

Government Gazette Rechtskoerant

REPUBLIC OF SOUTH AFRICA
REPUBLIEK VAN SUID-AFRIKA

Vol. 519

Pretoria, 5 September 2008

No. 31393

CONTENTS • INHOUD*No.**Page
No. Gazette
 No.***GENERAL NOTICE****Transport, Department of***General Notice*

1119	Transport Appeal Tribunal Act (39/1998): Amendment of Transport Tribunal Regulations, 2008	3	31393
------	--	---	-------

GENERAL NOTICE

NOTICE 1119 OF 2008

DEPARTMENT OF TRANSPORT

TRANSPORT APPEAL TRIBUNAL ACT, 1998 (ACT NO. 39 OF 1998)

AMENDMENT OF TRANSPORT TRIBUNAL REGULATIONS, 2008

I, Jeffrey Thamsanqa Radebe, Minister of Transport, acting in terms of section 17 of the Transport Appeal Tribunal Act, 1998 (Act No. 39 of 1998), herewith publish the regulations in the schedule for comments.

Interested persons should forward their comments to the Director-General within 30 days from the date of publication for the attention of:

**Mr. TREVOR MPHAHLELE
THE DEPARTMENT OF TRANSPORT
PRIVATE BAG X193
PRETORIA
0001**

**Tel: (012) 309 3481
Fax: (012) 309 3044
Mphahlet@dot.gov.za.**

SCHEDULE

Definition

- 1. In this Schedule Regulations means the Transport Appeal Tribunal Regulations published in Government Notice No. R. 8791 of 7 December 2007**

Amendment of regulation 1 of the Regulations

2. Regulation 1 of the Regulations is amended-

- (a) by substituting "**business**" in the definition of "**business day**"

"**day**" means any day which is not a Saturday, Sunday or public holiday and only business days shall be included in the computation of any time expressed in days prescribed by these rules or fixed by any decision of the Tribunal

3. Amendment of regulation 2 of the Regulations

- (a) by substitution of subregulation 1 (f) with the following paragraph:

"(f)" the signature of such appellant or his or her authorized representative
and

"be accompanied by fee contemplated in regulation [15]17(1)".

- (b) by substituting "[4]" in the numbering to make it "5"

" [(4)] (5) The secretariat of the Tribunal shall on receipt of any written Notice of Appeal on form TAT 01, allocate a reference number and notify the board or regulating committee, the Applicant and any interested and/ or affected parties thereto within 21 days of receipt of the Notice of Appeal.

3. Regulation 4 of the Regulations is amended by –

- (a) by inserting "or" after " and " in Regulation 4(1)(a).

(b) by substituting 4(3) for the following sub-regulation which will read as follows:

" (3) The Tribunal may grant an order on any point, which appears to be an issue in a case before it to be determined as a preliminary issue, and if in the opinion of the Tribunal, the determination of that point substantially disposes of the whole case, the Tribunal may treat the hearing of the preliminary issue as the hearing of the case and may make such order by way of disposing of the case as it deems fit."

(c) by substituting Regulation 4(4) for the following sub-regulation which will read as follows:

" (4) The Tribunal may, at its discretion:
(a) postpone the matter;
(b) dismiss the matter; and/or
(c) alter the place of any hearing.

and, if any of the above take place, the secretariat shall notify all parties of the revised arrangements in writing by not later than three days after the decision of the Tribunal ."

(d) by substituting Regulation 4(5) for the following sub-regulation and will read as follows:

" (5) Any irregularity resulting from a failure to comply with any provision of these Regulations before the Tribunal has reached its decision shall not in itself render the proceedings void;"

(e) by substituting Regulation 4(6) for the following sub-regulation and will read as follows:

"(6) In any case contemplated in sub-regulation (5) the Tribunal shall, if it considers that any person may have been prejudiced, take such steps as it deems fit to cure the irregularity before reaching its decision;"

(f) by substituting Regulation 4(7) for the following sub-regulation which will read as follows:

" (7) Any clerical mistakes or errors in any document recording a decision of the Tribunal, or errors arising in such a document from an incidental

error or omission, may be corrected by the Chairperson of the Tribunal or the authorized representative"

4. Regulation 5 of the Regulations is amended by –

(a) by substituting Regulation (5)(1) for the following sub-regulation which will read as follows:

" (1) Notice of Appeal in terms of section 129 of the National Land Transport Transition Act, 2000 or section 34 of the Cross-Border Transport Act, 1998, must be lodged in accordance with regulation 2, within 30 days from the date of communication by letter of the act, direction or decision of a board or the regulatory committee to the appellant or his/her representative."

(b) by substituting Regulation (5)(2) for the following sub-regulation which will read as follows:

" (2) Where an Appellant fails to serve the Notice of Appeal on form TAT 01 within the period of time contemplated in sub regulation (1), notice of appeal on form TAT 01 shall include: -

- i. a written application to the Tribunal to condone the late filing of the notice of appeal; and/or
- ii. an affidavit by the Appellant setting out the reasons for the late filing together with any further documentary evidence;

(c) by substituting Regulation 5(1) by intersession and will read as follows:

" (3) on the day of the hearing or at any time prior to the hearing, the Tribunal or Chairperson shall first consider the application for condonation in terms of section 13 (a) of the Act."

(d) by substituting Regulation 5(1)(i) to be:

" (4) Where necessary the Tribunal, may extend any time specified by the Regulations provided that the reasons for the late filing of the Notice of Appeal is supported by documentary proof.

(e) by substituting Regulation 5(1)(ii) to read as follows:

"(5) A ruling by the Tribunal to condone the appellant's late filing of the notice of appeal, shall allow the appeal to proceed as if it was filed in accordance with the provisions of regulation 2(1) unless the Tribunal or Chairperson decides otherwise."

5. Regulation 6 of the Regulations is amended to read as follows—

"(1) In considering an appeal, in terms of section 129 of the National Land Transport Transition Act, 2000 or section 34 of the Cross Border Road Transport Act, 1998, the Tribunal may-

(a) Allow any person affected by the appeal or interested therein, or the duly authorized representative of any such person, to appear before the Tribunal and-

- (i) to give evidence or make oral representations relevant to the appeal;
- (ii) to call witnesses and lead evidence on any question relevant to the appeal; or
- (iii) to question any person who testified at the appeal;

(b) Summons any person, on form TAT 02 who may reasonably be able to give information of material importance concerning the subject matter of the appeal or who has in any such person's possession or custody or under any such person's control any book, document or object which may reasonably have a bearing on the subject matter of the appeal, to appear before the Tribunal;

- (i) any notice given in terms of sub-regulation 6(b) regulations shall be in the prescribed form TAT 02 in the Annexure, and a provincial inspector shall personally hand such notice to the person to whom it applies, and such inspector shall report to the Tribunal;
- (ii) non-compliance with sub- regulation 6(b) will invoke provisions of Section 15 of the Act.

(c) Call upon and administer prescribed oath to, or accept an affirmation from, any person present at the appeal who has or might have been summoned in terms of paragraph (b);

(d) Question any person who has been called upon in terms of paragraph (c) or require any such person to produce any book, document or object in any such person's possession or custody or under any such person's control, which may reasonably have a bearing on the subject matter of the appeal.

6. Regulation 7 of the Regulations is amended to read as follows—

Parties to the Appeal

"7. The parties to the Appeal shall be the appellant and the respondent or respondents as defined in Regulation 1. "

7. Regulation 8 of the Regulations is amended to read as follows:

Right to Representation

"(2) A Legal Representative contemplated in sub-regulation (1), may be an advocate or attorney, provided that the appellant/respondent submits to the Tribunal a completed form TAT 03 contained in the Annexure in terms of which he/ she grants to the advocate or attorney, as case may be, a power of attorney in terms of which such advocate or attorney is duly authorized to represent him/her."

8. Regulation 9 of the Regulations is amended by-

(a) the addition of the following wording to Regulation 9(1)(d) and will read as follows:

(d) any other person affected by the appeal, that has formally joined the proceedings.

(b) by deletion of 21 days in subregulation 2 and will read as follows:

"(2) The Tribunal must notify all the parties affected by the appeal at least 10 days before the scheduled sitting and such notice must reflect-

9. Regulation 10 of the Regulations is amended by addition to read as follows:

Postponement of proceedings, removal of appeal from roll and withdrawal of appeal

10. (1) The Tribunal or Chairperson may be requested in writing for a postponement of the proceedings of the Tribunal or removal of the appeal from the roll, including the reasons for such request, and such a request must reach the Tribunal at least 5 days before the scheduled date of the sitting.
- (2) The Tribunal or Chairperson may grant a postponement of its proceedings or remove the appeal from the roll upon good cause shown.
- (3) If the Tribunal or Chairperson makes a decision to postpone its proceedings or to remove the appeal from the roll, the Tribunal must give notice of such postponement or removal to all parties affected by the appeal, either telephonically, by fax or by any other means, but not later than three days after the Tribunal has taken a decision.
- (4) Regulation 17(2)(a) applies to an appellant who informs the Tribunal or Chairperson about his or her withdrawal of an appeal less than 5 days before the scheduled date of the sitting.

10. Regulation 13 of the Regulations is amended by deletion for a new sub-regulation and it read as follows:

"13. The Tribunal cannot revisit its decision of the Appeal. It is trite law that the Tribunal has become *functus officio*. The functus officio rule applies "when an administrative official has made a decision which bears directly upon an individual's interests and it is said that the decision-maker has discharged his or her office. It is said that a person to whom statutory power has been entrusted is *Fuctus officio* once he or she has exercised it and he or she cannot himself or herself call his own decision in question"

11.Regulation 14 of the Regulations is amended by insertion of numbering and read as follows:

Combined hearings

14. (1) If the Tribunal is satisfied that in any number of appeals-

12.Regulation 15 of the Regulations is amended by insertion of numbering and read as follows:

" (3) The records contemplated in sub-regulation (1) must be kept in terms of the relevant laws governing the keeping of records and archives".

13.Regulation 16 of the Regulations is amended by and reads as follows:

Decisions of the Tribunal

"16.(1) All decisions of the Tribunal in respect of an appeal lodged with it, shall be conveyed within 60 days from the day of completion of the hearing in writing, post or telefax to all parties to such appeal and to the Board or regulatory committee whose act, direction or decision has been appealed against.

(2) The Secretariat of the Tribunal shall within 10 days of the Tribunal arriving at a decision in regard to an appeal, notify the parties to the appeal. Such notification shall be in writing, be sent by post or telefax and shall set out full particulars of the Tribunal's decision, including its decision as to whether the appeal lodging fee, or any part thereof is to be refunded to, or forfeited by the Appellant.

(3) The Tribunal must upon the written request of any person whose rights have been adversely affected by its decision, provide such person with the reasons in writing for its decision within 10 days of such request provided that the written request for reasons is received not later than 30 days after such party or person became aware of such direction, decision or action or might reasonably have been expected to have become aware thereof"

14. Regulation 17 of the Regulations is amended by:

(a) by substituting Regulation 17(1) to read as follows:

"17. (1) Any person who lodges an appeal in terms of the Act must, at the time of submission of the appeal, deposit an amount in terms of Section 17 (1)(a) of the Transport Appeal Tribunal Act, No. 39 of 1998, with the Tribunal, which is currently fixed at R800-00 (Eight Hundred Rand).

TAT 01

**TRANSPORT APPEAL TRIBUNAL
IN TERMS OF THE NLTTA AND CBRTA LEGISLATIONS**

NOTICE OF APPEAL

POLB	CBRTA

For Tribunal use only:	
Appeal Ref. No. LTIM	20
Date Rec.	
Lodging Fee	

**NOTICE OF APPEAL IN TERMS OF THE NATIONAL LAND TRANSPORT
TRANSITION ACT 2000 (ACT NO. 22 OF 2000)**

(Tick the appropriate boxes and provide all information as requested and where applicable)

1. DETAILS OF APPEALANT

I am

Taxi operator	A statutory objector	Taxi association	Other (specify)
---------------	----------------------	------------------	-----------------

SURNAME AND NAME	REGISTERED NAME OF CO/CC OR OTHER
Identity No.	Reg No.
Res. Address	Bus. Address
Postal add	
Home tel	Bus tel
Cell no.	Fax no.

(if more than one party, details must be set out in an annexure clearly marked and attached hereto)

2. DETAILS OF OTHER PARTIES

I am

Taxi operator	A statutory objector	Taxi association	Other (specify)
---------------	----------------------	------------------	-----------------

SURNAME AND NAME	REGISTERED NAME OF CO/CC OR OTHER
Identity no.	Reg no.
Res. Address	Bus. Address

Postal add	
Home tel	Bus tel
Cell no.	Fax no.

(if more than one party, details must be set out in an annexure clearly marked and attached hereto)

3. DETAILS OF THE ORIGINAL DECISION APPEALED AGAINST

Operating License Board			
OP No.		Date of decision	Date of notice to appeal ant
Municipality/Regulatory committee			
Other OLB			
Other municipalities/Regulatory Committee			
Non Concurrence			
Other (With Details)			

4. GROUNDS OF APPEAL

It is essential for the Grounds of Appeal to be set out in full as an annexure marked and attached.

Y	N
---	---

Details of all proposed applicable routes and timetables must be clearly marked clearly and annexed hereto.

Annexure

Y	N
---	---

A detail map of all proposed routes and the infrastructure relating thereto must be clearly marked and annexed hereto. (For example terminals, hotels, residential, business operations, etc)

Annexure

Y	N
---	---

Copies of section of statutory plans must be attached if applicable.

Annexure

Y	N
---	---

All citation and reference to any provincial notice, regulation and any other legislation must be clearly set out.

Annexure

Y	N
---	---

Heads of Arguments with references must be clearly marked and annexed hereto.

Annexure

Y	N
---	---

Complete the summary of Appeal by answering each and every question appropriately:-

Annexure

Y	N
---	---

(a) Legislation (mark with X)	TAT	NLTTA	CBTRA	OTHER SPECIFY
Applicable Sections				
				Brief details where applicable

(b) OLB Procedure		Y	N	
(C) Objection by other parties		Y	N	
(d) Objection by Municipal/ Regulatory Committee		Y	N	
(e) Non Concurrence & Details of Province		Y	N	
(f) Other (with details)		Y	N	

5. CONDONATION

Y	N
---	---

(It is essential that the condo nation application is set out in full with reasons and substations as an annexure clearly marked and attached hereto.)

Is the Appeal to the Tribunal within 30 days from date of hearing stated in (3) above.	Y	N
How many days is the appeal outside the time required to file an Appeal		

6. DETAILS OF THE APPEALANTS LEGAL REPRESENTATIVE OR REPRESENTATIVE

NAME	FIRM NAME
Bus Add	Postal Add
E-MAIL	Bus Tel
Cell no.	Fax no.
Power of Attorney	
UNATTACHED	
ATTACHED	

7. I NEED AN INTERPRETER FOR THE APPEAL

Y	N
SPECIFY LANGUAGE	

8. DECLARATION

I HEREBY CONFIRM THE CONTENT OF THE APPEAL.

SIGNED: _____ NAME IN PRINT: _____

DATE: _____ CAPACITY: _____

General

1. Annexure strictly comply with the following requirements:
 The Appealant must index, paginate and bind his Application together with all annexure attached thereto.
 The index page or content page must include the names of parties and case reference number.
 The TAT 01 Form will be marked as 1,
 The grounds of Appeal would be marked A, A1, A2.
 The Routes and Timetable would be marked B, B1, B2, B3.
 The Map will be marked C, C1, C2, C3.
 The Heads of Arguments with References will be marked D, D1, D2, D3.
 All other applicable annexure will then be marked, E, F, G, etc.
 The documents must then be paginated in clear, bold black ink e.g, 1, 2, 3, 4, etc
2. All information must be completed and where not applicable must be clearly indicated.
3. All documents must be typed and neatly bound with the exception of the annexure.
4. Your failure to comply with the provisions contained herein can result in appeal being dismissed with costs.
5. Should you require any assistance to lodge an appeal, you can contact the Department of Transport on telephone numbers (012) 309 3861 / 309 3975 / 309 3065 Fax (012) 309 3486

OFFICIAL USE ONLY	
UPHELD	
DISMISSED	
REFER TO BOARD	
OTHER	
FEES REFUNDED	
FEES FORFEITED	



transport

Department:
Transport
REPUBLIC OF SOUTH AFRICA

TAT 02

SUMMONS

Summons in terms of section 14(2) of the Transport Appeal Tribunal Act, No 39 of 1998

In the Transport Appeal Tribunal held atLTIM No.....of 200

In the matter between

.....Appellant and.....Responded

TO:

(1).....of.....

(2).....of.....

(3).....of.....

You are hereby required to appear in person before this Transport Appeal Tribunal atday
of.....200.....at.....(time) in the above mentioned action to give evidence(where
documents are required to be produced, add:); and bring with you and then produce to the court the several
books, papers or documents specified.

Dated at.....this.....day of200.....

.....
Signature of the Chairperson

LIST OF BOOKS, PAPERS OR DOCUMENTS TO BE PRODUCED

Date	Description	Original or Copy

**Failure to comply herein will invoke provisions of Section 15 of the
Transport Appeal Tribunal Act, No 39 of 1998**



transport

Department:
Transport
REPUBLIC OF SOUTH AFRICA

TAT 03

POWER OF ATTORNEY

I / We, the undersigned

.....
(Appellant/ Respondent)

Herein represented by..... [if the Appellant is a company, close corporation, trust, or association with a constitution, a resolution of the directors, members, trustees, or committee of such body, authorizing the said person to sign the Power of Attorney on its behalf, must be attached] hereby nominate, constitute and appoint.

.....
to act on my / our behalf as our duly appointed agent and representative throughout the proceedings of the Appeal against the act, direction, as my representative throughout the proceedings of the appeal against the act, direction or decision of the Board / Regulatory Committee of the CBRTA..... taken on the day of 200..... In Application Ref No.....

I / We, confirm that any act and/ or representations made by my / our said representative shall be hiding on me / us as if I / we had acted personally in such proceedings

I/ We, furthermore authorize my / our said representative to appoint in his name, place and stead, a practicing advocate to present me / us at any hearing of the said Appeal by the Transport Appeal Tribunal

.....
Signature of the Appellant/Respondent

Date:

Witnesses:

1. [Signature and full names]
2. [Signature and full names]

.....
Signature] Representative

Date:

Witnessess

1. [Signature and full names]
2. [Signature and full names]

Short title and commencement

- 16.** These Regulations are called the First Amendment to the Transport Appeal Tribunal Regulations, and shall come into operation upon publication in the Gazette.
-