial road or railway line, the amendment of a route published into subsection (9) or deemed to have been published in terms of section 10(1), or the amendment of a route of an existing provincial road or railway line,

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- the MEC must cause a preliminary route alignment to be done, in the form of a written report as prescribed and containing recommendations with respect to the route and the MEC must thereafter follow the procedure set out in this section.
- (2) The determination of a route must be compatible with any spatial framework or other strategic provincial development planning formulated in terms of development planning legislation of the Province and if not, the approval of the Member of the Executive Council responsible for development planning must be obtained before determining a route under this section. 5
- (3) Before determining a route or amended route, the MEC must cause—
- (a) such environmental investigation and report in respect thereof to be done as the competent authority contemplated in section 22 of the ECA, or the authority contemplated in relevant corresponding sections of NEMA once those sections come into operation, may decide; and
 - (b) after such investigation, a public inquiry to be held and for that purpose must appoint a suitably qualified commission consisting of not more than ten members of whom: 15
 - (i) at least two persons who are appointed by reason of their qualifications in and knowledge or experience of land development and are persons who are in the MEC's opinion competent to perform the functions assigned to them in terms of this section; 20
 - (ii) not more than two persons nominated by municipalities in whose areas the route will be situated;
 - (iii) one official from the Department of Development Planning and Local Government or its successor;
 - (iv) one official from the Department; 25
 - (v) at least two professional civil engineers;
 - (vi) at least one town and regional planner registered as such with the South African Council for Town and Regional Planners as contemplated in the Town and Regional Planners Act, 1984 (Act No. 19 of 1984); and 30
 - (vii) a suitably qualified chairperson who may be one of the persons referred to in paragraphs (i) to (vi).
- (4) The MEC must thereafter cause notice of the public inquiry to be given by publishing a notice in the prescribed form and manner, containing—
- (a) a broad description of the proposed route; 35
 - (b) particulars of the times and places at which the preliminary route report and the environmental report can be inspected and copies be made;
 - (c) inviting all interested and affected parties—
 - (i) to comment in writing before a date, not less than 30 days after publication of the notice, on the recommended route; and 40
 - (ii) to appear at the public inquiry to motivate such written comment should they so wish, or to present comment on such recommended route orally and in person;
 - (d) the date and venue of the public inquiry; and
 - (e) a reference to the regulatory measures which take effect in terms of section 7 on the publication of the route in terms of subsection (9). 45
- (5) On the date mentioned in the said notice, the commission must hold and conduct a public inquiry, and in so doing must—
- (a) determine the procedure for the public inquiry which must—
 - (i) include a public hearing; and 50
 - (ii) comply with the procedures to be followed in connection with public inquiries as prescribed in terms of section 10(1)(b) of the Promotion of Administrative Justice Act, 2000 (Act No. 3 of 2000), or failing such prescription, as prescribed by the MEC; and
 - (b) conduct the inquiry in terms of the said procedure. 55
- (6) After having conducted the public inquiry, the commission must compile a written report on the inquiry, having regard to the principles set out in section 3 of the

Development Facilitation Act, 1995 (Act No. 67 of 1995) and in provincial planning and development legislation. The report must contain—

- (a) all written comments on the preliminary route;
- (b) a summary of the oral representations made at the public inquiry; and
- (c) recommendations to the MEC in respect of the proposed route, with reasons for such recommendations. 5

(7) Should there not be consensus in the commission regarding a land use issue to be dealt with in the report, the matter must be referred in the prescribed manner to the Townships Board for a decision on the matter.

(8) For the purpose of subsection (7), "land use issue" means an issue involving the change in the use of any land that is likely to be brought about by the determination of the route. 10

(9) After consideration of the report contemplated in subsection (6), the MEC may determine a route for the provincial road or railway line and the route must thereafter be published by reference to the centre line thereof, by notice in the *Provincial Gazette* which notice must contain— 15

- (a) such information, whether by way of a sketch plan, reference to a plan available for inspection at a given address, or otherwise, as the MEC may deem sufficient to indicate the centre line of the route;
- (b) a notification that the regulatory measures set out in section 7 take effect from the date of publication of the notice; and 20
- (c) a notification that reasons for the decision of the MEC with respect to the determination of the route, may be requested by interested and affected parties within 30 days of the date of publication of the notice. 25

(10) Subject to section 8(2), a route or sections thereof may be amended by the MEC only after having complied with the procedures set out in sections 8(1) to (8) and the amendments to the route must be published as set out in subsection (9). 25

(11) The provisions of this section are not applicable to access roads.

Regulatory measures in respect of routes

7. (1) After the publication of the notice contemplated in section 6(9) and in addition to any law, every application for the establishment of a township, for subdivision of land, for any change of land use in terms of any law or town planning scheme as well as for any authorisation contemplated in the ECA and NEMA, in respect of the areas mentioned in section 8(1), must be accompanied by a written report by a consulting civil engineering firm specialising in road design and transportation engineering, reporting on the following matters: 30 35

- (a) The effect and impact which the granting of such application may have in respect of—
 - (i) the route contemplated in section 6(9);
 - (ii) the future preliminary design of the provincial road or railway line in respect of which the said route has been determined; and 40
 - (iii) any other route published or deemed to have been published in terms of section 6(9), any preliminary design in respect of which the acceptance has been published or deemed to have been published in terms of section 8(7) and any other provincial road or railway line; 45
- (b) the feasibility of amending the said route and the costs in respect thereof, should the application be granted;
- (c) the additional cost in respect of future preliminary design if an amended route should be found to be feasible, should the application be granted; and
- (d) any other relevant matter pertaining to the said route, design and construction of the provincial road or railway line which may be relevant should the application be granted. 50

(2) The consulting civil engineering firm referred to in subsection (1) must be approved by the MEC as having members with the necessary specialisation and competence as contemplated in subsection (1) and with at least ten years experience in the required disciplines. 55

(3) The application accompanied by the report in addition to the provisions of any other law must be forwarded to the MEC by:

- (a) the municipality; or
- (b) the authority or body to which such application has been made; or 60
- (c) the applicant, provided that the applicant must—

- (i) obtain the consent of the authorities mentioned in paragraph (a) or (b); and
 - (ii) submit proof to the satisfaction of the relevant authority that the applicant has forwarded the application to the MEC.
- (4) The MEC may comment in writing on the application and accompanying report to the municipality, other authority or body to whom the application has been made, within a period of 60 days after having received the application and accompanying report, or such shorter period as may be prescribed in terms of any other law. 5
- (5) No application may be granted without due consideration of—
- (a) the comments submitted by the MEC; 10
 - (b) the written report and matters contemplated in subsection (1) above;
 - (c) the additional costs which the granting of the application may cause directly and indirectly to the State and the community concerned, weighed against the advantage to the applicant and the community of granting the application; and
 - (d) the extent to which the granting of the application promotes sustainable development which integrates transport planning and land use planning in view of transportation engineering requirements. 15
- (6) After having made its decision on the application, the municipality or other authority must inform the MEC in writing of its decision within 14 days after having made such decision and in the event of the application having been granted, must furnish full reasons for such decision in writing to the MEC within the said period. 20
- (7) Within 28 days after having received the decision and reasons for having granted the application, the MEC is entitled to appeal against the decision, in accordance with the procedure prescribed in the applicable law with the necessary changes being made, to the appeal authority or appeal tribunal provided for in the relevant law, provided that where the applicable law prescribes an appeal to the Premier, any member of the Executive Committee, or Government official of the Province, the appeal must be heard and finally disposed of by the Townships Board for the Province as though the said Townships Board had the final appellate jurisdiction with regard to the appeal. 25
- (8) After the publication of the notice contemplated in section 6(9) and despite any law to the contrary, no service provider may after commencement of this section, lay, construct, alter or add to any pipeline, electricity line or cable, telephone line or cable, or any other structure on, over or under the areas described in section 8(1) or may construct, alter or add to any structure of any nature whatsoever on, over or under such areas, except— 30
- (a) if the written permission of the MEC has been obtained and only in terms of such conditions as the MEC may prescribe; or
 - (b) in terms of an existing registered servitude. 35

Preliminary design

8. (1) After publication of the route by notice contemplated in section 6(9), the MEC may cause the preliminary design of the future provincial road or railway line to be carried out in the areas falling within— 40
- (a) a distance of 200 metres measured from either side of the centre line of the route;
 - (b) a distance of 500 metres from the intersection of the centre line of the route with the centre line of— 45
 - (i) any other route published in terms of section 6(9) or deemed to have been published in terms of section 10(1);
 - (ii) a preliminary design, the acceptance of which has been published in terms of section 8(7) or deemed to have been published in terms of section 10(3); or 50
 - (iii) any other road or railway line.
- (2) Despite the provisions of subsection (1), the preliminary design may deviate from a route published in terms of section 6(9), provided that where a preliminary design deviates from such a route to the extent that— 55
- (a) only one of the road or rail reserve boundaries the preliminary design falls outside the areas mentioned in subsection (1), the MEC may decide not to amend the said route; or
 - (b) both road or rail reserve boundaries of the preliminary design fall outside the areas mentioned in subsection (1), a route determination in terms of sections 60

- 6(1) to (9) must be done to the extent that such road or rail reserve boundaries of the preliminary design fall outside the said areas.
- (3) The preliminary design process must be carried out with due regard to—
- (a) in respect of properties which will be directly affected by the preliminary design, the interests of registered owners and of holders of registered rights in respect thereof; 5
 - (b) in respect of properties which will be indirectly affected by the preliminary design with regard to—
 - (i) accesses to and from such properties; 10
 - (ii) existing or future services; and
 - (iii) the interests of the registered owners and holders of registered rights in respect thereto;
 - (c) the interests and functions of municipalities and service providers inasmuch as these may be directly or indirectly affected by the preliminary design; and
 - (d) the environment. 15
- (4) The MEC must cause—
- (a) a draft preliminary design with a written report to be prepared; and
 - (b) such environmental investigation and written report in respect thereof to be carried out as the competent authority contemplated in section 22 of the ECA, or the authority contemplated in the relevant corresponding sections of NEMA, once those sections come into operation, may decide; 20
- and the MEC must thereafter follow the procedure set out in this section.
- (5) The MEC must take such steps as may be prescribed, within the prescribed periods, to notify the interested persons contemplated in subsection (3) of—
- (a) the draft preliminary design contemplated in subsection (4)(a); 25
 - (b) the environmental report contemplated in subsection (4)(b);
 - (c) the MEC's intention to decide on the draft preliminary design;
 - (d) the regulatory measures which take effect in terms of section 9 on the publication of the acceptance of the preliminary design in terms of subsection (7); and 30
 - (e) the opportunity, in the prescribed time and manner, to submit comments with regard to the draft preliminary design and environmental report.
- (6) The MEC must thereafter consider the draft preliminary design with due regard to—
- (a) the environmental report contemplated in subsection (4); and 35
 - (b) such comments of interested and affected parties as may have been submitted in consequence of the notice contemplated in subsection (5);
- and may then accept the preliminary design for implementation with such amendments as the MEC may deem necessary.
- (7) The MEC must thereafter publish for general information, his or her acceptance of the preliminary design for implementation by notice in the *Provincial Gazette* containing—
- (a) an address where the preliminary design is available for inspection;
 - (b) such information, whether by way of sketch plan or reference to a plan available for inspection at a given address, as the MEC may deem sufficient to indicate the direction and alignment of the provincial road or railway line according to the preliminary design; 45
 - (c) a notification that the regulatory measures provided for in section 7 in respect of the route cease to apply from the date of the notice to the extent of the route along or over which the preliminary design was accepted by the MEC in terms of subsection (6); 50
 - (d) a notification that the regulatory measures contained in section 9 apply from the date of the notice with relation to the preliminary design; and
 - (e) a notification that the reasons for the acceptance may be requested by interested and affected parties within the prescribed period after the date of publication of the notice. 55
- (8) A preliminary design in respect of which a notice in terms of subsection (7) has been published, or sections thereof, may be amended by the MEC and in that event the provisions of subsections (1) to (7) apply, with the necessary changes, provided that where such amendment deviates from the said preliminary design to the extent that both 60
- road or rail reserve boundaries of the amendment fall outside the road or rail reserve boundaries of the said preliminary design, a route determination in terms of sections 6

(1) to (9) must first be done to the extent that such road or rail reserve boundaries of the amended design so fall outside.

(9) The power of the MEC contemplated in subsection (8), may also be exercised on written application by anyone who desires that such preliminary design be amended, accompanied by payment of a prescribed fee, and in that event the provisions of sections 38(2) to (6) apply to such application. 5

(10) On publication of the notice contemplated in subsection (7), any notice published in terms of section 6(9) in respect of the route along or over which the said preliminary design has been approved by the MEC, shall be deemed to have been revoked to the extent of the route along or over which the said preliminary design was accepted by the MEC in terms of subsection (6). 10

(11) Subsections (1)(a), (b) and (2) shall not apply to access roads.

Regulatory measures in respect of accepted preliminary designs

9. (1) As from the publication of the notice in respect of the acceptance of a preliminary design as contemplated in section 8(7), and despite the provisions of any law to the contrary— 15

(a) no application for the establishment of a township, for subdivision of land, for any change of land use in terms of any law or town planning scheme or for any authorisation contemplated in the ECA or NEMA may be granted—

(i) in respect of an area within the road or rail reserve boundaries of the preliminary design, provided that the MEC may on written application by the applicant relax the provisions of this subsection in respect of an access road on such conditions as the MEC may deem fit, including—

(aa) a condition that the access road be substituted by another road or street serving the same function as the access road; and 25

(bb) a condition for amending the preliminary design requiring the applicant to pay all or any of the costs incurred by the MEC in the process, in which case section 38 applies;

(ii) on the basis of future access to the provincial road to which the said preliminary design relates, except on the basis of access provided for in the said preliminary design, or amendment thereof on application in terms of section 8(9) or otherwise; 30

(b) sections 46, 48 and 49 apply, with the necessary changes, to a building restriction area which exists in respect of the road and rail reserve boundaries, as shown in the preliminary design, inasmuch as these sections are applicable to building restriction areas, but sections 46(4), (5), and (9) and sections 48(7) and (8), do not apply; and 35

(c) no application for a change in land use in respect of a portion of land adjacent to the road reserve boundary of a preliminary design in an urban area may be granted without the written comments of the MEC first having been obtained and considered in accordance with the applicable planning procedure by the authority empowered to grant changes in land use, which must duly consider such comments, and section 7(6), (7) and (8) applies in such a case, with the necessary changes. 40 45

(2) After the publication of the notice contemplated in section 8(7) and despite any law to the contrary, no service provider may after commencement of this section, lay, construct, alter or add to any pipeline, electricity line or cable, telephone line or cable, or any other structure on, over or under the area within the road or rail reserve boundaries as shown in the preliminary design or may construct, alter or add to any structure of any nature whatsoever on, over or under such area, except— 50

(a) if the written permission of the MEC has been obtained and in terms of such conditions as the MEC may determine; or

(b) in terms of an existing registered servitude.

Existing route planning and preliminary design of future provincial roads and railway lines 55

10. (1) Any route within the Province which has been accepted as such by—

(a) the Administrator as defined in the Roads Ordinance, 1957 (Ordinance No. 22 of 1957);

- (b) the Premier of the Province; or
- (c) the MEC;

under that Ordinance before the date of commencement of this section shall be deemed to have been determined and published in terms of section 6 (9) as soon as the MEC has published a notice in the *Provincial Gazette* to the effect that the centre line thereof has been determined, from which date the relevant provisions of sections 5 to 8 apply to such a route as though it had been published in terms of section 6(9). 5

(2) The MEC must keep a list of all such existing accepted routes which must be available for inspection by any interested and affected party, together with the plans depicting such routes, at prescribed times and places. 10

(3) Every preliminary design of a provincial road within the Province, including such design in the form of basic planning, which has been accepted by—

- (a) the Administrator as defined in the Roads Ordinance, 1957 (Ordinance No. 22 of 1957);
- (b) the Premier of the Province; or 15
- (c) the MEC,

under that Ordinance before the date of commencement of this section and which is mentioned in a notice published in the *Provincial Gazette*, shall as from the commencement of this section, be deemed to have been accepted by the MEC for implementation in terms of sections 8(6), (8) and (9) and section 9 shall as from the commencement of this section be applicable to such preliminary design, provided that for purposes of application of the said sections, section 8(7) shall be deemed to have been complied with at the date of commencement of this section. 20

(4) The MEC must keep a list of all preliminary designs contemplated in subsection (3), which must be available for inspection by interested and affected parties, together with the plans in respect thereof, at prescribed times and places. 25

PART 3: PROCLAMATION OF PROVINCIAL ROADS AND RAILWAY LINES, EXPROPRIATION AND COMPENSATION

Proclamation of provincial roads and railway lines

11. (1) The MEC may, by notice in the *Provincial Gazette* after investigation and report by the Department and, subject to subsection (4) and section 15, considering comments or recommendations from municipalities in whose areas of jurisdiction the road or railway line will be situated and whether or not a route has been determined under section 6 or a preliminary design has been carried out under section 8— 30

- (a) proclaim a road to be a provincial road or railway line; 35
- (b) proclaim that a provincial road or railway line shall exist on any land of a width that the MEC deems sufficient;
- (c) alter the status of a provincial road or railway line; and
- (d) close or deviate a provincial road or railway line.

(2) The MEC may, by notice in the *Provincial Gazette*, reduce or increase the width of a provincial road or railway line. 40

(3) (a) The MEC may cancel a notice contemplated in subsection (1), after consulting the relevant municipality in cases where the road or railway line has already been constructed, subject to subsection (5); or

(b) The MEC may amend such a notice, after consulting the relevant municipality in cases where the amendment is substantial, subject to subsection (4). 45

(4) The public may use a provincial road which has ceased to have the status of a provincial road in terms of subsection (1)(d) until physically closed by the MEC by visible means.

(5) The MEC may act without comments or recommendations from municipalities where they fail to provide them within 60 days of being requested to do so in writing. 50

(6) The MEC may designate any provincial road or portion thereof, either in the notice proclaiming it or in a later notice in the *Provincial Gazette*, as a freeway.

(7) Any provincial road that has been designated as a freeway by an appropriate road traffic sign in terms of the National Road Traffic Act, 1996 (Act No. 93 of 1996) before the commencement of this section, shall be deemed to have been designated by the MEC in terms of subsection (6). 55

(8) Where a road or railway line is proclaimed over land in terms of subsection (1), the rights to precious metals, precious stones, base minerals and natural oil shall continue to vest in the person (including the State) in whom they vested prior to the date of proclamation. 60

Increase or reduction of building restriction areas

12. (1) The MEC may, by notice in the *Provincial Gazette*, increase or reduce a building restriction area, either generally or in relation to a specific piece of land or portion thereof.

(2) Any person may apply to the MEC, in the prescribed manner and on payment of the prescribed application fee, for the reduction of a building restriction area, which may be granted or refused by the MEC having regard to the nature of the road or railway line involved, the development or proposed development along that road or railway line and other factors regarded as relevant by the MEC.

Proclamation of access roads

13. (1) Where as a result of the construction, maintenance or deviation of a provincial road or railway line it becomes necessary, in the MEC's opinion, to provide a new or altered road affording access to a provincial or other road, the MEC may, subject to section 15, declare by notice in the *Provincial Gazette*, that an access road of a width deemed sufficient by the MEC and specified in the notice, shall exist over the land in question, or close or deviate or increase or decrease the width of such a road.

(2) The MEC may cancel or amend a notice referred to in subsection (1).

(3) Despite section 50(2)(a), the MEC is not obliged to plan, design, develop, construct, finance, manage, control, maintain, protect or rehabilitate any access road.

(4) The provisions of this Act relating to provincial roads shall apply equally to access roads, unless indicated otherwise or clearly inappropriate.

Endorsement of proclamations on title deeds

14. (1) Within a prescribed period after the date on which a provincial road or railway line was proclaimed under section 11, or a building restriction area was increased or decreased under section 12, or an access road was proclaimed under section 13, the MEC must in writing request the Registrar of Deeds who has jurisdiction, to endorse the fact of that proclamation on the title deeds of the land affected by the proclamation. The Registrar of Deeds must make such an endorsement in any manner he or she considers fit.

(2) An endorsement under subsection (1) shall serve as a note contemplated in section 31(6)(a) or 32(5), as the case may be, of the Deeds Registries Act, 1937 (Act No. 47 of 1937).

Public participation

15. (1) Within the prescribed time before taking an action listed in subsection (3), the MEC must—

- (a) notify the owners and occupiers of land that will be affected and interested and affected parties, and as prescribed in writing or by publication in the prescribed manner, of the nature and purpose of the proposed action with a clear statement thereof, and the reasons for such action;
- (b) afford such persons not less than 21 days to make comments and representations with regard thereto;
- (c) take such other steps as may be prescribed; and
- (d) otherwise comply with the Promotion of Administrative Justice Act, 2000 (Act No. 3 of 2000).

(2) The MEC must give due consideration to any comments or representations so received before deciding to proceed with the action.

(3) The actions to which subsections (1) and (2) apply are the following:

- (a) Proclaiming provincial roads or railway lines, or altering, closing or deviating them under section 11(1), or cancelling or amending a notice in that regard under section 11(3);
- (b) proclaiming an access road under section 13(1) or cancelling or amending a notice in that regard under section 13(2);
- (c) closing or deviating a provincial road under section 17, unless it is dangerous or impractical in the circumstances to undertake the actions contemplated in section 17(1);
- (d) expropriating land or a right in land under section 19(1);

- (e) acquiring material under section 21(1);
- (f) diverting storm water onto property under section 41(1); or
- (g) issuing a written order to deviate an access or exit under section 43(7).

De proclamation of provincial roads, railway lines and access roads

16. (1) Where the MEC amends or revokes a notice proclaiming, widening or permanently deviating a provincial road, railway line or access road or portion thereof, or where the MEC proclaims that an existing provincial road, railway line or access road or portion thereof will be permanently closed, with the effect that the land concerned is no longer required for road or rail purposes, and compensation therefore has already been paid—

- (a) the MEC may decide, after consultation with the relevant municipality, that the road, railway line or portion that ceases to exist as a provincial road, railway line or access road shall fall under the jurisdiction of that municipality; or
- (b) if the MEC does not take such a decision, and an agreement has not been reached under paragraph (c), the ownership of the land or rights in respect of which compensation was paid shall vest in the Province on the date of such proclamation, and the Registrar of Deeds having jurisdiction must make the appropriate entries in the Deeds Registry in that regard on application by the MEC; or
- (c) the MEC and the owner of the land on which the road, railway line or portion is situated may agree that the owner will pay to the MEC the current market value of the land on which such road, railway line or portion is situated, in which case such land shall fall back to the full control of the owner as if the road, railway line or portion was never proclaimed as a provincial road, railway line or access road,

and no compensation shall be payable to the owner of the land on which such road, railway line or portion is situated as a result of such revocation or proclamation.

(2) Where the MEC amends or revokes a notice proclaiming, widening or permanently deviating a provincial road, railway line or access road, or where the MEC proclaims that an existing road or railway line will be permanently closed, with the effect that the land concerned is no longer required for road or rail purposes, and where compensation for the land concerned has not yet been paid, the MEC is not liable to pay such compensation and the land on which such road, railway line or portion is situated shall fall back to the full control of the owner as if the road, railway line or portion was never proclaimed as a provincial road, railway line or access road.

Closing of provincial roads to traffic

17. (1) Subject to the provisions of the National Road Traffic Act, 1996 (Act No. 93 of 1996), the MEC may, after such notice as the MEC deems fit—

- (a) close a provincial road temporarily to traffic or deviate it in order to repair it;
- (b) whenever considered expedient, for a purpose other than a purpose referred to in paragraph (a)—
 - (i) close a provincial road temporarily or permanently to a specific class of traffic; or
 - (ii) close a provincial road temporarily to all traffic.

(2) No one may use a provincial road that has been closed under subsection (1), and anyone who does so is guilty of an offence.

(3) Where direct and substantial physical damage is caused to land as a result of a deviation in terms of subsection (1)(a), the MEC must pay to the owner of that land compensation as mutually agreed upon, or failing agreement, as determined in accordance with section 30, in which case costs shall be calculated and awarded in accordance with section 31.

(4) Except in the case of an emergency, as prescribed, the MEC may not deviate traffic from a provincial road onto a municipal road or street without first consulting the relevant municipality.

Proclamation of provincial road, railway line or access road

18. (1) Where the MEC proclaims a provincial road, railway line or access road, or widens or permanently deviates such a road or railway line, under section 11 or 13, the MEC must pay compensation to the owner in respect of the land encroached upon by such a road or railway line or the widening or deviation thereof, as agreed, or failing agreement, as determined in accordance with this Act. 5

(2) Interest contemplated in section 28(3) will be payable 60 days after promulgation of the notice concerned, in respect of compensation payable under section 28(2).

(3) Where a provincial road, railway line or access road has been permanently deviated within the boundaries of the land on which the road or railway line previously existed, compensation must only be paid insofar as the market value of the land encroached upon by the deviation exceeds the market value of the land previously encroached upon by such road or railway line. 10

Expropriation of land or rights in land

19. (1) The MEC may by notice to the owner, expropriate land or a right in land and cause it to be registered in the name of the Province, for the construction or maintenance of any transport infrastructure, or a purpose directly related to the interests of the Province in connection therewith. 15

(2) Where a provincial road, railway line or access road traverses a piece of land, or the MEC— 20

(a) expropriates land in terms of subsection (1); or

(b) proclaims a provincial road, railway line or access road or proclaims that such a road or railway line shall exist or alters the status of such a road or railway line or closes or deviates such a road or railway line under section 11(1) or 13(1); 25

and the MEC is of the opinion that the remainder of the land, or a portion thereof, has become useless to the owner, or that it is no longer a viable farming unit, or that fairness to the owner requires it or that it is in the interests of the Province, the MEC may expropriate that remainder or portion thereof by notice to the owner.

(3) Where land is expropriated under subsection (1) or (2), the MEC must pay, subject to subsection (4)— 30

(a) the surveying and transfer costs; and

(b) to the owner such compensation as may be mutually agreed upon or, failing agreement as determined in accordance with this Act, provided that such compensation may not exceed the amounts contemplated in section 28(1), subject to that section. 35

(4) An owner shall not be entitled to compensation to the extent that compensation has already been paid in respect of the expropriated land when the relevant road or railway line was declared or proclaimed, if this is the case, or that compensation was paid, whether for the land itself or as loss or damage, for diminution in value of that land at the stage of the proclamation, declaration or expropriation of the relevant road or railway line. 40

Entering upon or taking possession of land

20. (1) Subject to subsections (2), (4), (5) and (6), the MEC may enter upon any land with the necessary workers, machines, vehicles, equipment, tools, instruments or materials to perform or carry out on, below the surface of or in connection with that land, an investigation, survey, observation or other act that the MEC deems necessary for or in connection with the construction or maintenance of any transport infrastructure or take possession temporarily of land for a purpose in connection with the construction or maintenance of such infrastructure. 45 50

(2) Where the owner or occupier of the land has not consented to the MEC acting in terms of subsection (1), the MEC must give the owner or occupier of the land written notice of the MEC's intention so to act not less than seven days before the land is entered, setting out the purpose for which entry upon the land is authorised, the acts that may be performed on the land in connection with that purpose and the persons by whom, the means whereby or the manner in which they are to be performed. 55

(3) If the owner or occupier objects to the proposed actions, he or she may state those

objections in writing not less than 48 hours before the proposed entry on the land, in which case the MEC must consider the objections. If the MEC is of the opinion that the objections are not well founded or it is in the public interest to act in spite of the objections, the MEC must notify the owner or occupier accordingly before entering on the land. 5

(4) The provisions of subsection (1) may not be used to gain access to a dwelling house or other building on the land in use for residential purposes unless the occupier of the house or other building agrees to the MEC entering it for the purpose of performing or carrying out therein an activity mentioned in subsection (1).

(5) Where the MEC in terms of subsection (1) takes possession temporarily of land for— 10

- (a) the erection or construction of a building, hut, tent or other structure for the accommodation of workers employed on transport infrastructure or executing other work in connection therewith;
- (b) the storing thereon of stores, plant, machinery, equipment or anything else the MEC deems necessary for the construction and maintenance of transport infrastructure, 15

the MEC must pay to the owner rental as is agreed upon, or, failing agreement as determined in accordance with section 30, in which case costs shall be calculated and awarded in accordance with section 31. 20

(6) For the purpose of exercising the rights under this section, the MEC may, after notice to the owner, make roadways or openings in fences, walls and hedges, provided that such openings must be effectively closed against trespassing or straying animals during the operations and the fence properly restored on completion of the work, and that any excavation made in the course of the work which may be a source of danger must be securely fenced off, filled in or otherwise rendered safe on completion of the works. 25

(7) The MEC must repair or pay for damage arising from an act performed by or in terms of subsection (1) or (6), unless the damage was not due to an intentional or negligent act or omission of the Department or its employees or agents. 30

Acquisition of material

21. (1) The MEC may, subject to subsection (2), take and remove or cause to be taken and removed from land material which is necessary for the construction or maintenance of transport infrastructure, and may take possession temporarily of such land for the purpose of acquiring the material. 35

(2) (a) The MEC may select a place from which the material contemplated in subsection (1) may be taken, and must give the owner notice of the place; and

(b) the owner may, within 14 days after receipt of the notice, point out another place within the same cadastral boundaries on the land concerned and if the MEC is of the opinion that the other place is suitable and accessible and will provide suitable material, the materials must be taken from the place pointed out by the owner. 40

(3) Where the MEC takes material under this section, the MEC must restore or rehabilitate the land in accordance with applicable environmental laws and—

- (a) where such restoration or rehabilitation does not have the effect of restoring the land entirely to its former state; or 45
- (b) where the owner has suffered loss or damage by the taking of the material;

the MEC must pay to the owner such compensation for any loss or damage to the land, as may be agreed or failing agreement as determined in accordance with section 30, in which case costs shall be calculated and awarded in accordance with section 31.

(4) Section 20(6) shall apply to the taking of material under this section. 50

Demolishing and evacuation of buildings or structures

22. (1) Where the MEC considers it necessary for the establishment, construction or maintenance of any transport infrastructure, or the safety of traffic on a provincial road or railway line, or the safety of the occupants of a building, he or she may, after obtaining the consent of the owner concerned, demolish or remove a building or other structure, or a portion thereof, whether or not it is situated inside the road or rail reserve, and for that purpose may request a person to vacate it within the time the MEC determines, subject to subsection (2). 55

(2) Should an owner or person in occupation of a building or structure contemplated

in subsection (1) not be prepared to consent to the relevant action, the MEC may approach the appropriate Court for an order authorizing the MEC to take such action.

(3) Where the MEC acts under subsection (1), he or she must pay to the owner compensation as agreed or failing agreement as determined in accordance with section 30, in which case costs shall be calculated and awarded in accordance with section 31. 5

(4) Where a person lawfully occupies a building on land on which a provincial road or railway line has been proclaimed or which has been expropriated by the MEC or is owned by the Province and which the MEC requires for the construction of a road, he or she must evacuate the building within 30 days from the date of a written notice by the MEC requiring him or her to do so. 10

(5) A person who fails to evacuate a building as required under subsection (1), or who unlawfully occupies such a building, commits an offence.

(6) This section shall not derogate from the MEC's rights to take other action against a person contemplated in subsection (1).

Notices proclaiming roads and notices of expropriation 15

23. (1) Where the MEC—

(a) proclaims a provincial road or railway line or increases the width thereof under section 11; or

(b) proclaims an access road under section 13;

the MEC must within 60 days of the proclamation inform the owner or owners of the land affected by the proclamation by means of a notice served on the owner or owners by hand or by registered post. 20

(2) Where the MEC expropriates land or a right in land under section 19, the MEC must issue a notice of expropriation and serve it on the owner by hand or by registered post. 25

(3) A notice referred to in subsection (1) or (2) must—

(a) contain a clear and full description of the property or right in question, or, in the case of a portion of land, sufficient information, by way of a sketch plan showing the approximate position of the portion and stating its approximate extent, or where applicable, as the MEC may deem sufficient to indicate the general direction and situation of the road or of the deviation thereof or the extent of the increase and where the increase applies; 30

(b) state the date of expropriation and where applicable, the date that the Province will take possession of the property;

(c) draw the owner's attention to sections 26(1) and 28(4)(a)(ii). 35

(4) In the case of a portion of a piece of land, the owner may request the MEC in writing within 30 days of the date of the notice to furnish further particulars, which must be furnished within 60 days of receipt of the request, and in which case the date of the notice containing the particulars shall be deemed to be the date of the notice of expropriation. 40

(5) If the whereabouts of the owner are not known or if the MEC is satisfied that it will be impracticable to serve the notice on the owner, or if the property is subject to a fideicommissum and the MEC does not know who the fideicommissaries are or will be, the MEC must cause the notice to be published once in the *Provincial Gazette* and once a week during two consecutive weeks in a newspaper circulating in the area where the property is situated. 45

(6) The MEC may not issue a notice contemplated in subsection (1) unless the land taken up by the road, railway line, deviation or increase is shown on a plan that is available for inspection by interested persons or that the land has been demarcated by beacons or other suitable means, and the notice contains a statement that such a plan is available and where it is available or that beacons or other suitable means have been erected. 50

(7) A notice proclaiming a reduction of the width of a road or rail reserve or that a provincial road or railway line shall no longer exist over land, shall be served on the owner of the land by hand or by registered post, and subsections (3), (4), (5) and (6) shall apply to such a case with the necessary changes. 55

Passing of ownership in expropriated property

24. (1) The ownership of property expropriated under section 19 shall vest in the Province on the date of expropriation, released from all mortgage bonds but subject to all other registered rights, unless and until such rights are also expropriated.

(2) Where the MEC has taken the right to use property, the Province may exercise that right from the date of expropriation. 5

(3) Between the date of expropriation and the date that the Province takes possession of the property, the owner from whom the land was expropriated—

- (a) will be entitled to the use of and income from the property;
- (b) will remain responsible to pay taxes and other charges in respect thereof; and 10
- (c) must take care of and maintain the property in the condition that it was on the date of expropriation; but the MEC must compensate the owner for the reasonable costs necessarily incurred in respect of such maintenance or care and if the owner wilfully or negligently fails to do so and the property depreciates in value, the MEC may recover the depreciation from the owner. 15

(4) If the owner and the MEC fail to agree on a date for taking possession of the property, the owner may give the MEC not less than 21 days' written notice stating a date on which he or she desires the Province to take possession of the property, and the Province shall be deemed to have taken possession on that date.

Offers of compensation 20

25. (1) The MEC may offer to the owner an amount of compensation for the property in the notice contemplated in section 23(1) and where no such offer is made, must do so within 60 days thereafter.

(2) Where an owner has indicated under section 26(1) what amount he or she claims as compensation and has provided the information required by that subsection, and the MEC does not accept the amount, the MEC must offer the owner an amount as compensation, which may or may not be the same as an offer made under subsection (1), within 60 days of receipt of the claim, and state what amount is offered under each of sections 28(1)(a) and (b). 25

(3) (a) Unless the parties have agreed otherwise, the owner shall be deemed to have accepted an offer made by the MEC where the owner fails to make an application to the appropriate court for determination thereof before the date determined by the MEC by written notice to the owner. 30

(b) A notice in terms of paragraph (a) must be addressed to the owner not later than eight months prior to the date contemplated in the notice and the MEC must direct the attention of the owner to the notice in writing not less than 60 days before such date. 35

(4) For the purposes of costs, a claim or offer made shall remain in force until accepted or substituted by another claim or offer in writing.

(5) Either party may ask the other for further particulars concerning the offer or claim, which must be furnished within 60 days of receipt of the request, failing which the party concerned may approach a court contemplated in section 30(1) for an order directing the other party to comply therewith. 40

Duties of the owner of expropriated property

26. (1) An owner whose property has been expropriated in terms of this Act either permanently or temporarily must within 60 days from the date of the notice deliver to the MEC a written statement indicating— 45

(a) if compensation was offered in the notice of expropriation, whether or not the offer is accepted and if no amount was so offered or the offer is not accepted, the amount claimed and full particulars of how the amount is made up and full particulars of improvements which, in the owner's opinion, affect the value of such land; 50

(b) if the property is land—
 (i) which prior to the date of the notice was leased in whole or in part under an unregistered lease, the name and address of the lessee and enclosing the lease or a copy thereof, or full particulars thereof if it is not in writing; 55

- (ii) which was sold prior to the date of the notice, the name and address of the buyer and the contract concerned or a copy thereof;
 - (iii) on which a building has been erected subject to a builder's lien (right of retention) by virtue of a written building contract, the name and address of the builder and enclosing the contract or a copy thereof; 5
 - (iv) in respect of which occupiers have obtained rights under the Extension of Security of Tenure Act, 1997 (Act No. 62 of 1997), full particulars relating to such occupiers;
 - (c) the address to which the owner desires documents in connection with the expropriation to be sent. 10
- (2) The MEC may extend the period of 60 days, once only, and must do so for a further 60 days if the owner requests this in writing.
- (3) Where relevant the MEC may—
- (a) request the owner to deliver the relevant title deed to the MEC within 60 days or written particulars of the person who possesses or controls the title deed; 15
 - (b) request a person in possession or control of the title deed to deliver it to the MEC within 60 days.
- (4) A person who wilfully furnishes false or misleading particulars under this section or fails to comply with a request under this section commits an offence.

Payment of amount offered as compensation 20

27. (1) Where the MEC has made an offer of compensation the MEC must pay, not later than the date on which the Province takes possession of the property, not less than eighty percent of the amount offered to the owner or other relevant person or deposit it with the appropriate Master of the High Court or use it to settle tax or other moneys contemplated in section 34. 25
- (2) Payment, deposit or use of an amount under subsection (1) will not preclude the determination by agreement or by a court of a different amount as compensation, but if the amount determined is less than the amount paid, deposited or used, the owner, the Master or the municipality, as the case may be, must refund the difference to the Province together with interest as contemplated in section 28(3) from the date on which the amount was paid or used in the case of the owner or municipality, and, in the case of the Master, the interest accrued thereon. 30

Basis on which compensation is to be determined

28. (1) Subject to subsection (2), the amount of compensation payable to an owner in terms of this Act shall not exceed— 35
- (a) in the case of property other than a right, the total of—
 - (i) the amount which the property would have realised if sold on the date of expropriation in the open market by a willing seller to a willing buyer, and
 - (ii) an amount to make good any actual financial loss caused by the expropriation; or 40
 - (b) in the case of a right, an amount to make good any actual financial loss caused by the expropriation or the taking of the right.
- (2) Where there is no open market for the property, compensation may be determined on the basis of the amount that it would cost to replace the improvements on the property, having regard to the depreciation thereof for any reason, as determined on the date of expropriation, or in any other suitable manner. 45
- (3) Despite anything to the contrary in this Act there shall be added to the total amount of compensation an amount equal to—
- (a) ten percent thereof or, if it exceeds R100 000, on the first R100 000 thereof; plus 50
 - (b) five percent of the amount by which it exceeds R100 000 but does not exceed R500 000; plus
 - (c) three percent of the amount by which it exceeds R500 000 but does not exceed R1 000 000; plus 55
 - (d) one percent of the amount by which it exceeds R1 000 000 (to a maximum of R10 000).
- (4) (a) Interest at the rate determined under section 80(1)(a) of the Public Finance Management Act, 1999 (Act No. 1 of 1999) shall, subject to subsection (4), be payable

60 days after the date on which the Province takes possession of the property on any outstanding portion of the compensation payable, provided that—

- (i) where there is doubt as to the identity of the person or persons who must receive compensation, interest will not be payable until the doubt is resolved to the satisfaction of the MEC, and
- (ii) if the owner does not comply with section 26(1), interest will not be payable until the date on which that subsection is complied with.

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(b) compensation and interest shall be deemed to have been paid on the date on which it is made available or posted to the owner; and

(c) no interest shall be payable after the date on which compensation was paid, deposited with the Master or used under section 34.

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(5) Where the owner of expropriated property continues to use or occupy the property or a portion thereof, no interest will be payable for the period of use or occupation on so much of the outstanding compensation as relates to the property so used or occupied.

(6) The following rules shall apply to the determination of compensation under this Act:

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- (a) no allowance shall be made for the fact that the property or right was taken without the owner's consent;
- (b) the fact that the property has or had a special usefulness or suitability to the Province shall be ignored if it is unlikely that the property would have been purchased for that purpose on the open market;
- (c) if the value of the property has been enhanced by using it unlawfully, the enhancement must not be taken into account;
- (d) improvements made after the date of the notice of expropriation shall not be taken into account unless they were necessary for the proper maintenance of existing improvements or were undertaken pursuant to an obligation entered into before that date;
- (e) no allowance shall be made for unregistered rights in respect of any other property or for any indirect damage or anything done with the object of obtaining compensation therefore;
- (f) any enhancement or depreciation in value, before or after the date of the notice of expropriation, which may be due to the purpose for which or in connection with which the property is being expropriated or is to be used, or which is a consequence of any work or act which the Province may carry out or perform or has carried out or performed in connection with such purpose, shall not be taken into account;
- (g) account shall be taken of—
 - (i) any benefit which will enure to the person to be compensated from any works that the Province has constructed on behalf of such person to compensate him or her for financial loss which will be suffered in consequence of the expropriation or the taking of the right, and
 - (ii) any benefit that will enure to such person in consequence of the expropriation or the use thereof for the purpose for which it was expropriated or the right was taken.

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Unregistered leases and rights of labour tenants and occupiers

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29. (1) A lessee whose lease, or a labour tenant as defined in the Land Reform (Labour Tenants) Act, 1996 (Act No. 3 of 1996) whose rights, or an occupier whose rights, have been terminated under section 36 shall, subject to subsections (2) and (3) of this section, be entitled to compensation as if his or her rights were a registered right in respect of the property in question which was also expropriated on the date of expropriation in respect of the property.

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(2) The MEC must simultaneously with the notice of expropriation to the owner send to such a lessee, labour tenant or occupier of which he or she is aware a notice informing them of the expropriation, after which such notice will be deemed to be a notice of expropriation in respect of the latter's rights.

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(3) If an owner of expropriated property fails to comply with section 26(1)(b)(i) and the MEC was not aware of the existence of a lease or of such a labour tenant or occupier before paying compensation to the owner, the MEC shall not be obliged to compensate the lessee, labour tenant or occupier, but the owner shall be liable to the lessee, or labour

tenant or occupier for compensation for his or her rights as acquired by relevant legislation or damage sustained by his or her rights being terminated.

Determination of compensation

30. (1) Subject to subsection (6), compensation payable in terms of this Act shall, in the absence of agreement, on the application of any party concerned be determined by the High Court in whose area of jurisdiction the property in question is situated on the date of the expropriation or taking. 5

(2) Proceedings contemplated in subsection (1)—

(a) must be instituted and conducted by way of action;

(b) may not be instituted before expiry of 90 days after compensation has been claimed by the person entitled thereto in writing. 10

(3) The law of procedure applicable to civil proceedings in the relevant High Court shall apply to such proceedings, subject to this Act and an order or judgement of the court shall be deemed to be an order or judgement in civil proceedings.

(4) After proceedings contemplated in subsection (1) have been set down for hearing, and notwithstanding anything to the contrary in any law or rules of court or practice— 15

(a) the judge may—

(i) order that a conference contemplated in rule 37(1)(a) of the rules of the High Court promulgated by Government Notice R48 of 12 January 1965 be held in his or her chambers; 20

(ii) issue directions regarding inspections and other matters connected with preparation for and hearing of the proceedings; and

(b) the court may in its discretion regulate the further procedure for the conduct of the proceedings.

(5) This section shall not prevent the MEC and the owner from submitting by agreement a dispute concerning the amount of compensation to be paid in terms of this Act to arbitration in terms of the Arbitration Act, 1965 (Act No. 42 of 1965) or to mediation on terms to be agreed. 25

(6) (a) A party to proceedings contemplated in subsection (1) may, at any time before or during the hearing, make a written offer to the other party for the settlement of the dispute, and may do so without prejudice; 30

(b) the party making the offer may therein accept liability for costs or a portion thereof, and if he or she does not do so, he or she shall be deemed also to have made an offer to pay the other party's costs on a party-and-party basis up to the date of the offer;

(c) the party to whom the offer has been made may accept the offer— 35

(i) if it was made not less than seven days prior to the commencement of the hearing, within seven days; or

(ii) if it was made less than seven days prior to the commencement of the hearing, within 24 hours; or

(iii) with the consent of the party who made the offer, at any time; 40

(d) acceptance of the offer shall terminate the proceedings, except as regards disputes relating to the interpretation of the offer or to costs;

(e) if such an offer to settle the dispute is not accepted and the court determines the compensation in an amount which is equal to or—

(i) more than the amount of the offer by the owner, the court must order the MEC to pay the owner's costs incurred after the date of the offer; 45

(ii) less than the amount of the offer by the MEC, the court must order the owner to pay the MEC's costs so incurred after the date of the offer;

(f) the court must in its discretion decide on costs incurred prior to the date of an offer; and 50

(g) if a court has made an order as to costs without knowledge of an offer which had not been accepted, and non-acceptance thereof is brought to the notice of the court within five days from the date of the judgement, costs must be reconsidered in the light thereof.

(7) An offer which is not accepted may not be disclosed to the court before judgement is given. 55

(8) Where compensation is payable under this Act for the expropriation of land or a right or for the taking of material, it may not exceed the amount which the land, including improvements, or the right would have realised if sold on the date of the notice in the open market by a willing seller to a willing buyer. 60

Orders as to costs

31. (1) If the compensation awarded by the court in proceedings contemplated in section 30(1)—
- (a) is equal to or exceeds the amount last claimed by the owner one month prior to the date for which the proceedings were placed on the roll for the first time, costs must be awarded against the MEC; 5
 - (b) is equal to or less than the amount last offered by the MEC one month prior to the date contemplated in paragraph (a), costs must be awarded against the owner;
 - (c) is less than the amount last so claimed by the owner, but exceeds the amount last so offered by the MEC, so much of the owner's costs must be awarded against the MEC as bears to such costs the same proportion as the difference between the compensation so awarded and the amount so offered bears to the difference between the amount of compensation so awarded and the amount so claimed. 10 15
- (2) Notwithstanding subsection (1), the court must decide as to the costs in its discretion—
- (a) in a case not mentioned in subsection (1);
 - (b) if a party did not within a reasonable time comply with reasonable requests by the other party for particulars of the claim or offer; 20
 - (c) if, in the court's opinion, a party's conduct prior to or during the proceedings justifies a deviation from subsection (1).
- (3) In the case of a conflict between this section and section 23, the latter shall prevail.
- (4) The liability for costs and taxation fees of a party to be compensated must be deducted from the money, including interest if any, which is payable to such party in terms of the court order. 25

Effect of court application or appeal

32. Where application has been made in terms of section 30(1) for determination of compensation or an appeal against a decision of a court has been made as contemplated in that section, the other provisions of this Act shall apply as if the application or appeal had not been made. 30

Bonds and unregistered rights

33. (1) If immovable property expropriated under this Act was subject to a registered mortgage bond or a contract of sale or a builder's lien on the date of expropriation the MEC must, subject to subsection (3) of this section and sections 34 and 35, not pay out any portion of the compensation except to the person and on the terms agreed to between the owner and the mortgagee, buyer or builder and as the MEC has been notified by them. 35
- (2) Where an owner fails to comply with section 26(1)(b)(ii) or (iii) and the buyer or builder does not receive a portion of the compensation money by virtue of subsection (1) of this section, the owner shall be liable to the buyer or builder for damage sustained by them due to the expropriation and the MEC shall not be obliged to pay compensation for that damage. 40
- (3) If the owner and the mortgagee, buyer or builder fail to conclude an agreement contemplated in subsection (1), any of them may apply to a court referred to in section 30(1) for an order directing the MEC to pay the compensation money as the court determines and the court may issue an order, including an order as to costs, as it deems fit. 45

Payment of municipal taxes

34. (1) The MEC must send a copy of every notice of expropriation to every municipality in whose area of jurisdiction the property concerned is situated. 50
- (2) Such a municipality must inform the MEC of any outstanding taxes or other money owing to it in respect of the property within 30 days of receipt of the notice.
- (3) The MEC may use the compensation money in question to pay such taxes or money on behalf of the owner. 55

Deposit of compensation with Master

35. (1) If property expropriated under this Act was burdened with a fideicommissum or compensation is payable to a person whose address is not known or if the MEC is unable to determine to whom compensation must be paid, the MEC may deposit the compensation with the Master of the High Court having jurisdiction after which the MEC shall cease to be liable for payment of the amount deposited. 5

(2) Moneys so received by the Master must—

(a) in the case of a fideicommissum be subject to the will or other instrument creating the fideicommissum, and

(b) subject to paragraph (a), be paid into the Guardian's Fund referred to in section 86 of the Administration of Estates Act, 1965 (Act No. 66 of 1965) for the benefit of the persons entitled thereto and bear interest at the rate determined by the Minister of Finance in the national sphere of government. 10

(3) Subsections (1) and (2) shall not affect the jurisdiction of any court to make an order in respect of the moneys. 15

(4) In the event of a dispute or doubt as to the person who is to receive compensation under this Act or if the owner and a mortgagee, buyer or builder have not notified the MEC as to how compensation should be paid, the MEC must, subject to section 33(3) deposit the compensation with the Master. 20

Termination of unregistered rights on expropriation

36. All rights in respect of expropriated land not registered or recorded against the title deed thereof shall terminate on the date of expropriation and the MEC shall not be liable to pay any compensation for such rights except as specifically provided in this Act. 20

Withdrawal of expropriation

37. (1) Despite any other law, the MEC may, if he or she deems it in the public interest or otherwise expedient, withdraw an expropriation carried out under this Act, by following the procedure set out in section 23, with the necessary changes, from a date mentioned in the relevant notice, but an expropriation of property may not be withdrawn— 25

(a) after 90 days after the date of expropriation, except with the written consent of the owner concerned; or

(b) where the property is immovable property, if transfer thereof has already been registered in the name of the Province. 30

(2) The MEC must compensate any person for any direct or indirect damage suffered as a result of the withdrawal of the expropriation. 35

(3) If the Province has already paid compensation for the expropriation, it must be repaid, and will be regarded as a debt due to the Province.

(4) Ownership of the property will again vest in the owner from whom it was expropriated from the date contemplated in subsection (1), and any mortgage bonds, servitudes and other rights discharged or terminated in connection with the expropriation shall revive, and the Registrar of Deeds must on receipt of a copy of the notice of withdrawal of the expropriation, or publication thereof in the *Gazette*, cancel any endorsement made in his or her registers pursuant to the expropriation and on the relevant title deed. 45

PART 4: ACTIVITIES IN RELATION TO TRANSPORT INFRASTRUCTURE**Closing of provincial roads on application**

38. (1) Anyone who desires that—

(a) a provincial road other than a freeway; or

(b) an access road, 50

be closed, deviated or otherwise altered may apply to the MEC in writing on payment of the prescribed fee. This section shall apply also to roads that have not yet been built.

(2) (a) On receipt of such an application, the MEC must publish in the *Provincial Gazette* and a newspaper circulating in the area a notice calling upon interested persons to submit written comments or objections, with reasons, within 30 days; 55

(b) a copy of the notice must also be posted at the office of the magistrate of the relevant district for not less than 14 days and the MEC may require the applicant to post or display the notice at each end of the relevant road portion in the manner contemplated in subsection (3), for the period determined by the MEC.

(3) Within seven days of publication of the notice, the applicant must erect notice boards at each end of the appropriate road section that are visible to approaching traffic and as nearly as possible at right angles to the road, and which are in the prescribed form and contain the prescribed particulars. 5

(4) The applicant must maintain the notice boards referred to in subsection (3) until the application is granted or refused, whereupon the applicant must remove the boards within seven days, failing which the MEC may do so and claim the costs from the applicant. 10

(5) After considering comments and objections, if any, the MEC may, subject to subsection (6), grant or refuse the application, and where it is granted, proclaim the road to be closed, deviated or altered by notice in the *Provincial Gazette* and must include in the notice a sketch plan showing the closure or alteration. 15

(6) The MEC may as a condition for acting under subsection (5), require the applicant to—

- (a) pay to the MEC compensation payable in terms of this Act or such portion of such compensation as the MEC determines, for passing on to the person entitled to the compensation; 20
 - (b) to erect a fence that the MEC deems necessary;
 - (c) to construct the provincial road concerned as required by the MEC; or
 - (d) to pay all or any of the costs incurred by the MEC in the process, 25
- and the MEC may require the person to furnish security that the MEC deems sufficient for the fulfilment of such a condition.

Fences, gates etc.

39. (1) Gates or motor grids required in existing fences owing to deviations of roads or railway lines or the making of new railway lines on roads other than freeways, may be provided or erected by the MEC, but must be maintained by the owner of the land on which the gate, motor grid or fence is situated. 30

(2) When the construction of a new road or railway line or a deviation of an existing road or railway line by the MEC necessitates the removal and re-erection of an existing fence, gate or motor grid, such removal and re-erection and the making of by-passes leading to such a grid must be undertaken at the expense of the MEC but must be maintained by the owner of the land on which the gate, motor grid or fence is situated. 35

(3) Where such gates or motor grids have been removed or damaged due to circumstances beyond the control of the owner, the MEC may provide financial or other assistance to the owner to replace or repair them, or do so at the MEC's cost.

(4) An owner who fails to maintain a gate or motor grid as required by subsections (1) and (2) to the satisfaction of the MEC commits an offence, and in such a case, the MEC may effect the maintenance and claim the costs from the owner. 40

(5) The MEC may remove a fence, gate, motor grid, or other structure, enclosure or obstruction which has been erected—

- (a) in the road or rail reserve; or 45
- (b) along the road or rail reserve boundary a provincial road or railway line, constructed contrary to this Act or to the Fencing Act, 1963 (Act No. 31 of 1963), or to any other law,

and re-erect such fence on the boundary of the road or rail reserve or so as to comply with the relevant law, as the case may be and the costs of such removal and re-erection must be paid by the person who erected the fence, gate, motor grid or other enclosure or obstruction, but the MEC shall not be liable for damage reasonably caused during such removal and re-erection. 50

(6) (a) No one may—

- (i) erect a fence, wall or hedge; 55
- (ii) electrify a fence;
- (iii) remove a fence, wall or hedge or portion thereof, or
- (iv) erect or attach lights or lighting equipment to a fence or wall so that the light will shine onto a provincial road or railway line;

on or along a provincial road or railway line without the written permission of the MEC; 60

(b) in granting permission as contemplated in paragraph (a), the MEC may indicate

the position where and manner in which the fence, wall, hedge, lights or lighting equipment must be placed and may attach conditions to such permission, and may withdraw it at any time;

(c) a person who contravenes paragraphs (a) or acts contrary to permission contemplated in paragraph (b) commits an offence. 5

(7) (a) If a person erects a fence, wall, hedge, light or lighting equipment in contravention of this Act, the MEC may, after notice to such person, remove it and, where appropriate, re-erect the fence or wall in the proper position, but the MEC shall not be liable for damage reasonably caused during such removal and re-erection; and

(b) the MEC may claim the costs of such removal and re-erection from that person. 10

(8) Any person who damages a fence or gate on or along a provincial road or railway line, whether intentionally or otherwise, must report the damage to the Department in the prescribed manner and within the prescribed time, and failure to do so will constitute an offence.

(9) An owner of land on or along which a provincial road or railway line is situated who discovers that a fence or gate on or along the road or railway line is damaged, must— 15

(a) report the damage to the Department in the prescribed manner and within the prescribed time;

(b) in the case where livestock are likely to wander onto the road or railway line, or there is other danger to life or property, effect emergency repairs to the fence or gate pending its proper repair or replacement, regardless of whether that owner is responsible to repair the damage, 20

and failure to do constitutes an offence.

(10) In this section "erect" shall include re-erection or the entire replacing of material. 25

Leading of water

40. (1) Where the construction, maintenance or deviation of a provincial road or railway line interferes with existing arrangements for leading water, the MEC must provide and maintain means for such water leading in, over, under or across the road or railway line in the manner the MEC deems suitable, at the expense of the Province, in such a manner that the rights of interested persons to that water are not adversely affected. 30

(2) The MEC must consult with interested and affected parties in relation to proposed actions to be taken under subsection (1), and may agree to provide better or different measures for leading water at their request, where appropriate at their expense. 35

(3) No person may, unless authorised by this Act or another law—

(a) cause water to run over or on a provincial road, railway line or access road or other transport infrastructure by altering the natural course of the water or through an act or omission on land of which he or she is the owner or occupier; 40

(b) use a sprinkler or other device in such a manner on land of which he or she is the owner or occupier that it causes water to come onto a provincial road or railway line or other transport infrastructure;

(c) lead water in, over, under or across a provincial road, railway line or other transport infrastructure without the written approval of the MEC; provided that this shall be done at the expense of such person and that the MEC may decide on the class of culvert or other conduit that may be used and the manner in which and when it must be laid; 45

(d) raise the level of the water of a river, stream or other water course or divert the natural course of storm water so as to interfere with the use of a provincial road, railway line, bridge, drift or other transport infrastructure without the written permission of the MEC. 50

(4) A person who commits an act contemplated in subsection (3) commits an offence.

Disposal of storm water

41. (1) The MEC may divert storm water from a provincial road or railway line onto private property, subject to subsections (2) and (3). 55

(2) Where such private property is land occupied by buildings, orchards, gardens or other improvements or cultivated land, the action contemplated in subsection (1), may be done only in agreement with the owner, unless the storm water was being discharged

in the same place before proclamation of the road or railway line, and where agreement cannot be reached, the MEC may expropriate a portion of the land necessary for that purpose in accordance with section 19, or by notice in the *Provincial Gazette* expropriate a right in the land so as to divert water to a natural water course or other appropriate place. 5

(3) Where such private property is land situated above such buildings, orchards, gardens or other improvements and within 100 metres of the road or rail reserve boundary, this may be done only after consultation with the owner, unless the water was being discharged in the same place prior to the construction of the road or railway line.

(4) Where the MEC acquires a right in terms of subsection (2)— 10

(a) the relevant Registrar of Deeds must register it against the title deeds of the land; and

(b) the MEC must pay compensation to the owner as agreed or failing agreement, as determined under section 30, in which case costs shall be calculated and awarded under section 31. 15

(5) The MEC shall not be liable for damage caused by a diversion under subsection (1).

(6) Where an owner of land advises the MEC that the land will be cultivated or developed after the date on which the MEC commenced to divert storm water thereon, the MEC may execute such drainage works as he or she deems reasonable to reduce damage that may be caused by the storm water in agreement with and at the cost of the owner, and the owner shall have no claim against the MEC in respect thereof. 20

(7) Where the private land onto which storm water is diverted has been divided into stands, lots, erven or agricultural holdings of units being less than 24 hectares in extent, the MEC must consult with the relevant township owner and owner and allow the owner to submit a drainage plan if the owner so desires and arrange for the discharge of storm water in conformity with such a plan as far as the MEC deems it expedient to do so. 25

(8) Should the MEC alter an existing drainage scheme at the request of such township owner or owner, the costs of the alteration shall be paid by such owner to the MEC, in the amount and manner determined by the MEC. 30

Connection of roads and paths with provincial roads

42. (1) No one may connect any road, pedestrian path or bicycle path with a provincial road without the written permission of the MEC and on payment of the prescribed fees.

(2) Application for permission under subsection (1) must be made in the prescribed manner, and in granting it the MEC may determine the nature and standard of the connection and the place where and manner in which it must be constructed, and may impose conditions regarding the connection or its use. 35

(3) The MEC may withdraw permission granted under subsection (1) if the holder does not observe such conditions.

(4) A person who contravenes subsection (1) commits an offence, and in such a case, the MEC may close the connection and claim the costs thereof from that person. 40

Access to and exits from provincial roads and railway lines

43. (1) Subject to subsections (2) and (3), when access to or exit from a provincial road or railway line is barred by a lawfully erected fence, wall, hedge, trench, ditch or similar obstacle along or near the edge thereof, no one may gain access to or exit from any land through, under or over that fence, wall, hedge, trench, ditch or other obstacle by means of a gate, stile, bridge or other passage, unless the MEC has authorised in writing the construction of the gate, stile, bridge, or other passage and the latter is constructed according to the authorisation. 45

(2) No one may— 50

(a) take a vehicle onto a provincial railway line;

(b) take a vehicle onto a provincial road except at an entrance lawfully provided for that purpose; or

(c) take a vehicle off a provincial road except at an exit lawfully provided for that purpose. 55

(3) Subsection (1) shall not apply to a lawfully erected gate, stile, bridge or other passage which was in existence and use at the commencement of this section and which was not closed or removed at any time thereafter.

(4) Subject to section 48, the MEC may not withhold an authorisation contemplated in subsection (1) for a gate, stile, bridge or other passage which is necessary to give access to or exit from a piece of land to which or from which no other reasonable access or exit is available or can be made available at reasonable expense, but may direct that the access or exit be provided at a place specified by the MEC. 5

(5) In granting the authorisation mentioned in subsection (1), the MEC may prescribe the nature of the gate, stile, bridge, or other passage and the place where and manner in which it must be constructed, and may impose other conditions in connection therewith or with its use that the MEC deems necessary, and may withdraw the authorisation if any requirement prescribed or condition imposed in the authorisation is not observed. 10

(6) Where an access to or exit from a provincial road serves a single property, the owner of that property must maintain the portion of the access or exit between the verge of the road and the road reserve boundary, to the satisfaction of the MEC at that owner's cost, and neither the MEC nor any agent or servant of the Province shall be liable for loss or damage caused to any person as a result of any act or omission of an owner under this subsection. 15

(7) The MEC may by written order direct an owner of land abutting on a provincial road to deviate an access to or exit from such road that provides access to or an exit from such land, or restrict or close such access or exit, in such manner, to such extent and for such period as specified in the notice, or permanently. 20

(8) (a) If an obligation is prescribed by an authorisation granted under subsection (1) or a written order under subsection (7), the Registrar of Deeds having jurisdiction for the area concerned must, at the written request of the MEC, note the obligation on the title deed of the land affected thereby and in the appropriate registers; 25

(b) in the case of an authorisation under subsection (1), the cost in connection with that noting must be paid by the person to whom the authorisation was granted;

(c) the MEC may enforce compliance with an obligation that has been so noted.

(9) (a) Where the deviation, restriction or closure of an access or exit in terms of subsection (7) necessitates the alteration, re-siting, re-erection or reconstruction of any gate, private garage or driveway, the MEC must, subject to paragraph (b), carry out the work so necessitated at the MEC's cost or permit the owner to carry out the work at the cost of the MEC; 30

(b) the liability of the MEC in terms of paragraph (a) shall be limited to the cost of substituting gates, garages or driveways of a similar standard to those which are required to be altered, re-sited, re-erected or reconstructed, unless a condition has been imposed to the contrary. 35

(10) A person who enters or leaves a provincial road or railway line, or takes a vehicle onto or off a provincial road or railway line, or constructs or erects a gate, stile, bridge or other passage in contravention of this section, commits an offence

Advertising on or visible from provincial roads and railway lines 40

44. (1) No one may display an advertisement or permit it to be displayed in the road reserve of a provincial road, except where it is displayed on a provincial road which serves the purpose of a municipal street and is identified as such by the MEC by notice in the *Provincial Gazette*.

(2) Except as provided in subsection (3), no one may display an advertisement or permit it to be displayed— 45

(a) on a provincial railway line;

(b) outside an urban area that is visible from a provincial road or railway line;

(c) that is visible from a freeway in an urban area and is within 250 metres from the road reserve boundary of the freeway; 50

(d) that is visible from any provincial road or railway line in an urban area, on land adjoining the provincial road or railway line or on land separated from the provincial road or railway line by a street.

(3) Subsection (2) will not apply to the displaying of an advertisement complying with the prescribed requirements if any as to the nature, contents or size of such an advertisement or the time, manner or place of its display, where the display thereof is authorised by or under the regulations concerned, or the advertisement— 55

(a) is displayed in terms of an authorisation conferred before the date of coming into effect of this Act under a law, for as long as the advertisement is displayed in accordance with the requirements which, in terms of that authorisation, are applicable or were applicable immediately before such date; or 60

- (b) is lawfully displayed at a place immediately before the road or railway line in question is proclaimed a provincial road or railway line for as long as it is displayed continuously at the same place, unless its removal has been directed under subsection (5) and the period within which it had to be removed, has expired; or 5
- (c) must be displayed in terms of a law and is displayed strictly in terms of that law.
- (4) The MEC may prescribe in regulations made under subsection (3)—
 - (a) for the classification of provincial roads and railway lines into categories on the basis of their scenic, environmental or architectural importance, or, in the case of roads, on the basis of safety considerations, or on other similar bases; 10
 - (b) for the classification of advertisements into categories for the purpose of regulating and controlling their display or erection;
 - (c) that certain categories of advertisements may be erected or displayed only with the prior written permission of the MEC or relevant municipality on application on the basis of objective criteria, at least one of which must be based scientific research results, set out in the regulations in which case the MEC or such municipality may— 15
 - (i) grant or refuse such permission in terms of the regulations and may, if permission is granted, prescribe— 20
 - (aa) the specifications to which the advertisement must conform;
 - (bb) the period during which the approval will be of effect;
 - (cc) the manner, place and circumstances in which and conditions subject to which the advertisement may be displayed;
 - (ii) if permission is refused, prescribe procedures to make representations to the Townships Board; 25
 - (d) that a fee will be payable on application for such permission or for the granting of such permission;
 - (e) for procedures to be followed in applying for such permission;
 - (f) that an inspection fee or periodical inspection fees will be payable by persons specified in the regulation, where such permission has been granted; 30
 - (g) for methods of display, animation and illumination of advertisements;
 - (h) for safety, amenity and decency of advertisements;
 - (i) for design and construction of advertisements, and their position and maintenance. 35
- (5) Anyone who displays an advertisement contrary to the provisions of this section or permits it to be so displayed, or the owner of the land on which the advertisement has been displayed and who has been directed by the MEC by written notice to remove it, must do so within the period stated in the notice, which may not be shorter than 14 days subject to subsection (7). 40
- (6) If the person to whom a notice in terms of subsection (5) is directed, fails to remove the advertisement specified in the notice within the period stated therein, the MEC may remove it and enter the property concerned for this purpose without the owner's or occupier's permission, despite the other provisions of this Act, and recover the cost of the removal from that person. 45
- (7) Despite subsection (5), where an advertisement is displayed contrary to this section and poses an immediate or urgent safety hazard, the MEC may act under subsection (6) in the public interest or for the public safety without notice to any person to remove the advertisement.
- (8) A person who contravenes subsection (1) or (2) or fails to remove an advertisement when directed to do so under subsection (5), commits an offence. 50
- (9) For the purposes of this section, unless the contrary is proved—
 - (a) an advertisement is deemed to be displayed—
 - (i) by the person who erected it or otherwise caused it to appear; and
 - (ii) in the case of an advertisement relating to a product or article produced or manufactured by a particular person, or to a service rendered by a particular person, or to a business, undertaking or place owned by a particular person, by that person; 55
 - (b) advertisements are deemed to have been displayed after the commencement of this section; 60
 - (c) a person who owns or occupies land upon which an advertisement is displayed and the manufacturer of any article or the proprietor of any business or undertaking to which such an advertisement relates and any agent of such a

manufacturer or proprietor shall be deemed to have displayed that advertisement or to have permitted its display.

(10) Any advertisement that was erected or displayed on the commencement of this section that is prohibited by this Act, and is not an advertisement for which the MEC may grant permission, must be removed within 90 days of such commencement. 5

(11) (a) Where an advertisement has been erected or displayed on the commencement of this section, which, in terms of this Act, may not be so erected or displayed without the permission of the MEC or another authority, the owner of the advertisement or the person who displays it or permits it to be displayed, or the owner of the land on which the advertisement has been displayed, must apply to the MEC or such other authority, as the case may be, for such permission, within 90 days of such commencement, failing which the advertisement must be removed forthwith; 10

(b) no such application may be made in respect of an advertisement contemplated in subsection (10).

(12) If permission for an advertisement contemplated in subsection (11) has been refused, the advertisement must be removed within 30 days of receipt of notification of such refusal and where such a notification has been posted by registered post, the addressee will be deemed to have received it eight days after posting thereof. 15

Disused vehicles, refuse etc. on or near provincial roads and railway lines

45. (1) No one may— 20

(a) deposit or leave a disused vehicle or machine or a disused part thereof, or any refuse or other object on a provincial road or railway line;

(b) without the MEC's written permission or contrary to a condition imposed by the MEC and set out therein, deposit or leave, so as to be visible from a provincial road or railway line, a disused vehicle, machine or part on land outside an urban area and within 200 metres from the boundary of a provincial road or railway line. 25

(2) The MEC may remove a disused vehicle or machine or a disused part thereof or refuse found on a provincial road or railway line, and may recover the cost of the removal from the person who deposited or left it on the road or railway line. 30

(3) If, on land mentioned in subsection (1)(b) there is found a disused vehicle or machine or disused part thereof, or refuse or other object which is visible from a provincial road or railway line, and the person who deposited or left it there or a person entitled to remove it, has been directed by the MEC by notice in writing to remove it from the land or to take the necessary steps to render it no longer visible from a provincial road or railway line— 35

(a) such a person must remove it from the land or take those necessary steps within the period stated in the notice, except if—

(i) that person produces a written permission of the MEC authorising its presence on that land under the circumstances in question; or 40

(ii) in the case of a person so entitled, that person satisfies the MEC of not having deposited or left the vehicle, machine, part or refuse or object on that land and not having permitted its being deposited or left there and, where it was deposited or left there by the agent or employee of the person so entitled, of not having been aware of that fact; 45

(b) the MEC, if the vehicle, machine, part, refuse or object has not been removed within the period stated in the notice, and if satisfied that no person holds a written permission of the MEC in terms of paragraph (a)(i), may remove it from that land or take any steps that the MEC considers necessary to render it no longer visible from the provincial road or railway line, and may recover the cost of the removal or of those steps from the person who in terms of paragraph (a) was under a duty to make the removal or take the necessary steps. 50

Structures and other works on, over or below provincial roads and railway lines or certain other land

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46. (1) Except as provided in subsection (2) or (3) or allowed by section 44, and despite the provisions of other laws, no person may without the MEC's written permission or contrary to that permission, do the following—

- (a) on or over, or below the surface of, a provincial road or railway line or land in a building restriction area, erect, construct or lay, or establish a structure or other object (including mine excavations, dumps and stockpiles and anything which is attached to the land on which it stands even though it does not form part of that land); 5
- (b) make a structural alteration or addition to a structure or object situated on, over, or below the surface of a provincial road or railway line or land in a building restriction area;
- (c) give permission for erecting, constructing, laying or establishing a structure or other object on, over, or below the surface of a provincial road or railway line or land in a building restriction area or for a structural alteration or addition to a structure or other object so situated. 10
- (2) Subsection (1) shall not apply to—
 - (a) the completion of a structure whose erection was commenced before—
 - (i) the area concerned became a building restriction area; or 15
 - (ii) the commencement of this section, if such erection would have been lawful before such commencement;
 - (b) an enclosure, fence or wall outside a road or rail reserve which does not rise higher than the prescribed height above the surface of the land on which it stands. 20
- (3) (a) The MEC, according to discretion, may grant or refuse permission in terms of subsection (1);
 - (b) when giving permission, the MEC may prescribe—
 - (i) the specifications to which the structure, object, alteration or addition must comply; 25
 - (ii) the manner and circumstances in which, the place where and the conditions on which the structure, object, alteration or addition may be erected, constructed, laid, established or made; and
 - (iii) the obligations to be fulfilled by the owner of the land in question if the structure, object, alteration or addition is erected, constructed, laid, established or made. 30
- (4) (a) If an obligation is prescribed by a condition imposed under subsection (3)(b), the Registrar of Deeds having jurisdiction for the area concerned must, at the written request of the MEC, note the obligation on the title deed of the land affected thereby and in the appropriate registers; 35
- (b) the cost in connection with that noting must be paid by the person to whom the permission has been given;
- (c) the MEC may enforce compliance with an obligation that has been so noted.
- (5) The MEC may charge rentals for structures and other works situated within the road reserves of provincial roads or the rail reserves of provincial railway lines on land owned by the Province, either in a single sum or on a periodical basis. 40
- (6) The MEC may charge an inspection fee or periodical inspection fees in the prescribed amounts where a permission has been granted under subsection (3).
- (7) Where a person without the permission required by subsection (1) or contrary to such permission, has erected, constructed, laid or established a structure or object or has made a structural alteration or addition to a structure or object or given permission therefore, the MEC by notice in writing may direct that person to remove the unauthorised structure, object, alteration or addition within a reasonable period which must be stated in the notice but which may not be shorter than 30 days from the date of the notice. 45
- (8) If the person to whom a notice has been issued in terms of subsection (7), fails to comply with the notice within the period stated therein the MEC may remove it and recover the cost of removal from that person. 50
- (9) (a) Despite the provisions of other laws, the MEC may remove or shift to a place he or she determines a structure or object which is causing a dangerous situation requiring immediate or urgent action in the public interest or for the public safety, where the structure or object was erected, constructed, laid or established on or over, or below the surface of—
 - (i) a provincial road or railway line; 55
 - (ii) land in a building restriction area; or
 - (iii) other land situated within a distance from a provincial road or railway line as specified in a condition imposed under section 48(5); 60

(b) where a person is responsible in terms of a law to remove or shift such a structure or object so erected, constructed, laid or established, the MEC may recover the cost of the removal or shifting from that person.

(10) Anyone who contravenes subsection (1) or fails to comply with a notice under subsection (7) commits an offence. 5

Trading on provincial roads and railway lines or in building restriction areas

47. (1) Except as provided in subsection (3), no one may without the MEC's written permission or contrary to the terms of such permission, carry on a trade or expose, offer or manufacture for sale goods—

(a) on a provincial road or railway line; or 10

(b) on or in any transport infrastructure under the control of the MEC, or

(c) in a building restriction area.

(2) In the case of facilities for the use of buses, taxis or trains and their passengers, permission under subsection (1) may be granted only in respect of special areas designated for trading purposes. 15

(3) Subsection (1) will not apply to a person who continues a business or undertaking after a road or railway line is proclaimed a provincial road or railway line or land becomes a building restriction area, unless that person has been directed by the MEC by notice in writing to discontinue it.

(4) An employee of the Province or person authorised thereto in writing by the MEC, 20 an employee of a municipality designated or appointed to perform law enforcement functions on a provincial road, and a person who in terms of a road traffic law, may—

(a) if such an employee, officer or person (in this section called the competent official) suspects on reasonable grounds that a person has performed an act for which the MEC's written permission is required in terms of subsection (1), 25 demand that the person produces to the competent official the written permission to perform that act;

(b) if the person to whom the demand is made, fails to produce such a written permission to the competent official, or if the competent official suspects on reasonable grounds that a person has performed an act that is unlawful in 30 terms of subsection (1)—

(i) demand that person's full name and residential address be furnished by the latter then and there;

(ii) order that person to remove from the building restriction area or the provincial road or railway line or other transport infrastructure— 35

(aa) every article with or in respect of which that act has been performed or which the competent official suspects on reasonable grounds to be destined for use for or in connection with the performance of such an act by that person; or

(bb) a structure, tent, vehicle, implement or other object in, on or 40 with which that act has been performed, or in or on which there is such an article, or which the competent official suspects on reasonable grounds to be destined for use for or in connection with the performance of such an act by that person; or

(c) remove from the provincial road, railway line, transport infrastructure or the 45 building restriction area an article, structure, tent, vehicle, implement or other object mentioned in paragraph (b)(ii), or which the competent official finds on the provincial road, railway line, transport infrastructure or in the building restriction area and suspects on reasonable grounds to have been used, or to be destined for use, by a person in connection with a contravention of subsection 50 (1), and claim the costs of removal from the person concerned.

(5) A person commits an offence—

(a) upon contravening a provision of subsection (1); or

(b) when failing to furnish the latter's full name and residential address to a competent official in terms of subsection (4)(b)(i); or 55

(c) upon having failed to obey an order given under subsection (4)(b)(ii).

(6) A relevant municipality may undertake the functions of the MEC under this section, in agreement with the MEC.

MEC's approval necessary for establishment or extension of certain townships and division of certain land

48. (1) Despite the provisions of any other law, a surveyor-General may not approve a general plan or a diagram of erven, stands, lots or holdings which together form a township or group (whether combined with or without thoroughfares and open spaces which are, or are intended to be, public places) if any part of any such erf, stand, lot or holding falls within a building restriction area, unless the general plan or diagram corresponds substantially with a plan or sketch of the proposed layout of the township or group, which the MEC has approved in writing. 5

(2) Subsection (1) shall apply also, with the necessary changes, to a diagram of a piece of land adjoining a township or group of erven, stands, lots or holdings, if any part of that piece of land is in a building restriction area. 10

(3) If land or a part of land is situated in a building restriction area, a Surveyor-General may not approve the diagram or general plan of a division of that land or part unless the MEC has given approval in writing. 15

(4) A municipality or other authority may not grant approval for a change in land use of a property adjacent to a provincial road in an urban area, unless the MEC has given approval for the change in writing.

(5) The MEC may refuse to give approval under subsection (3) or (4) only if satisfied that the division in question may frustrate an object of this Act. 20

(6) (a) The MEC may give the approval under subsections (1), (3) or (4) subject to conditions—

- (i) prohibiting the division or further division of the land or of a specified part of it;
- (ii) limiting the use to which the land or a specified part of it may be put;
- (iii) limiting the number or extent of buildings or other structures which may be erected on the land or on a specified part of it; 25
- (iv) prohibiting the erection, construction or establishment of a structure or object on, over or below the surface of the land, or on, over or below the surface of a specified part of it within a specified distance from the road or railway line in question; 30

(b) in giving such approval the MEC may stipulate that if the land or a specified part of it is consolidated with other land, the title to the consolidated land will be subject to a condition imposed under paragraph (a).

(7) A condition referred to in subsection (6) may be imposed so as to permit non-compliance therewith or a departure therefrom with the MEC's approval. 35

(8) (a) Despite contrary provisions in the Deeds Registries Act, 1937 (Act No. 47 of 1937)—

- (i) the person giving transfer of land to which conditions referred to in subsection (6) apply, must insert them in the deed of transfer;
- (ii) the Registrar of Deeds must endorse on the title deed of the land retained by the person giving transfer, each of those conditions that applies to the land so retained; 40
- (iii) a certificate of consolidated title issued in respect of consolidated land mentioned in subsection (6)(b), must contain every condition to which the title to that land is to be subject in terms of a stipulation made under that subsection; 45

(b) the MEC may enforce compliance with any such condition.

(9) (a) Despite contrary provisions in the Deeds Registries Act, 1937 (Act No. 47 of 1937), or other laws, a Registrar of Deeds, with the MEC's written approval, may cancel a condition which in terms of subsection (8) has been inserted in a deed of transfer or certificate of consolidated title or has been endorsed on a title deed; 50

(b) the cancellation may be done on the written application of the owner of the land in question, accompanied by the MEC's written approval and proof that all mortgagees (if any) have been notified of the proposed cancellation;

(c) no transfer duty or office fees will be payable for such a cancellation.

(10) The MEC may make regulations limiting the uses to which land in building restriction areas or land adjacent to provincial roads in urban areas may be put, where the MEC is of the opinion that such uses will— 55

- (a) pose a danger to traffic on a provincial road;
- (b) increase the traffic on a provincial road beyond its capacity; or
- (c) frustrate any of the objects of this Act. 60

(11) Regulations under subsection (10) may provide that contravention thereof or failure to comply therewith shall be an offence.

(12) This section shall be in addition to, and not in substitution, of other laws relating to division of land or township development.

(13) A person who is aggrieved by a decision of the MEC in terms of this section may appeal in the prescribed manner and on payment of the prescribed fee to the Townships Board.

Mining operations on or under provincial roads and railway lines or building restriction areas

49. (1) No one may conduct any mining operations on or under a provincial road or railway line or building restriction area, except with the written permission of the MEC, who may grant the permission subject to conditions that are deemed appropriate.

(2) Where it becomes necessary to deviate or reconstruct a provincial road or railway line because it has become undermined subsequent to its creation, either before the date of commencement of this section or in contravention of subsection (1), in order to preserve the safety or interests of the public, the MEC may instruct the person responsible for the undermining to render the road or railway line safe or to provide for its reconstruction to the satisfaction of the MEC, at the expense of such person and within a time determined by the MEC, failing which the MEC may undertake the work and recover the cost from such person.

PART 5: POWERS AND DUTIES OF THE MEC

General powers and duties of MEC

50. (1) The construction, financing, control, supervision, management, development, maintenance, protection and rehabilitation of all provincial transport infrastructure shall vest in the MEC, and the MEC shall, within available financial resources, be responsible for the said activities.

(2) Subject to provisions to the contrary in this Act or the National Road Traffic Act, 1996 (Act No. 93 of 1996), the MEC may—

- (a) construct, finance, control, manage, develop, maintain, protect and rehabilitate a provincial road, railway line or other transport infrastructure and fences relating thereto and, subject to section 13(3), access roads;
- (b) remove or dispose of an animal which is within the road reserve of a road in contravention of the National Road Traffic Act, 1996 (Act No. 93 of 1996) or any other law. The MEC shall not be liable to compensate any person where such an animal is killed or injured to avoid danger to traffic;
- (c) provide and maintain transport infrastructure, boreholes, pumps and all appurtenances or conveniences which he or she deems necessary for the travelling public;
- (d) erect, construct and maintain either on or, subject to section 21, outside a road or rail reserve a building, hut, tent or other structure for the accommodation of officials and workers employed on transport infrastructure or executing other works in connection therewith;
- (e) store either on or, subject to section 21, outside a road or rail reserve stores, plant, machinery equipment or other things which the MEC deems necessary for the construction or maintenance of transport infrastructure;
- (f) take water or make other provision for water that the MEC deems necessary for carrying out the provisions of this Act: provided that water may not be taken from a man-made dam, well or borehole without the consent of the owner;
- (g) subject to the other provisions of this Act, regulate, control, close or deviate an entrance to or exit from a provincial road or railway line;
- (h) lease out or dispose of land, implements or equipment owned by the Province or lease out or dispose of rights held in land by the Province that was acquired for or in connection with transport infrastructure and is not immediately required, or lend such implements or equipment or grant temporary rights to such land free of charge;
- (i) rehabilitate or landscape or otherwise improve areas within a provincial road or railway line;
- (j) charge a fee or rent for any authorisation, approval or permission granted to a person in terms of paragraph (o) or sections 42, 43, 44, 46, or 47 for the

- provision, construction, erection, establishment, carrying on or operation on, over or under a provincial road, railway line or other transport infrastructure, of anything provided for in those sections over and above application fees, which may also be charged in prescribed amounts;
- (k) provide financial or other assistance, in agreement with an owner of land, for the erection or maintenance of fences, gates or other structures on provincial roads or railway lines or land adjacent thereto, or for the construction or maintenance of any road or railway line; 5
 - (l) grant financial or other assistance to a municipality, on conditions that the MEC determines— 10
 - (i) for the construction or maintenance of transport infrastructure in the area of its jurisdiction;
 - (ii) for the expropriation by that municipality of land or a right in land for the purpose mentioned in paragraph (i);
 - (m) construct or maintain a road or portion thereof in the area of jurisdiction of a municipality on behalf of that municipality; 15
 - (n) lay, move or remove a railway, tramway or trolley line within a provincial road;
 - (o) provide service facilities and allow the provision of filling stations, restaurants, playgrounds and other facilities for the use of the travelling public within provincial roads; 20
 - (p) by notice in the *Provincial Gazette* prohibit or restrict the movement of livestock or other animals other than in a vehicle on any provincial road designated in the notice, or provide that livestock may not be moved on such a road without the written approval of the MEC and may, where such livestock is found on such a road in contravention of such a notice or without such approval, impound it in the prescribed manner; or 25
 - (q) exercise any power that is reasonably incidental or ancillary to the powers listed in paragraphs (a) to (p).
- (3) The Department must provide and maintain such traffic signs, traffic control devices and markings as he or she may deem necessary for the guidance and safety of traffic on provincial roads, and may do so on access roads, and may, subject to the National Road Traffic Act, 1996 (Act No. 93 of 1996), decide where such signs, devices and markings shall be erected or placed. 30

Agreements with other authorities or persons 35

51. (1) The MEC may conclude an agreement contemplated in subsection (2) with—
- (a) another province;
 - (b) a municipality;
 - (c) the South African National Roads Agency Limited established by section 2 of the South African National Roads Agency Limited and National Roads Act, 1998 (Act No. 7 of 1998); 40
 - (d) the South African Rail Commuter Corporation Limited established in terms of section 22(1) of the Legal Succession to the South African Transport Services Act, 1989 (Act No. 9 of 1989);
 - (e) the company Transnet Limited established under section 2 of the Act mentioned in paragraph (d); or 45
 - (f) any other person or body, in this section referred to as "the other party".
- (2) An agreement contemplated in subsection (1) may be concluded where—
- (a) the other party will take over any or all responsibility for or in relation to a provincial road or other transport infrastructure. In the case of a provincial road, it shall continue to be a provincial road until the MEC declares by notice in the *Provincial Gazette* that it is no longer such for the purposes of this Act; or 50
 - (b) the other party may do work in connection with a provincial road, railway line or other transport infrastructure, including the construction and maintenance thereof or have the work done under its supervision, for the account of the Province, or that the Province will do such work for the account of the other party, or otherwise in terms of the agreement; or 55
 - (c) a road, street or railway line under the jurisdiction of the other party or owned by the other party shall be a provincial road or railway line for the purposes of this Act, in which case, where the other party is a municipality, the 60

municipality shall nevertheless be responsible for the disposal of all storm water from such provincial road or deviation thereof and expenditure incurred in connection therewith, and the MEC shall not be responsible for damage caused by or arising from the disposal of storm water by that municipality or the failure by it to dispose of storm water; or

- (d) the land on which a provincial road or railway line is situated is transferred to the other party, where the province owns the land; or
- (e) the Province will perform any of the functions envisaged in this Act, or work for the purposes of or in connection with functions of that nature, in the area of jurisdiction of, or on land belonging to, the other party, at the cost of the other authority, in accordance with and subject to this Act.

(3) An agreement in terms of subsection (2) may provide for the sharing of the costs of a project between the parties.

(4) Where an agreement has been reached under subsection (2)(d) to transfer a road to a municipality, the road concerned or relevant portion thereof shall be deemed to be a municipal road or street within the area of jurisdiction of the municipality concerned, and no compensation shall be payable to the owner of the land taken up by the road or street.

PART 6: GENERAL PROVISIONS

General prohibitions

52. (1) Despite any other law, but subject to subsection (4), no person or institution, including an organ of state as defined in section 239 of the Constitution, may, unless authorised by this Act—

- (a) encroach on a provincial road, railway line or access road by erecting or making a building, structure, fence, furrow, channel, ditch, motor grid or other obstacle or by laying a pipe line, wire or cable on, over or under such road or railway line;
- (b) leave or place obstructions which may be dangerous to traffic, or any refuse, debris, ash heaps, earthenware, glass, tins, nails, pieces of metal, timber, tree stumps, stones or other material on a road or rail reserve;
- (c) abandon a vehicle or part thereof on a road or rail reserve;
- (d) damage a provincial road, railway line or other transport infrastructure or spill fuel or other chemicals or gas on a road, railway line or paved surface that may damage it;
- (e) dig up, remove or alter the soil, surface, gravel, cuttings, banks or drains of a provincial road, railway line or access road;
- (f) erect, construct, place or exhibit in, above or on a provincial road, railway line or other transport infrastructure a board, notice framework, scaffolding or other device by means of which an advertisement could be displayed, except as permitted by this Act or another law; or
- (g) paint or affix a figure, letter, drawing, sign, symbol, graffiti or other like object or symbol on the roadway or a bridge or on a traffic sign;
- (h) lay a railway, tramway or trolley line within a provincial road;
- (i) construct a bridge across or a culvert or subway under a provincial road or railway line or access road, except with the written permission of the MEC, who may impose conditions in granting such permission;
- (j) carry electric or other wires or pipelines across or lay underground cables or pipelines under or on a provincial road, railway line or access road;
- (k) use a provincial road while it is under construction or repair, except in the manner indicated by the MEC by road signs or other methods;
- (l) close, deviate, alter or in any other manner encroach on a provincial road, railway line or access road;
- (m) attach to a gate on a provincial road, railway line or access road spikes or other objects that may cause injury to persons or animals or damage to property;
- (n) wilfully damage trees, shrubs or other improvements on provincial roads or railway lines;
- (o) obstruct or hinder the MEC or an official, employee or agent of the Department or another person authorised by the MEC in the execution of his or her duties under this Act;
- (p) close a provincial road or access road or any other road that the public is

entitled to use or erect a fence or other barrier to prevent the public from using such a road;

- (q) shine lights onto, or increase the lighting on, a provincial road or railway line in a manner that will endanger traffic;
- (r) use a provincial road that has been closed to traffic by appropriate road signs; 5
- (s) unlawfully occupy or reside in a provincial road or railway line, or other transport infrastructure owned by or under the control of the MEC;
- (t) erect a traffic sign on any provincial road or railway line;
- (u) deviate traffic onto a provincial road, except in the case of an emergency;
- (v) alter, move, disturb or damage any survey peg placed by the MEC or the MEC's agent, surveyor or contractor in the execution of his or her duties; or 10
- (w) move livestock on a provincial railway line, or on a provincial road contrary to a notice published under paragraph (p) of section 50(2) or without the approval required by that paragraph.

(2) A person who contravenes a provision of subsection (1) or any other provision of this Act that is not elsewhere declared to be an offence, commits an offence. 15

(3) Where a law authorises the doing of an act contemplated in subsection (1), the person so authorised must give the MEC at least 60 days' notice of the intention to execute the act, unless the MEC agrees to a shorter notice period. Such person must pay to the MEC the costs, as determined by the MEC, of deviating the relevant road, railway line or infrastructure or of taking other actions or precautions necessary to cater for the carrying out of that act and to ensure the safety of road users. 20

(4) The MEC may authorise the doing of an act prohibited in subsection (1) in writing, subject to the conditions, for the period and on payment of the fees or rentals that the MEC prescribes, if the MEC is satisfied that no damage to the provincial road, railway line or other transport infrastructure or prejudice to the public can result therefrom. Such fees or rentals may be fixed or be payable on a periodical basis, and such conditions may provide that the applicant shall pay the costs involved. 25

Offences and penalties

53. (1) Anyone who commits an offence created by this Act shall be liable on conviction to imprisonment for a period not exceeding six months or to a fine, or to both such imprisonment and fine. 30

(2) A court may after convicting a person of an offence created by this Act, where applicable, order the person to pay a penalty to the MEC to compensate for damage caused or order the person to repair, remove or restore any damage to, obstruction of, deviation from or encroachment on a provincial road, railway line or other transport infrastructure. 35

(3) A court convicting a person of an offence related to the overloading of a motor vehicle or the spilling of hazardous goods on a provincial road under the National Road Traffic Act, 1996 (Act No. 93 of 1996) or any other law, may order that person to pay to the MEC a penalty of R10 000 to cover the cost of damage caused to such road by the overloading or spilling, unless the MEC can show that such damage amounted to more than R10 000, in which case the penalty must be increased accordingly. 40

(4) Where a person is ordered by a court to perform an action under this Act and fails to do so within the period determined by the MEC or within the time stipulated by the court and notified to that person in writing, which may not be less than seven days, the MEC may perform the action and recover the costs from the person responsible to perform it, in addition to any other legal remedy available to the MEC. 45

(5) Where a person has been found guilty of an offence that has had the result of causing loss or damage to the Provincial Administration of the Province, the Court convicting such person may order that he or she must compensate such Administration therefore. 50

Regulations

54. (1) The MEC may make regulations—
- (a) prescribing the manner and place in which and time for which notices required by this Act shall be given, served or displayed; 55
 - (b) protecting from damage or interference property or works on or in connection with provincial roads, railway lines or other transport infrastructure, including trees, wells, boreholes and other improvements;

- (c) prescribing standards and criteria for the planning, design, development, construction, management, control, maintenance, protection and rehabilitation of provincial transport infrastructure or for road safety in the Province. In this regard different standards and criteria may be prescribed for freeways;
- (d) prescribing restrictions on or directions for the use of specified types of provincial roads or access roads; 5
- (e) providing circumstances in which owners of land or other persons must construct, erect or maintain gates, fences, points of access to roads or points of exit from roads, erected or regulated by this Act, or contribute to the costs of such erection, construction or maintenance, but may not require a person to repair or replace a fence or gate where it has been removed or damaged due to circumstances beyond such person's control; 10
- (f) prescribing standards for fences, gates, motor grids and other structures that are or must be erected or maintained in terms of this Act;
- (g) prescribing a system for numbering routes or road networks in the Province; 15
- (h) prescribing the manner in which notices required by this Act must be served or delivered;
- (i) prescribing fees and increases thereof from time to time;
- (j) prescribing or regulating any other matter permitted or required by this Act; or
- (k) prescribing or regulating any other matter the MEC may deem necessary or expedient for the efficient administration of this Act. 20

(2) Regulations made under subsection (1) may differ in respect of different categories of roads, or in respect of different areas in the Province, and may prescribe penalties for a contravention thereof or for failure to comply therewith, which may include imprisonment or a fine or both, subject to the maximum penalties stipulated in section 53; 25

Limitation of liability

55. (1) Neither the MEC nor any of the MEC's agents or employees, or officials or employees of the Department or any person who operates or has constructed transport infrastructure, will be liable for damage or loss suffered by a person— 30

- (a) through the use of a part of a provincial road other than the roadway or through the use of an access road; or
- (b) as a result of the closure or deviation of a provincial road, railway line or access road under this Act.

(2) Where a new provincial road or railway line is being planned or designed, the MEC shall not be liable for claims for diminution in value of land that will or may be affected by such a road from owners of that land or any other person unless and until the road is proclaimed under section 4 or the land or a portion thereof or a right therein is expropriated under section 19. 35

(3) Except as provided in subsection (4), legal proceedings may not be brought against the MEC, an employee of the Provincial Administration or any other person for loss or damage allegedly suffered by a person (in this section called the claimant) as a result of any act with regard to a provincial road, railway line or other transport infrastructure which allegedly was performed or committed by the MEC, an employee of the Provincial Administration acting in the performance of his or her duties or any person acting on behalf of the MEC— 45

- (a) unless instituted within 12 months after the date upon which the claimant became aware of the alleged act or omission, or after the date on which the claimant could reasonably be expected to have become aware of the alleged act or omission, whichever is the earlier; and 50
- (b) before the expiry of at least 90 days after written notification of the claimant's intention to institute the legal proceedings, with sufficient particulars of the alleged act or omission, has been served on the defendant or respondent, unless the defendant or respondent has denied liability in writing.

(4) The High Court having jurisdiction to determine the legal proceedings, may on application by that claimant, order that any requirement of subsection (3)(a) be dispensed with or relaxed, or that non-compliance therewith be condoned, in the interests of justice. 55

Delegation, sub-contracting and agency

56. (1) Subject to subsection (3), the MEC may delegate a duty, right or power given by this Act to the Head of the Department or an official of the Department, and will not thereby be divested of such a delegated duty, right or power.

(2) Subject to subsection (3), a power or duty granted to the MEC under this Act may be exercised by contractors or agents on behalf of the MEC, provided that where compensation is payable as a result of exercising the right or power, it may be recovered from the MEC who may in turn recover it from the contractor or agent. 5

(3) Subsections (1) and (2) will not apply to the power or right to expropriate land or rights under sections 11, 12, 13 or 19 or to make regulations under section 54. 10

Reconsideration of MEC's approval

57. Where the permission of the MEC is granted under any section of this Act, the MEC may make regulations prescribing that such permission lapses after the prescribed period after the date of granting thereof unless the MEC extends it in writing, but the matter may be submitted for reconsideration to the MEC in terms of such section, and such regulations may differ in respect of permissions granted under different sections. 15

Law enforcement

58. (1) The MEC may authorise an official of the Department to take steps regarding any transport infrastructure, in the manner and on the conditions prescribed, with a view to preventing any offences created by this Act or any other contraventions thereof being committed on or in such infrastructure. 20

(2) Such an authorized official will have the powers of arrest and detention conferred on a peace officer in terms of Chapter 5 of the Criminal Procedure Act, 1977 (Act No. 51 of 1977), with regard to any person who, on or in such transport infrastructure has committed any offence referred to in subsection (1) in the presence of the authorised official or who is suspected by that official, on reasonable grounds, to have committed such an offence. 25

(3) Despite subsections (1) and (2), the MEC may enter into an agreement with a municipality in terms of which the municipality is authorised and undertakes to perform the law enforcement functions mentioned in subsections (1) and (2) on or in any transport infrastructure within the municipal area, through employees of the municipality designated or appointed by it for that purpose. 30

Transitional provisions

59. (1) Notwithstanding anything to the contrary in this Act, all roads, fences, walls, motor grids and other structures constructed in accordance with laws excluded from application by this Act, shall be deemed to have been lawfully constructed under this Act and shall vest in or be administered by the persons prescribed by this Act. 35

(2) Proclamations, notices, regulations, permissions, authorisations and consents issued under a law excluded from application by this Act shall remain in force until repealed, withdrawn or amended under this Act, unless inconsistent with the provisions of this Act. 40

(3) An expropriation commenced or proceedings for the determination of compensation instituted before the commencement of this section in terms of a law excluded from application by this Act, must be concluded as if this Act had not been passed, provided that the parties may agree to proceed with such expropriation or proceedings in accordance with the provisions of this Act. 45

(4) An application submitted for an authorisation, consent or permission in terms of a law excluded from application by this Act must be concluded in terms of this Act, where appropriate.

(5) Any land in the Province which is subject to a servitude of outspan on the date of commencement of this section in terms of sections 54 or 55 of the Roads Ordinance, 1957 (Ordinance No. 22 of 1957), is hereby released from such servitude and any reference to such a servitude in a title deed shall be deemed to have lapsed. 50

(6) The Register of Deeds must remove from the Deeds Register all servitudes contemplated in subsection 5. 55

(7) An access road declared in terms of section 48 of the Roads Ordinance, 1957 (Ordinance No. 22 of 1957) is deemed to be an access road proclaimed under this Act.

Repeal of Laws

60. The following laws are repealed to the extent indicated:

- (a) the Advertising on Roads and Ribbon Development Act, 1940 (Act No. 21 of 1940), insofar as it applies to roads; 5
- (b) the Roads Ordinance [Transvaal], 1957 (Ordinance No. 22 of 1957) in total;
- (c) the Extension of Powers of Executive Committees and Administrators Act, 1964 (Act No. 41 of 1964), in total; and
- (d) the Businesses Act, 1991 (Act No. 71 of 1991) insofar as it relates to an activity contemplated by this Act. 10

This Act binds the State

61. This Act binds the State.

Short title and commencement

62. (1) This Act is called the Gauteng Transport Infrastructure Act, 2001, and shall come into effect on a date fixed by the Premier by proclamation in the *Provincial Gazette*. 15

(2) Different dates may be determined for the commencement of different sections of this Act.

OFFICE OF THE PREMIER

No. 3

3 January 2002

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

No. 9 of 2001: Provincial Adjustment Appropriation Act, 2001.

ACT

To appropriate adjusted amounts of money for the requirements of the Province in respect of the financial year ending 31 March 2002.

(English text signed by the Premier)
(Assented to on 19 December 2001)

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

Appropriation of adjusted amounts of money for the requirements of the Gauteng Province

1. Subject to the provisions of the Public Finance Management Act, 1999 (Act No. 1 of 1999), the adjusted amounts of money shown in the Schedule are appropriated out of the Provincial Revenue Fund for the requirements of the Province, as a charge to the Provincial Revenue Account, for the financial year ending 31 March 2002. 5

Short title

2. This Act is called the Provincial Adjustment Appropriation Act, 2001. 10

SCHEDULE

(As a charge to the Provincial Revenue Fund)

No.	VOTE AND PROGRAMME DESCRIPTION	Details of appropriated amount					Total
		Appropriation	Main divisions	Capital	Specified transfer payments	Amounts specifically and exclusively appropriated	
		-1	-2	-3	-4	-5	-6
		R'000	R'000	R'000	R'000		R'000
1	Office of the Premier	-35 923					
	Executive council office and strategic management		-2 554	-128	-146		-2 828
	Informatics		-8 464	-14 609			-23 073
	Legal services		-1 441	11			-1 430
	Human resources and financial management		-8 865	273			-8 592
	TOTAL		-21 324	-14 453	-146		-35 923
2	Provincial Legislature	3 400					
	Political representation and procedural services		366				366
	Speaker, provincial secretary and legal advisory		138				138
	Parliamentary operations		-676				-676
	Institutional support services		2 494				2 494
	Operational support		2 098				2 098
	Information and liaison		-1 020				-1 020
	TOTAL		3 400				3 400
3	Finance and Economic Affairs	-97 655					
	Management and administration						
	Management services and communications		262		-6		256
	Accounting services		6 882				6 882
	Provincial treasury		-13 990	-41 762		-2 570	-58 322
	Financial administration		-2 405				-2 405
	Economic affairs		5 013		-9 079		-4 066
	Strategic economic infrastructure programme				-40 000		-40 000
	TOTAL		-4 238	-41 762	-49 085	-2 570	-97 655
4	Health	55 077					
	Health Administration		-24 608		9 494		-15 114
	HIV/AIDS					2 130	2 130
	Financial management						
	District Health Services		2 912	2 230	19 659		24 801
	Training and research						
	Integrated nutrition programme					7 006	7 006
	Provincial Health Services		14 439	-1 500	-5 000		7 939
	Training and research						
	Academic Health Services		49 768	-22 303			27 465
	Central hospital						
	Pretoria academic hospital						
	Health Sciences		-1 170	1 670			500
	Health Care Support Services		5 350				5 350
	Health Facilities Development & Maintenance		-2 800	-2 200			-5 000
	Hospital rehabilitation						
	Provincial infrastructure						
	TOTAL		43 891	-22 103	24 153	9 136	55 077
5	Education	89 243					
	Administration		72 669	3 441	-5		76 105
	Financial management and quality enhancement						
	Public ordinary school education		20 890	-112 244	52 179		-39 175
	Early childhood development						
	Provincial infrastructure						

No.	VOTE AND PROGRAMME DESCRIPTION	Details of appropriated amount					
		Appropriation	Main divisions	Capital	Specified transfer payments	Amounts specifically and exclusively appropriated	Total
		-1	-2	-3	-4	-5	-6
		R'000	R'000	R'000	R'000		R'000
	Private ordinary school education						
	Education in specialized schools						
	Teacher training						
	Further education and training						
	HIV/AIDS						
	Non-formal education		37 373		1 550		38 923
	Auxiliary and associated services		13 390				13 390
	TOTAL		144 322	- 108 803	53 724		89 243
6	Social Services and Population Development	54 280					
	Administration		1 364	51	- 5		1 410
	Social security		5 627	178	41 623		47 428
	Financial management and social security system					643	643
	Social assistance		6 844	56	3 602		10 502
	Social welfare services		11 979	330	- 2 066		10 243
	Strategy policy and planning		1 113		- 113		1 000
	HIV/AIDS						
	Women's flagship					167	167
	Population unit		223		- 3		220
	Welfare facilities and maintenance		364	- 21 864			- 21 500
	Auxiliary and associated services		2 322	500	1 345		4 167
	TOTAL		29 836	- 20 749	44 383	810	54 280
7	Housing	88 730					
	Management and administration		16 722	- 3 046	- 51	25 140	38 765
	Policy Planning and communications		- 13 744	- 39 265			- 53 009
	Housing fund					- 7 425	- 7 425
	Capacity building					- 1 100	- 1 100
	Social housing and strategic intervention		43 837	202		97 567	141 606
	Housing		4 831	- 3 586			1 245
	Housing fund					82 422	82 422
	Land and asset management		- 24 594	- 383			- 24 977
	Housing fund					- 165 880	- 165 880
	Human settlement					- 26 000	- 26 000
	Alexandra renewal projects		1 866	15		101 202	103 083
	TOTAL		28 918	- 46 063	- 51	105 926	88 730
8	Development Planning and Local Government	9 793					
	Transformation of local government		395	- 395			
	Local government support grant					8 200	8 200
	Quality service delivery		1 506	- 324			1 182
	Intergrated development planning		303	- 303			
	Building local democracy and accountability						
	Effective business process		- 611	1 022			411
	TOTAL		1 593			8 200	9 793
9	Public Transport, Roads and Works	64 747					
	Management and administration		42 999	- 149			42 850
	Strategic planning		7 269		- 72		7 197
	National Land Transport Transition Act						
	Transport infrastructure		11 957				11 957
	Transport management		- 69 281	8 740			- 60 541
	Maintenance and community-based Public works		5 000	4 000			9 000
	Professional services			8 814	45 470		54 284
	Provincial infrastructure						
	TOTAL		- 2 056	21 405	45 398		64 747

No.	VOTE AND PROGRAMME DESCRIPTION	Appropriation	Details of appropriated amount				Total
			Main divisions	Capital	Specified transfer payments	Amounts specifically and exclusively appropriated	
		-1	-2	-3	-4	-5	-6
		R'000	R'000	R'000	R'000		R'000
10	Safety and Liaison	645					
	Management and administration			250			250
	Crime prevention strategy		302				302
	Monitoring and evaluation		6				6
	Communication		87				87
	TOTAL		395	250			645
11	Agriculture, Conservation, Environment and Land Affairs	- 9 545					
	Management and administration		183	512	260		955
	Agriculture		- 5 279	- 14	4 243		- 1 050
	Veterinary services		- 152	- 42	194		
	Conservation		464	- 10 164			- 9 700
	Environment		511	- 261			250
	World Heritage Site						
	Dinokeng						
	TOTAL		- 4 273	- 9 969	4 697		- 9 545
12	Sport, Recreation, Arts and Culture	15 839					
	Management support		302	- 3 207	- 4		- 2 909
	Arts, culture and heritage		1 430	- 1 060	1 297		1 667
	Sports and recreation		- 4 132	- 1 015	- 1 300		- 6 447
	Facilities development		26 293	- 30	- 15 000		11 263
	Library and information services		- 4 209	- 19			- 4 228
	Masakhane		10 274	- 370	- 80		9 824
	Financial administration		4 041	12			4 053
	Youth development		2 566	50			2 616
	TOTAL		36 565	- 5 639	- 15 087		15 839
13	Gauteng Shared Services Centre	158 357					
	Management and auxiliary services		56 253	91 702			147 955
	Internal audit		10 402				10 402
			66 655	91 702			158 357
	TOTAL FOR THE PROVINCE	396 988	323 684	- 156 184	107 986	121 502	396 988



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