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OFFICE OF THE PREMIER

No. 16

11 September 1998

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

No. 16 of 1998: Free State Interim Passenger Transport Act, 1998

KANTOOR VAN DIE PREMIER

No. 16

11 September 1998

Hierby word bekend gemaak dat die Premier die onderstaande Wet bekragtig het, wat hierby ter algemene inligting gepubliseer word:-

No. 16 van 1998: Vrystaat Interim Passasiersvervoerwet, 1998

ACT

Came into effect 20 Nov 1998

To provide for the regulation of minibus taxi-type services and metered taxi services pending the promulgation of comprehensive public transport legislation; to provide for the establishment of a Provincial Permit Board, a Provincial Appeal Tribunal and a Provincial Taxi Registrar; to provide for the registration of minibus taxi associations, members and non-members; to provide for the regulation and control of the minibus taxi industry; to exclude the provisions of the Road Transportation Act, 1977, from applying to minibus taxi-type services and metered taxi services; and to provide for matters connected therewith.

BE IT ENACTED by the Provincial Legislature of the Free State Province, as follows:-

*(English text signed by the Premier.)
(Assented to 7 September 1998)*

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CHAPTER 1

DEFINITIONS

Definitions

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1. In this Act, unless the context otherwise indicates -

"ad hoc authorisation" means an authorisation granted under section 41;

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"association" means a primary and a secondary association;

"authorised official" means an inspector, any member of the South African Police Service, or any other person authorised by law to inspect motor vehicles or licences for motor vehicles or to control traffic;

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"based" means that the majority of members of an association or inter-provincial association, or the member or non-member concerned, as the case may be, conduct their or his or her operations, respectively, within the Province;

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"Board" means the Free State Permit Board established by section 2;

"Code of Conduct" means a set of rules binding on members of registered primary associations or binding on registered primary associations affiliated to a registered secondary association, as the case may be, and which form part of the Standard Constitution;

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"Code of Conduct for Non-Members" means a prescribed set of rules binding on registered non-members;

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"co-operative" means a co-operative as defined in the Co-operatives Act, 1981 (Act No 91 of 1981);

"courtesy service" means a passenger transport service provided by an organisation for its customers or clients without a direct charge to the user, by means of a motor vehicle of the organisation or a motor vehicle provided under a contract;

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"Department" means the Department of the Provincial Administration responsible for public transport in the Province;

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"Disciplinary Procedure" means a set of rules forming part of the Standard Constitution that a registered association must follow to investigate a complaint of breach of the Code of Conduct by a member or an affiliated registered primary association, as the case may be, and for disciplining members or affiliated primary associations found guilty of breaching the Code of Conduct;

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"Free State Tourism Marketing Board" means the Free State Tourism Marketing Board established in terms of the Free State Tourism Marketing Board Act, 1997 (Act No 7 of 1997);

"Grievance Procedure" means the part of the Standard Constitution that outlines the steps to be followed when an aggrieved member or group of members of a registered primary association or when a registered primary association, as the case may be, wish to raise for adjudication a matter internal to the association, and providing for the resolution of grievances through a progressive process of discussion and conflict resolution by mediation and arbitration;

"Head of Department" means the Head of the Department;

"holder", in relation to a permit, means the person in whose favour such permit was issued;

"inspector" means a public transport inspector referred to in section 9;

"international taxi service" means a minibus taxi-type service or metered taxi service that takes place partly within the Republic and partly within another country or in transit through the Republic to another country;

"inter-provincial association" means a registered primary association whose members pick up or drop passengers in the Province and one or more other provinces;

"inter-provincial taxi service" means a minibus taxi-type service or metered taxi service provided partly within the Province and partly within one or more other provinces, excluding an international taxi service;

"joint route management committee" means a committee established under section 25;

"local taxi council" means a committee of representatives of the minibus taxi or metered taxi industry established for a local area;

"local transport forum" means a local transport forum established under section 23;

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

"metered taxi service" means a public transport service conducted by means of a motor vehicle with a seating capacity as prescribed where the vehicle -

- (a) is available to be hailed for hire; or
- (b) may stand for hire at a stand set aside for metered taxis; and
- (c) is equipped with a sealed meter in good working order to charge fares;

- "minibus taxi-type service"** means a public transport service provided in terms of a permit on a specific route or network of routes or within a defined area not subject to a regular timetable, by means of a motor vehicle with a seating capacity of less than 17 persons, including the driver, and where every passenger pays a separate fare, but excludes a metered taxi service; 5
- "motor vehicle"** means a motor vehicle as defined in the Road Traffic Act, 1989 (Act No 29 of 1989);
- "municipality"** - 10
- (a) until the legislation envisaged in section 155(2) of the Constitution of the Republic of South Africa, 1996 (Act No 108 of 1996), takes effect, means any local government body vested with municipal legislative and executive jurisdiction (whether on an exclusive or a shared basis) in respect of a particular area in terms of the Local Government Transition Act, 1993 (Act No 209 of 1993), in compliance with section 155(1) of the Constitution; 15
- (b) as from the date when that legislation takes effect, means any municipality as contemplated in that legislation; 20
- "non-member"** means the holder of a permit, who does not belong to a registered association;
- "Panel"** means the Panel of Assessors appointed under section 20; 25
- "passenger transport plan"** means a plan approved under section 28;
- "permit"** means a permit authorising minibuss taxi-type services or metered taxi services issued under this Act and includes a document recognised as a permit by this Act or by the MEC by notice in the *Provincial Gazette*; 30
- "planning authority"** means the competent authority responsible for preparing a passenger transport plan as contemplated in section 28; 35
- "prescribe"** means prescribe by regulation, and **"prescribed"** has a corresponding meaning;
- "primary association"** means a grouping of persons operating minibuss taxi-type or metered taxi services and to which no other registered association is affiliated; 40
- "Province"** means the Free State Province;
- "Provincial Forum"** means the Provincial Transport Forum established under section 26; 45
- "Provincial Taxi Council"** means the committee of representatives of the minibuss taxi or metered taxi industry in the Province established in terms of the Standard Constitution;
- "Provincial Urban Transport Fund"** means the fund established by section 8A of the Urban Transport Act, 1977 (Act No 78 of 1977); 50

“public transport service” means a service for the conveyance of persons by road provided for a fare, reward or other consideration;

“regional transport forum” means a regional transport forum established under section 24;

“registered” means registered or conditionally registered under section 18;

“Registrar” means the Provincial Taxi Registrar appointed under section 15;

“regulation” means a regulation made under this Act;

“relevant association” in relation to a permit application, means a registered primary association whose members operate on the route, route network or within the area to which the application relates;

“renewal” means the renewal of a permit on or before the date of expiry of the permit;

“secondary association” means a body to which registered primary associations are affiliated, having as its main object the promotion of the group interests of its members and affiliated associations, and which intends to apply its income in promoting such interests;

“Standard Constitution” means a prescribed set of rules and procedures that govern the affairs of registered associations, and includes a Code of Conduct, a Grievance Procedure and a Disciplinary Procedure for members, or affiliated registered primary associations, as the case may be, of those associations;

“this Act” includes the regulations;

“tourist service” means a public transport service for the carriage of tourists, who have pre-booked on a tour itinerary which is publicly available, to tourist attractions;

“Transport Appeal Tribunal” means the Transport Appeal Tribunal established by section 2 of the Transport Appeal Tribunal Act, 1998;

“transport forum” means a local transport forum or a regional transport forum, as the case may be;

“Tribunal” means the Provincial Appeal Tribunal established under section 10;

“unauthorised services” means public transport services not authorised by any permit and includes such services undertaken by the holder of a permit otherwise than in accordance with the provisions of the permit.

CHAPTER 2

FREE STATE PERMIT BOARD

Establishment of Free State Permit Board

2. A juristic person, known as the Free State Permit Board, is hereby established.

Composition of Board

3. (1) The Board shall consist of the following members appointed by the MEC in consultation with the Executive Council of the Province: 5
- (a) a chairperson who, in the opinion of the MEC and the Executive Council of the Province, is a fit and proper person to serve as chairperson of the Board; 5
- (b) not more than four other members who, in the opinion of the MEC and the Executive Council of the Province, have appropriate knowledge of or experience with regard to public transport, industrial, commercial, financial or legal matters or in the conduct of public affairs; and 10
- (c) if the MEC and the Executive Council of the Province deems it expedient, one or two other members in the service of the State or a municipality who has appropriate knowledge of or expertise in transport related matters. 15
- (2) A member of the Board shall hold office for such period, not exceeding three years, as the MEC may determine at the time of his or her appointment, and shall be eligible for reappointment at the end of his or her term of office. 20
- (3) (a) The MEC may, after he or she has afforded a member of the Board the opportunity to state his or her case, at any time terminate the term of office of such member if the member has become disqualified in terms of subsection (5) or on the ground of misconduct, incapacity or incompetence. 25
- (b) A decision to remove a member on the ground of misconduct, incapacity or incompetence must be based on a finding to that effect by a committee of inquiry appointed by the MEC under section 14. 30
- (4) The MEC shall, in accordance with subsection (1), fill a casual vacancy on the Board by the appointment of another person for the remainder of the period for which the person in respect of whom the vacancy arose, had been appointed. 35
- (5) (a) A person shall not be appointed or remain a member of the Board -
- (i) if such person - 40
- (aa) is a minor or suffers from another legal disability;
- (bb) is or becomes an unrehabilitated insolvent or commits an act of insolvency;
- (cc) has at any time been, or is, removed from a public office on account of misconduct; 45
- (dd) has at any time been, or is, convicted, whether in the Republic or elsewhere, of theft, fraud, forgery or uttering a forged document, perjury, an offence in terms of the Corruption Act, 1992 (Act No 94 of 1992), or any offence involving dishonesty; or 50
- (ee) without the leave of the Board, is absent from three consecutive meetings of the Board; or

- (ii) if such person, whether personally or through his or her spouse, immediate family member, business partner or associate, has or acquires a direct or indirect financial interest in any business or enterprise relating to public transport that may, in the opinion of the MEC, conflict or interfere with the proper performance of his or her functions as a member of the Board. 5
- (b) For the purposes of paragraph (a) -
 - (i) "spouse" includes a person with whom the member lives as if they were married or with whom the member habitually cohabits; 10
 - (ii) "immediate family member" means a parent, child, brother or sister.
- (c) A person shall, prior to his or her appointment as a member of the Board, submit to the MEC a written statement in which it is declared whether or not he or she is disqualified in terms of paragraph (a)(i) and whether or not he or she has any interest as referred to in paragraph (a)(ii). 15
- (d) If any member during his or her term of office acquires or contemplates acquiring an interest which could possibly be an interest contemplated in paragraph (a)(ii), he or she shall forthwith in writing declare that fact to both the MEC and the Board, which at its following meeting shall consider whether such an interest constitutes or may constitute a contravention of paragraph (a)(ii), and if it is considered not to be a contravention, whether such acquisition or contemplated acquisition is likely to compromise the impartiality of the Board. 20
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- (e) The Board shall forthwith in writing inform the MEC of the Board's decision or recommendation contemplated in paragraph (d). 30
- (f) The MEC shall, after consideration of the Board's decision or recommendation, inform the member concerned if the acquisition or contemplated acquisition constitutes an interest contemplated in paragraph (a)(ii) or is likely to compromise the impartiality of the Board, whereupon that member shall forthwith divest himself or herself of that interest, failing which the MEC shall take action in terms of subsection (3). 35
- (6) (a) A member of the Board shall not vote, attend or in any other manner participate in or influence the proceedings at any meeting of the Board if, in relation to any matter before the Board, he or she has any interest which precludes him or her from performing his or her functions as a member of the Board in a fair, unbiased or proper manner. 40
- (b) If at any stage during the course of any proceedings of the Board it appears that a member of the Board has or may have any interest as referred to in paragraph (a) - 45

- (i) that member shall forthwith and fully disclose the nature of his or her interest and leave the meeting so as to enable the remaining members of the Board to discuss the matter and determine whether that member should be prohibited from participating in the further proceedings at such meeting by reason of a conflict of interests; and 5
- (ii) such disclosure, and the decision taken by the remaining members of the Board in that regard, shall be recorded expressly in the minutes of the meeting in question. 10
- (c) If any member of the Board fails to disclose any interest referred to in paragraph (a) or if, having such an interest, he or she attends or in any manner participates in or directly influences the proceedings at the meeting concerned, the relevant proceedings shall be null and void. 15

Meetings of Board

- 4. (1) The first meeting of the Board shall be held on such a date and at such a time and place as the chairperson may determine, and all meetings thereafter shall be held on such dates and at such times and places as the chairperson may determine in consultation with the Board. 20
- (2) If the chairperson is absent from a meeting of the Board, the members present must elect one from among their number to preside at that meeting. 25
- (3) The quorum for a meeting of the Board shall be the majority of the members of the Board.
- (4) A decision of the Board shall be taken by a majority of the votes of the members present at a meeting of the Board, and in the event of an equality of votes on any matter, the chairperson shall have a casting vote in addition to his or her deliberative vote. 30

Procedure at meetings of Board

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- 5. (1) The Board may, for the purpose of dealing with a matter before it in terms of this Act or any other law -
 - (a) allow a person affected by or interested in the matter, or the duly authorised representative of such a person, to appear before it and - 40
 - (i) to give evidence or make oral representations relevant to the matter; or
 - (ii) to call witnesses and lead evidence on a question relevant to the matter; or 45

- (iii) to question a person who testified as a witness in the matter;
 - (b) by written notice as prescribed and served in the manner prescribed, require a person to appear before it to give evidence or to produce a book, plan or other document or article in his or her possession or under his or her control; 5
 - (c) call upon a person present in or at the place where the matter is dealt with, to appear before it to give evidence or to produce a book, plan or other document or article which such person has with him or her; 10
 - (d) question a person appearing before it as a witness;
 - (e) refuse to hear a person appearing before it as a witness who refuses to be sworn or to be affirmed. 15
- (2) The person presiding at a meeting of the Board at which a person appears as a witness, may administer an oath or affirmation to the person so appearing.
- (3) The Board must provide an interested party on request with written reasons for a decision taken by it. 20

Remuneration and allowances of members of Board

6. (1) Members of the Board who are not in the full-time service of a provincial or the national government, shall in respect of their services be paid such remuneration and allowances as may be determined by the MEC after consultation with the Member of the Executive Council responsible for finance in the Province. 25
- (2) The remuneration and allowances of the persons referred to in subsection (1) may differ according to the different offices held by them or the different functions performed by them. 30

Staff of Board

7. The MEC must, subject to the laws governing the public service, provide the staff necessary to assist the Board in the performance of its functions. 35

Functions of Board

8. The Board shall consider and give a decision on, or otherwise deal with applications made to it in accordance with the provisions of this Act or the Road Transportation Act, 1977(Act No 74 of 1977), and shall for this purpose take into account any provincial transport policy. 40

Designation of inspectors

9. (1) The Head of Department may designate any officer in the employ of the Department as a public transport inspector, whose powers and duties shall be as prescribed. 5
- (2) A road transportation inspector designated under section 11(2) of the Road Transportation Act, 1977, who is in the employ of the Department, shall be deemed to have been designated under subsection (1). 10

CHAPTER 3

PROVINCIAL APPEAL TRIBUNAL

Establishment of Provincial Appeal Tribunal 15

10. (1) The MEC, in consultation with the Executive Council of the Province, must by notice in the *Provincial Gazette* establish a Provincial Appeal Tribunal.
- (2) The Tribunal shall consist of three members, appointed by the MEC in consultation with the Executive Council of the Province, of whom one member has at least 10 years' experience in practice as an advocate or attorney, and the other members must possess wide experience of or have shown ability in public passenger transport or commercial or financial matters or the conduct of public affairs. 20 25
- (3) The MEC shall appoint one of the members to be chairperson of the Tribunal.
- (4) Sections 3(2) to (6), 5 and 6 shall, with the changes required by the context, apply in respect of the Tribunal. 30

Meetings of Tribunal

11. (1) The first meeting of the Tribunal shall be held on such a date and at such a time and place as the chairperson may determine, and all meetings thereafter shall be held on such dates and at such times and places as the chairperson may determine in consultation with the Tribunal. 35
- (2) If the chairperson is absent from a meeting of the Tribunal, the members present must elect one from their number to preside at that meeting. 40
- (3) The procedure at a meeting of the Tribunal shall, subject to this section, be determined by the chairperson in consultation with the Tribunal, and any decision in this regard shall be taken after due consideration of the principles of openness and transparency. 45
- (4) The quorum for a meeting of the Tribunal shall be the majority of the members of the Tribunal.

- (5) A decision of the Tribunal shall be taken by a majority of the votes of the members present at a meeting of the Tribunal, and in the event of an equality of votes on any matter, the chairperson shall have a casting vote in addition to his or her deliberative vote.

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Appeal to Tribunal

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

(a) has in terms of this Act or the Road Transportation Act, 1977, applied to the Board for the granting, renewal, amendment or transfer of a permit or whose permit has been withdrawn, varied or suspended by the Board;

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(b) is the holder of a permit issued by the Board;

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(c) in the manner and within the time prescribed, submitted representations to the Board objecting to or supporting an application,

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

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- (2) Where the Board notifies a person of a direction or decision contemplated in subsection (1) by means of a written document, the date of that document shall be deemed to be the date on which that direction or decision was given.

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- (3) The Tribunal must receive and, subject to the provisions of this section and the regulations, consider an appeal lodged with it in terms of subsection (1) and may, in its discretion -

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(a) reject the appeal and confirm the act, direction or decision appealed against; or

(b) uphold the appeal, set aside the act, direction or decision appealed against, and -

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(i) substitute the Board's decision with any other act, direction or decision which the Board could have performed or given; or

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(ii) remit the matter which gave rise to the appeal to the Board for consideration afresh; or

(c) uphold the appeal partially and vary the act, direction or decision appealed against.

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- (4) The chairperson of the Tribunal or a member thereof nominated by the chairperson may, in his or her discretion and without giving prior notice to or hearing any interested party -
- (a) grant an application for condonation of the late filing of a notice of appeal, provided the appeal is lodged in the manner prescribed within 42 days after the Board performed the act or gave the direction or decision appealed against, or refuse it; 5
 - (b) grant or refuse an application to suspend the operation of an act, direction or decision of the Board appealed against; 10
 - (c) set aside an act, direction or decision of the Board appealed against and remit the matter to the Board for consideration afresh. 15
- (5) An act, direction or decision of the Tribunal under subsection (3)(b)(i) or (c) shall, except for the purposes of subsection (1), be deemed to be an act, direction or decision of the Board. 15
- (6) In so far as appeals relating to minibus taxi-type services are concerned, this section shall apply only where the minibus taxi-type services are conducted entirely within the Province. 20

Staff of Tribunal

13. The MEC must, subject to the laws governing the public service, provide the staff necessary to assist the Tribunal in the performance of its functions. 25

CHAPTER 4

COMMITTEE OF INQUIRY

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Appointment of committee of inquiry

14. The MEC may, upon such terms as he or she may determine, appoint a committee of inquiry to investigate any matter in the Province falling within the scope of this Act, and to submit recommendations in respect thereof to the MEC. 35

CHAPTER 5

APPOINTMENT OF PROVINCIAL TAXI REGISTRAR AND REGISTRATION OF TAXI ASSOCIATIONS, MEMBERS AND NON-MEMBERS

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Provincial Taxi Registrar

15. (1) The MEC must appoint a fit and proper person as Provincial Taxi Registrar who must perform the functions conferred on or assigned to him or her by or under this Act. 45

- (2) The Registrar shall hold office for such period, not exceeding five years, as the MEC may determine at the time of his or her appointment, and shall be eligible for reappointment at the end of his or her term of office.
- (3) (a) No person may be appointed as Registrar if such person whether personally or through his or her spouse, immediate family member, business partner or associate, has or acquires a direct or indirect financial interest in any business or enterprise relating to public transport that may, in the opinion of the MEC, conflict or interfere with the proper performance of his or her functions as Registrar. 5
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- (b) For the purposes of this subsection "spouse" and "immediate family member" shall have the meanings assigned to them in section 3(5)(b).
- (4) When the Registrar is temporarily absent or unable to perform his or her functions, the MEC may appoint an acting Registrar to act temporarily in the Registrar's stead. 15
- (5) (a) The MEC may, after he or she has afforded the Registrar the opportunity to state his or her case, at any time terminate the Registrar's term of office if he or she has become disqualified in terms of subsection (3) or on the ground of misconduct, incapacity or incompetence. 20
- (b) A decision to remove the Registrar on the ground of misconduct, incapacity or incompetence must be based on a finding to that effect by a committee of inquiry appointed by the MEC under section 14. 25
- (6) When the office of Registrar is vacant, the MEC must take immediate steps to appoint a replacement.
- (7) The Registrar may for the purpose of carrying out his or her functions under this Act - 30
- (a) allow a person affected by or interested in a matter, or the duly authorised representative of such a person, to appear before him or her and - 35
- (i) to give evidence or make oral representations relevant to the matter; or
- (ii) to call witnesses and lead evidence on a question relevant to the matter; or 40
- (iii) to question a person who testified as a witness in the matter;
- (b) by written notice as prescribed and served in the manner prescribed, require a person to appear before him or her to give evidence or to produce a book, plan or other document or article in his or her possession or under his or her control; 45

- (c) question a person appearing before him or her as a witness;
- (d) refuse to hear a person appearing before him or her as a witness who refuses to be sworn or to be affirmed; 5
- (e) administer an oath or affirmation to a person appearing before him or her.
- (8) The Registrar shall in respect of his or her services be paid such remuneration and allowances as may be determined by the MEC after consultation with the Member of the Executive Council responsible for finance in the Province. 10
- (9) The MEC 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.

Functions of Registrar 15

16. The Registrar must -

- (a) receive, consider and decide upon applications for registration by primary associations and their members, inter-provincial associations and their members, secondary associations and non-members under this Chapter and register them and other public transport modes in the manner prescribed; 20
- (b) advise the MEC on matters falling within the scope of this Chapter and communicate to the MEC information on matters of public importance acquired in the course of performing his or her functions under this Chapter; 25
- X (c) take all reasonable steps to monitor and receive information with respect to the compliance or non-compliance of registered associations and registered non-members with the provisions of the Standard Constitution and the Code of Conduct for Non-Members, respectively; 30
- (d) assist in the promotion of professional practices by registered associations, their members and by non-members; 35
- (e) take all reasonable steps to encourage associations to register in terms of this Chapter and provide advice and assistance to enable them to apply successfully for registration;
- (f) in every calendar year submit to the MEC an annual report containing information concerning his or her functions, the registration of primary associations, their members, secondary associations and non-members, decisions made by the Panel (if any), and other matters directed by the MEC, which the MEC must table in the Provincial Legislature; 40
- (g) after consultation with the Panel (if any), recommend to the MEC - 45
 - (i) the minimum number of members a primary association must have to be eligible for registration;

- (ii) the minimum period for which an association must have been in existence to be eligible for registration;
- (iii) the method of inquiry into allegations of improper conduct or failure to comply with its constitution or the Code of Conduct for Non-Members, of which an association or non-member registered in terms of this Act is alleged to have been guilty; 5
- (iv) the minimum number of affiliated registered primary associations a secondary association must have to be eligible for registration; 10
- (h) investigate, consider and give a decision on -
 - (i) the issuing of warnings to registered associations and non-members; 15
 - (ii) the suspension of the registration of a registered association or non-member;
 - (iii) the deregistration of a registered association or non-member; 20
 - (iv) the issuing of fines to registered associations and non-members;
- (i) keep a data base containing the prescribed information;
- (j) hear appeals against decisions of the Provincial Taxi Council as provided for in the Standard Constitution; 25
- (k) evaluate proposed amendments to the constitutions of registered associations in order to ensure that the amendments are consistent with the provisions of the Standard Constitution; 30
- (l) keep a register of registered associations, members and non-members in the prescribed manner and which contains the prescribed information.

Functions of MEC

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17. (1) The MEC may prescribe -

- (a) a Standard Constitution to which registered associations and registered members must adhere; 40
- (b) a Code of Conduct for Non-Members to which registered non-members must adhere; and
- (c) additional rules - 45
 - (i) as to the requirements with which a registered association must comply in conducting its affairs;
 - (ii) as to the requirements with which a registered non-member must comply in conducting his or her business; and 50
 - (iii) regarding which conduct of registered associations, members or non-members will constitute improper conduct.

- (2) The Standard Constitution must at least state or deal with the following matters:
- (a) name, address and registration number of the association;
 - (b) composition of the association; 5
 - (c) aims and objectives of the association, which must include an objective to preclude misconduct on the part of its members or registered primary associations affiliated to it, as the case may be; 10
 - (d) area of jurisdiction of the association;
 - (e) composition, appointment, powers and duties of its executive committee;
 - (f) establishment of standing committees, including at least a disciplinary committee, a financial committee and a grievance committee; 15
 - (g) criteria and application procedures for membership and rights, duties and listing of members; 20
 - (h) procedures for and matters to be dealt with at annual and special general meetings;
 - (i) finances and external auditing; 25
 - (j) procedure for amendment of the constitution;
 - (k) requirements for amalgamation with other associations;
 - (l) dissolution of the association; 30
 - (m) a code of conduct, disciplinary procedures and appeal procedures;
 - (n) grievance procedures; and 35
 - (o) any other matter as prescribed.
- (3) The MEC may make regulations -
- (a) prescribing the manner in which an association or non-member must apply for registration; 40
 - (b) prescribing the fees payable to the Registrar in respect of an application for registration and annual fees which may be payable to the Registrar by an association or non-member; 45
 - (c) prescribing the form and contents of registration certificates;

- (d) prescribing the method of inquiry into allegations of improper conduct or the alleged failure of a registered association or non-member to comply with the provisions of its constitution or the Code of Conduct for Non-Members, respectively; 5
- (e) prescribing the minimum number of members a primary association must have in order to be eligible for registration or the minimum number of registered primary associations that must be affiliated to a secondary association for a secondary association to be eligible for registration; 10
- (f) prescribing the minimum period for which an association must have been in existence in order to be eligible for registration; 10
- (g) as to investigations and requirements regarding the application by registered associations of their funds, 15

Provided that different regulations may be made for different areas in the Province.

- (4) Only persons and associations registered under this Act shall be - 20
 - (a) entitled to training that may be funded wholly or in part by the Department; 20
 - (b) entitled to receive assistance that may be provided in order to establish a co-operative for the holders of permits; 25
 - (c) entitled to economic assistance that may be allocated to members of co-operatives; 25
 - (d) eligible to become a member of a co-operative; 30
 - (e) eligible to tender for subsidised or commercial service contracts; 30
 - (f) entitled to other forms of assistance that may be provided to holders of permits and associations; and 35
 - (g) entitled to apply for a permit. 35

Registration of associations, members and non-members

- 18. (1) A secondary and a primary association or inter-provincial association, and each member thereof, or a non-member, must in the prescribed manner and accompanied by the prescribed application fees, submit a written application for registration to the Registrar. 40

- (2) The Registrar must grant a certificate of conditional registration and a registration number to an association and each of the members of a primary association who upon application satisfies him or her -
- (a) that it has been in existence for the prescribed minimum period: Provided that the Registrar shall have a discretion to register associations that have been in existence for lesser periods where in his or her opinion this is justified; 5
 - (b) that the number of its members or, in the case of a secondary association, the number of registered primary associations affiliated to it, meets the prescribed minimum number: Provided that the Registrar shall have a discretion to register associations with fewer members or affiliated registered primary associations, as the case may be, where in his or her opinion this is justified for geographical or demographic reasons; 10 15
 - (c) that the constitution submitted by the association has been signed and accepted by each of its members or, in the case of a secondary association, by each of its affiliated registered primary associations and is consistent with and encompasses the provisions of the Standard Constitution and other prescribed requirements; 20
 - (d) that all of the information required by the Registrar or as prescribed, has been provided and this information has been verified in the prescribed manner; and 25
 - (e) that in the case of a primary association all members of the association who do not hold valid permits have applied for permits:
- Provided that the conditional registration granted to an association shall lapse if all members of such association have not obtained valid permits within six months from the date of granting of the conditional registration: Provided further that the Registrar may, subject to the approval of the MEC, extend the period referred to in the above proviso for consecutive periods not exceeding three months at a time, if - 30 35
- (i) the association has applied for such an extension prior to the expiration of the six month period or the period of the previous extension; and
 - (ii) there are good reasons therefor. 40
- (3) The Registrar must grant a certificate of registration and registration number to an association or inter-provincial association, who upon application satisfies the Registrar that - 45
- (a) it has been in existence for the prescribed minimum period, subject to the proviso in subsection (2)(a);
 - (b) the number of members or affiliated registered primary associations, as the case may be, meets the prescribed minimum number, subject to the proviso in subsection (2)(b); 50

- (c) the constitution submitted by the association has been signed and accepted by each of its members or affiliated registered primary associations, as the case may be, and is consistent with and encompasses the provisions of the Standard Constitution and other prescribed requirements; 5
 - (d) the joining fee, annual membership fees and other fees payable to the association by its members or affiliated registered primary associations, as the case may be, do not exceed the prescribed maximum; 10
 - (e) each member in respect of whom application is made holds a permit for each motor vehicle that he or she operates and that the operations are legally within the authority of such permits; and 15
 - (f) it has supplied all of the information required by the Registrar or as prescribed, and the information has been verified in the prescribed manner. 15
- (4) The Registrar must grant a certificate of registration to a member of a registered association or inter-provincial association based in the Province who upon application by such association satisfies the Registrar that - 20
 - (a) the association or inter-provincial association to which the member belongs is registered; 25
 - (b) the member holds a permit for each motor vehicle that he or she operates and that the operations are legally within the authority of such permits; 30
 - (c) the member has signed and agreed to abide by the constitution submitted by the registered association of which he or she is a member; 35
 - (d) the member has supplied all of the information required by the Registrar or as prescribed, and the information has been verified in the prescribed manner; and 35
 - (e) that the member does not belong to another registered association. 35
- (5) The Registrar must grant a certificate of registration to a non-member based within the Province who upon application satisfies the Registrar that - 40
 - (a) no primary association exists in respect of the route or routes whereon or the area within which he or she operates; or 40
 - (b) a primary association exists in respect of the route or routes whereon or the area within which he or she operates, but that the conditions set by the primary association for membership are unfair; or 45
 - (c) a primary association exists in respect of the route or routes whereon or the area within which he or she operates, but the primary association has failed to be granted registration; 45
 - (d) he or she holds a permit for each motor vehicle that he or she operates and that the operations are legally within the authority of such permits; and 50
 - (e) he or she has signed and agreed to abide by the Code of Conduct for Non-Members; and 50

- (f) he or she has supplied all of the information required by the Registrar or as prescribed and the information has been verified in the prescribed manner.
- (6) If, after considering the application for registration, the Registrar is not satisfied that the applicant has complied with the requirements for registration, he or she must inform the applicant of the requirements not met, and may provide the applicant with advice and assistance in order to enable the applicant to meet the requirements for registration. 5
- (7) On registration of an inter-provincial association or non-member who undertakes inter-provincial taxi services, the Registrar must forward a copy of the certificate of registration to the Registrar in each province to or from which the members of the association or the non-member operate. 10
- (8) An association or non-member registered in another province must sign a declaration on the prescribed form that such an association or non-member shall comply with the provisions of the Code of Conduct or Code of Conduct for Non-Members, respectively and, in the case of an association, the Grievance and Disciplinary Procedures will apply. 15
- (9) The Registrar may deregister an association, member or non-member on application, or where - 20
- (a) the association, member or non-member has been struck off the register under section 22(5); 25
- (b) the association has ceased to exist or has moved its base of operations outside of the Province;
- (c) a member or non-member is no longer the holder of a valid permit covering his or her operations. 30
- (10) The Registrar must notify the Board of any deregistration of an association or of a non-member, whereupon the Board must withdraw - 35
- (a) the permits of all members of such an association, except where deregistration is the result of the association moving its base of operations outside of the Province;
- (b) the permit of the non-member concerned. 40
- (11) No association may be represented on a local taxi council or transport forum contemplated in this Act, or provide recommendations regarding permit applications under this Act, and no association or non-member shall be eligible to enjoy benefits provided in terms of this Act by a government department or institution in any sphere of government, unless such association or non-member is registered in terms of this Act. 45
- (12) Where a new member joins an existing registered association or inter-provincial association, the association in question must ensure that application is made for such member's registration with the Registrar within one month of that member joining the association. Should an association or an inter-provincial association fail to comply with this requirement the Registrar may deregister the association in question in accordance with subsection (9). 50

Registration discs

19. (1) The Registrar may issue a registration disc or discs for each vehicle legally operated by registered members and non-members. 5
- (2) A registration certificate and registration disc issued shall be in the form as prescribed, or, in the absence thereof, in the form determined by the Registrar.

Panel of Assessors

20. (1) The MEC may appoint four persons as a Panel of Assessors to be known as the Registrar's Panel of Assessors to advise the Registrar on matters referred to the Panel by him or her. 10
- (2) Of the Panel members - 15
- (a) one member shall represent the long distance minibus taxi industry of the Province and another member shall represent the short distance minibus taxi industry of the Province; 20
- (b) one member shall be appointed from any community in the Province to represent the passengers; and
- (c) one member shall have knowledge of or experience in the law. 25
- (3) The Registrar may, after consultation with the MEC, co-opt to serve on the Panel with regard to any particular matter, not more than five additional members who may include - 30
- (a) persons representing municipalities;
- (b) persons representing labour interests,
- and a person so co-opted may at the request of the chairperson participate in and cast a vote at meetings of the Panel. 35
- (4) (a) Apart from the members referred to in subsection (2)(a), no one may be appointed or remain a member of the Panel if he or she, whether personally or through his or her spouse, immediate family member, business partner or associate, has or acquires a direct or indirect financial interest in any business or enterprise relating to public transport or is an elected office bearer in an association, or is engaged in an activity that may, in the opinion of the MEC, conflict or interfere with the proper performance of his or her functions as a member of the Panel. 40
- (b) For the purposes of this subsection "spouse" and "immediate family member" shall have the meanings assigned to them in section 3(5)(b). 45
- (5) Members and co-opted members of the Panel shall in respect of their services receive such remuneration and allowances as the MEC may determine, after consultation with the Member of the Executive Council responsible for finance in the Province, and shall be appointed on such terms and conditions and for such periods as the MEC may determine. 50

- (6) (a) The MEC may, after he or she has afforded a member of the Panel the opportunity to state his or her case, at any time terminate such member's term of office if he or she has become disqualified in terms of subsection (4) or on the ground of misconduct, incapacity or incompetence. 5
- (b) A decision to remove a member on the ground of misconduct, incapacity or incompetence must be based on a finding to that effect by a committee of inquiry appointed by the MEC under section 14.
- (7) The Registrar shall be the chairperson of the Panel. 10
- (8) Three members of the Panel and the Registrar shall form a quorum for meetings of the Panel.
- (9) Except as provided by this section, the Panel determines the procedure applicable at its meetings. 15
- (10) The Registrar must consult with the Panel (if any) before registering, deregistering or suspending any association. 20

Updating of information

- 21. (1) Registered associations, members and non-members must notify the Registrar of any change to information supplied under this Chapter within 14 days of the change becoming effective. 25
- (2) Registered associations must notify the Registrar of the outcome of any grievance and disciplinary proceedings within seven days of the relevant decision being taken, or of the outcome of an appeal being made known. 30

Failure by an association or non-member to comply with its constitution or the Code of Conduct for Non-Members, respectively, and disciplinary powers of Registrar

- 22. (1) Where the Registrar reasonably suspects that - 35
 - (a) a registered association has failed to comply with the rules set out in its constitution or prescribed by the MEC; or 35
 - (b) a non-member has failed to comply with the Code of Conduct for Non-Members, 40he or she must investigate the matter in the prescribed manner.
- (2) (a) If, as a result of the investigation - 45
 - (i) a registered association is found to have failed to comply with the rules set out in its constitution or prescribed by the MEC; or

- (ii) a non-member is found to have failed to comply with the Code of Conduct for Non-Members,

and the Registrar is of the opinion that the failure can be remedied, the Registrar must send a written notice to the registered association or non-member directing that the constitution or prescribed rules, or Code of Conduct for Non-Members, as the case may be, be complied with and setting out the steps to be followed within a stated period, and enquiring whether the association or non-member requires assistance to comply therewith.

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- (b) If the notice referred to in paragraph (a) is not complied with, the Registrar must -

- (i) impose a fine not exceeding the amount mentioned in subsection (8); or

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- (ii) issue a written order temporarily suspending the certificate of registration; or

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- (iii) issue a written order withdrawing the certificate of registration,

Provided that, should the failure be the subject of criminal or civil proceedings in a court of law, the Registrar may postpone the investigation or other actions until the proceedings have been concluded.

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- (3) Where in the circumstances contemplated in subsection (2) the Registrar is of the opinion that the failure cannot be remedied, he or she must take one of the steps outlined in subsection (2)(b), and may disqualify the association or non-member from applying for registration again.

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- (4) Where the Registrar is notified by a registered association that it has suspended or expelled a member or affiliated registered primary association, the Registrar must suspend or withdraw the member's or affiliated registered primary association's registration, as the case may be: Provided that the Registrar must be satisfied that the disciplinary procedure in the association's constitution was applied correctly and fairly, and that the member or affiliated registered primary association is not in the process of appealing against the suspension or expulsion.

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- (5) The Registrar must immediately after the issuing of an order that the name of any association or non-member be struck off the register, forward a certified copy thereof to the MEC, the Board, relevant municipalities and government departments or institutions providing benefits or assistance to the deregistered association or its members or deregistered non-member by virtue of their being registered.

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- (6) An association, a member, or a non-member that has been struck off the register, must return to the Registrar their certificates of registration and all registration discs issued to them within seven days of receiving an order of deregistration signed by the Registrar. 5
- (7) A person who knowingly supplies false or misleading information to the Registrar, or fails to comply with a duty imposed under this Chapter, shall be guilty of an offence and liable on conviction to penalties not exceeding those set out in section 50. 10
- (8) The Registrar, after consultation with the Panel, may impose a fine not exceeding R100 000 on an association or a non-member that supplies him or her with false or misleading information, or who fails to comply with a duty imposed under this Chapter, which fine must be paid into the Provincial Urban Transport Fund. 15
- (9) Where the constitution of an association is not consistent with or contradicts the provisions of the Standard Constitution, the provisions of the Standard Constitution will apply instead of those of the association's constitution. 15
- (10) Any person who is aggrieved by a decision of the Registrar may appeal to the MEC in the prescribed manner and on payment of the prescribed fee, who may - 20
- (a) uphold the appeal in whole or in part, and, where appropriate, amend the decision of the Registrar; 25
- (b) reject the appeal; or
- (c) refer the matter back to the Registrar for reconsideration,
- Provided that the fee must be refunded where an appeal is wholly or partially successful or the matter is referred back to the Registrar. 30
- (11) Where a person has been notified by the Registrar to attend a hearing and fails to do so, the hearing may proceed in his or her absence and decisions taken pursuant to the hearing will still be binding on such a person notwithstanding his or her absence, if the Registrar is satisfied that the person received the notice to attend the hearing and that there are no good reasons for the failure to attend. 35

CHAPTER 6

ESTABLISHMENT OF LOCAL, REGIONAL AND PROVINCIAL TRANSPORT FORUMS 40

Establishment of local transport forums 45

23. (1) The MEC may by notice in the *Provincial Gazette*, require of a municipality to establish a local transport forum for its area of jurisdiction: Provided that the MEC may require two or more municipalities to establish a local transport forum jointly for their combined areas of jurisdiction.

- (2) The membership of a local transport forum and its functions shall be as prescribed.
- (3) The relevant municipality must appoint a chairperson and vice-chairperson for the local transport forum on recommendation of its members. 5
- (4) If both the chairperson and vice-chairperson are absent from a meeting of a local transport forum, the members present must elect one from among their number to preside at that meeting. 10
- (5) The quorum for a meeting of a local transport forum shall be the majority of the members of the forum.
- (6) A local transport forum must endeavour to reach all decisions on the basis of consensus: Provided that if consensus on any matter cannot be achieved, the decision of the majority of the members present at a meeting of the forum shall prevail: Provided further that in the event of an equality of votes on any matter, the chairperson shall have a casting vote in addition to his or her deliberative vote. 15
- (7) Except as provided by this section, a local transport forum determines the procedure applicable at its meetings. 20

Establishment of regional transport forums

24. (1) Regional transport forums must be established for the areas determined by the MEC by notice in the *Provincial Gazette*, which areas must together cover the whole Province. 25
- (2) The MEC may designate a municipality in the relevant area which must take the lead in establishing a regional transport forum. 30
- (3) The membership of a regional transport forum and its functions shall be as prescribed.
- (4) The relevant municipality must appoint a chairperson and vice-chairperson for the regional transport forum on recommendation of its members. 35
- (5) If both the chairperson and vice-chairperson are absent from a meeting of a regional transport forum, the members present must elect one from among their number to preside at that meeting. 40
- (6) The quorum for a meeting of a regional transport forum shall be the majority of the members of the forum.
- (7) A regional transport forum must endeavour to reach all decisions on the basis of consensus: Provided that if consensus on any matter cannot be achieved, the decision of the majority of the members present at a meeting of the forum shall prevail: Provided further that in the event of an equality of votes on any matter, the chairperson shall have a casting vote in addition to his or her deliberative vote. 45

- (8) Except as provided by this section, a regional transport forum determines the procedure applicable at its meetings.

Establishment of joint route management committees

25. (1) The MEC must by notice in the *Provincial Gazette*, establish a joint route management committee and determine the route or network of routes over which it will have jurisdiction. 5
- (2) A joint route management committee shall consist of the prescribed number of representatives of each relevant local transport forum and the other members as prescribed. 10
- (3) The functions of a joint route management committee shall be as prescribed. 15
- (4) The MEC must appoint a chairperson and vice-chairperson for a joint route management committee on recommendation of its members. 15
- (5) If both the chairperson and vice-chairperson are absent from a meeting of a joint route management committee, the members present must elect one from among their number to preside at that meeting. 20
- (6) The quorum for a meeting of a joint route management committee shall be the majority of the members of the committee. 25
- (7) A joint route management committee must endeavour to reach all decisions on the basis of consensus: Provided that if consensus on any matter cannot be achieved, the decision of the majority of the members present at a meeting of the committee shall prevail: Provided further that in the event of an equality of votes on any matter, the chairperson shall have a casting vote in addition to his or her deliberative vote. 30
- (8) Except as provided by this section, a joint route management committee determines the procedure applicable at its meetings. 35
- (9) The MEC may co-operate with or enter into agreements with a competent authority in other provinces to obtain the presence of representatives from those provinces on joint route management committees, that have jurisdiction over routes that cross the border of the Province. 40

Establishment of Provincial Transport Forum

26. (1) The MEC must by notice in the *Provincial Gazette*, establish a Provincial Transport Forum. 45
- (2) The membership of the Provincial Transport Forum and its functions shall be as prescribed.

- (3) The Provincial Transport Forum may, with the consent of the MEC, co-opt additional members to assist it in performing its functions.
- (4) The MEC must appoint a chairperson and vice-chairperson for the Provincial Transport Forum on recommendation of its members. 5
- (5) If both the chairperson and vice-chairperson are absent from a meeting of the Provincial Transport Forum, the members present must elect one from among their number to preside at that meeting. 10
- (6) The quorum for a meeting of the Provincial Transport Forum shall be the majority of the members of the Forum.
- (7) The Provincial Transport Forum must endeavour to reach all of its decisions on the basis of consensus: Provided that if consensus on any matter cannot be achieved, the decision of the majority of members present at a meeting of the Provincial Transport Forum shall prevail: Provided further that in the event of an equality of votes on any matter, the chairperson shall have a casting vote in addition to his or her deliberative vote. 15
- (8) Except as provided by this section, the Provincial Transport Forum determines the procedure applicable at its meetings. 20
- (9) The Provincial Transport Forum may establish *ad hoc* committees from among its members to attend to specific issues. 25

Financial assistance

- 27. The MEC may provide financial assistance, including remuneration and allowances, determined after consultation with the Member of the Executive Council responsible for finance in the Province, to local transport forums, regional transport forums, joint route management committees and the Provincial Transport Forum, or their members, to enable them to perform their functions under this Act. 30

CHAPTER 7 35

PASSENGER TRANSPORT PLANS

Passenger transport plans

- 28. (1) The MEC may by notice in the *Provincial Gazette*, determine an area or areas or a route or a network of routes in the Province in respect of which a municipality mentioned in the notice, or the Department must prepare passenger transport plans for submission to the MEC for his or her approval. 40
- (2) The MEC may in the notice referred to in subsection (1) specify, or prescribe the following matters: 45
 - (a) the minimum information required to be included in the plan;

- (b) the time within which the plan must be completed;
- (c) the manner and procedures for preparing the plan, including public participation procedures;
- (d) the procedures and requirements for data capture.

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CHAPTER 8

REGULATION AND CONTROL OF MINIBUS TAXI-TYPE SERVICES AND METERED TAXI SERVICES

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Application in respect of a permit

29. (1) Subject to section 41, no person may undertake minibus taxi-type services or metered taxi services unless he or she is the holder of a permit issued under or recognised by this Act and is registered with the Registrar. 15
- (2) An application for the granting, renewal or amendment of a permit must be made to the Board in the prescribed manner and upon payment of the prescribed fees. 20
- (3) A person who desires to take transfer of a permit must apply to the Board for the transfer thereof in the manner prescribed and with the written consent of the holder of the permit in question: Provided that only permits that have been in use for at least six months prior to the application, may be transferred. 25
- (4) Before lodging an application under this Act, the applicant must discuss the application with relevant registered primary associations, and include the written recommendation, in the prescribed form, of such primary associations with the application: Provided that if no registered association exists, this fact must be mentioned. 30
- (5) All applications referred to in subsections (1), (2) and (3) must include a detailed description of - 35
- (a) the route or network of routes on which the applicant intends to operate;
 - (b) all points where passengers will be picked up or dropped; and
 - (c) the ranks or stands to be used. 40
- (6) (a) An applicant must state on the application form whether he or she has been convicted of a criminal offence of a nature prescribed by regulation, and if so, to list the conviction, and to state whether he or she or his or her spouse, immediate family member, business partner or employer, is an authorised official or an official in the service of the national or a provincial government or that of a municipality. 45
- (b) For the purposes of this subsection "spouse" and "immediate family member" shall have the meanings assigned to them in section 3(5)(b). 50

- (7) In the case of an application for a permit authorising inter-provincial taxi services, the Board must also refer the application to the board or other body responsible for issuing authorisations for minibus taxi-type services or metered taxi services in each relevant province for its recommendation. 5
- (8) If no response is received within 21 days from the board or other body of another province as contemplated in subsection (7), the Board must submit the matter to the Transport Appeal Tribunal as an appeal: Provided that the applicant shall be exempt from paying any fees in respect of such appeal. 10
- (9) If application is made in another province for a permit authorising inter-provincial taxi services where passengers will be picked up or dropped in the Province, and such application has been referred to the Board for its recommendation, the Board must provide a recommendation regarding the application to the body responsible for issuing permits in the other province, after obtaining recommendations from all relevant municipalities, transport forums or taxi councils or, if no such forums or councils exist, from the relevant registered primary associations or joint route management committees. 15

Exemptions 20

30. For the purposes of this Act, the conveyance of persons contemplated in the definition of "public transport service" shall be deemed not to include the following, namely -

- (a) the conveyance by an individual farmer who is resident in the Republic (including a legal person or partnership carrying on farming operations) by means of a motor vehicle which is by law authorised to carry passengers and of which he or she is the sole owner, of such farmer's farm labourers - 25
- (i) from a place where they have been recruited to a place where they have agreed to be conveyed and where they are required for farming operations; 30
- (ii) from a place where they are or have been employed in his or her farming operations to another place where they may be required for the farming operations or where another farmer may require them in his or her farming operations, or to the place where they have been recruited; 35
- (iii) between a place where they have been or are to be so employed and the place most convenient for their conveyance to another place to which they are to be conveyed by public transport or to the place where they are to be so employed; 40
- (iv) between the place where they are so employed and another place within the Republic to do shopping or to attend a church service or funeral or for purposes of a sports or recreational meeting; or 45
- (v) between a place where they have been recruited and the place most convenient for their conveyance to another place to which they are to be conveyed by public transport,

- and for the purposes of this paragraph labourers employed by a co-operative society, registered under the law relating to co-operative societies, of which the farmer is a member, or prisoners as defined in section 1 of the Correctional Services Act, 1959 (Act No 8 of 1959), who are or have been or are to be employed by a farmer in his or her farming operations, shall be deemed to be such farmer's farm labourers; 5
- (b) the conveyance by a municipality by means of a motor vehicle which is authorised by law to carry passengers, and of which it is the owner, of its own employees from a place where they perform work in the course of its business to another place where they are so to perform work; 10
- (c) the conveyance, by means of an ambulance as defined in the Road Traffic Act, 1989, of a patient, and a person attending that patient, to a place where he or she is to receive medical treatment from a person authorised to administer such treatment in terms of a law relating to the medical profession, or from a place where he or she has received such treatment; 15
- (d) the conveyance, by means of a motor vehicle, of persons who were being conveyed by a motor vehicle that has become defective, to their destination, provided, if the conveyance of such persons by means of such other motor vehicle at the time when it became defective constituted a public transport service, such conveyance was authorised by a permit, and their conveyance by means of the first-mentioned motor vehicle is undertaken in accordance with the provisions of such permit and such permit is carried on such first-mentioned motor vehicle for production on demand to any authorised official; 20 25
- (e) the conveyance of persons as contemplated in the definition of "lift club" in section 1 of the Road Accident Fund Act, 1996 (Act No 56 of 1996); 30
- (f) the conveyance by a person who carries on an industry, trade or business, of his or her employees from a place where they perform work in the course of that industry, trade or business, to another place where they are so to perform work, by means of a motor vehicle of which he or she is the owner; 35
- (g) the conveyance, in connection with the performance of his or her duties, by an employee of the national or a provincial government or a state-aided body or a company of which the national or provincial government is the sole member and shareholder or a municipality, by means of a motor vehicle of which such employee is the owner and which is used by him or her in the performance of those duties, of a person in respect of whose conveyance that employee is entitled to receive a reward from the national or provincial government or such state-aided body or company or municipality; 40
- (h) the conveyance of scholars and teachers for the purpose of sport or recreation or on holiday, sightseeing or educational tours, by means of a motor vehicle of which the relevant school is the sole owner or which, in terms of an agreement, is set apart for the use of that school for these purposes; 45

- (i) the conveyance on school days of scholars and teachers to and from the school that they attend, by means of a motor vehicle of which the school is the sole owner or which, in terms of an agreement, is set apart for the use of the school for this purpose: Provided that the MEC may repeal this exemption by notice in the *Provincial Gazette*; 5
- (j) the conveyance by a university, technikon, technical college or teachers' training college (hereinafter referred to as an educational institution) of its own students and staff for educational, cultural or sports purposes by means of a motor vehicle of which that educational institution is the owner or by means of a motor vehicle which in terms of an agreement is set apart for the use of that educational institution for these purposes: Provided that in the case of such conveyance by means of a motor vehicle employed in terms of an agreement, a document must be carried in that vehicle in which an authorised official of the educational institution confirms that the passengers are enrolled students of, or staff attached to, that educational institution; 10 15
- (k) the conveyance for reward by a person who has been summoned to appear at a place as a witness in a criminal case, of another person who has been summoned to appear as a witness in that case or in any other criminal case, whether at the same place and on the same day or at another place or on another day, to or from the place at which the person conveyed has been summoned to appear, by means of a motor vehicle of which the first-mentioned person is the owner; 20
- (l) the conveyance for reward, by a person who has been summoned to appear at a place on a day to give evidence before a commission with reference to which the provisions of the Commissions Act, 1947 (Act No 8 of 1947) or the Commissions Ordinance, 1954 (Ordinance No 5 of 1954), have been declared to be applicable, or before a body established under a law in terms of which that body is empowered to summon persons to appear before it to give evidence, to or from the place at which such person has been summoned to appear, of another person who has been summoned to appear before such commission or body to give evidence on the same day and at the same place, by means of a motor vehicle of which the first-mentioned person is the owner; 25 30 35
- (m) the conveyance of a person who must necessarily be conveyed in connection with the conveyance of persons, which in terms of a preceding paragraph does not constitute public transport; or
- (n) the conveyance of persons by a courtesy service. 40

Disposal of application in respect of a permit

- 31. (1) Subject to the provisions of this Act, the Board must receive and consider any application for the granting, renewal, amendment or transfer of a permit made to it thereunder, and may thereafter, in its discretion grant the application in full or in part subject to the conditions it may deem necessary, or refuse the application. 45

- (2) (a) Before considering any application under subsection (1), the Board must refer such application to the relevant municipality for its recommendation.
- (b) A municipality to whom an application has been referred, must consult the relevant local transport forums, or, if no relevant local transport forums exist, the relevant registered primary associations and joint route management committees, before submitting its recommendation to the Board. 5
- (c) If a municipality fails to transmit its recommendation to the Board within a period of 30 days after receipt of the application or within such further period as the Board may on request allow, the application may be dealt with and finalised without such recommendation. 10
- (3) The Board must liaise with the Registrar to ascertain whether the information submitted by the applicant is consistent with information held by the Registrar, if any. 15
- (4) The Board may not issue a permit on a radius basis, and area permits may be issued only in the case of - 20
- (a) minibus taxi-type services or metered taxi services to be rendered in areas where there are no defined roads;
- (b) feeder services between a confined area and a major terminal or interchange facility; 25
- (c) off-peak or weekend services between a confined area and a major attractor of passengers, such as a hospital or shopping centre. 30
- (5) Except in the cases mentioned in subsection (4)(a), (b) and (c), the Board may not grant a transfer of a permit which authorises conveyance in an area or within the radius of a specified point unless the authority is converted to a route or network based authority. 35
- (6) A separate permit must be issued for each motor vehicle.
- (7) (a) No transfer of a motor vehicle in terms of a permit shall be allowed within six months of the issuing of a permit, unless the holder shows good cause why a transfer should be allowed. 40
- (b) For purposes of this subsection "good cause" shall include but not be limited to the fact that the motor vehicle has been stolen or destroyed.
- (8) The Board may refuse to consider an application for the grant, amendment or transfer of a permit made by any person if a previous application by that person, which in the opinion of the Board had the same or substantially the same object as the first-mentioned application, was considered and refused by the Board within the period of six months preceding the date on which such first-mentioned application is received in the office of the Board. 45 50

- (9) The Board must refuse to consider an application for the grant, renewal, amendment or transfer of a permit if all of the following are opposed to the application:
- (a) the relevant municipalities; 5
 - (b) the relevant transport forums;
 - (c) the relevant registered primary associations; and 10
 - (d) the relevant joint route management committees.
- (10) The Board must determine the ranks, stands and other facilities that an applicant may use based on recommendations from relevant municipalities, and stipulate these in the permit. 15
- (11) No permit may be granted unless the applicant is a member of a primary association that has been registered by the Registrar under section 18 and the application is supported in writing by the primary association, or the Registrar certifies in writing that the applicant qualifies as a registered non-member under that section and has applied for registration as such. 20
- (12) The Board may not grant a permit to a person who has been convicted of a prescribed offence. 25
- (13) A permit for a metered taxi service may -
- (a) allow the motor vehicle to leave its defined area if, on the return journey it carries the same passengers as on the outward journey, or the motor vehicle returns empty; 30
 - (b) allow the holder to operate a journey at a fare not determined by the meter in the motor vehicle, if the fare for each journey is decided before the journey begins. 35

Substitution of motor vehicles

32. (1) An application to amend a permit to substitute a motor vehicle indicated in the permit by another motor vehicle of the same seating capacity may, subject to section 39, be granted by an official of the Board designated for this purpose by the chairperson, without amending the other conditions or particulars of the permit. 40
- (2) Subsection (1) shall not apply to applications for amending permits to substitute motor vehicles of different seating capacities, which may only be granted if the relevant seating capacities are justified in accordance with the relevant approved passenger transport plans or the prescribed requirements. 45

Publication of application and representations in respect of a permit

33. (1) When the Board receives an application, excluding an application referred to in section 32(1), it - 5
- (a) must, in the case of an application for the granting or amendment (other than an amendment referred to in paragraph (b)) of a permit; 5
 - (b) may, in the case of an application for the amendment of a permit so as to authorise the permanent replacement of a motor vehicle specified in the permit by a motor vehicle of which the seating capacity is equal to or smaller than or exceeds that of the first-mentioned motor vehicle by not more than 20 percent, or in the case of transfer of a permit, 10
- publish in the *Provincial Gazette* and in at least one newspaper circulating in each area where passengers will be picked up or dropped, the prescribed particulars of the application, and, in the prescribed manner, place a notice of the application on the notice board at the offices of the Board. 15
- (2) The MEC may prescribe the manner in which and time within which interested parties may submit objections to or representations concerning applications published under subsection (1). 20
- (3) The provisions of this section shall not apply to an application for the grant of a permit made in accordance with the prescribed process. 25

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

34. (1) In addition to the other relevant provisions of this Act, the Board must take into consideration the following factors in deciding whether an application should be granted or refused and in determining the conditions (if any) to which a permit shall be made subject: 30
- (a) the provisions of applicable passenger transport plans; 35
 - (b) the recommendations from relevant municipalities, transport forums, registered primary associations and joint route management committees; 35
 - (c) any objections to or representations concerning the application which has been received; 40
 - (d) the extent to which the transport is necessary or desirable in the public interest; 45
 - (e) the requirements of the public for transport along the route(s) or between the points that the applicant proposes to operate, or in the area in which the applicant proposes to operate; 45
 - (f) the existing transport facilities available to the public along the route(s) or between the points or in the area; 50

- (g) the co-ordination of all forms and modes of transport on an economically sound basis and with due regard to the public interest;
 - (h) the ability of the applicant to provide the services; 5
 - (i) any relevant previous convictions of the applicant for offences;
 - (j) the existence of a by-law, regulation, prohibition, limitation or restriction relevant to the proposed transport; 10
 - (k) any other factor which, in the opinion of the Board, may be relevant to the question whether the application should be granted or what conditions should be attached to the permit.
- (2) The word "ability" in subsection (1) shall include, but not be limited to, the financial ability of the applicant to provide the proposed services in a sustainable manner. 15

Inter-provincial taxi services

35. (1) Where a person wish to undertake inter-provincial taxi services, he or she must apply to the Board for a permit if the motor vehicle with which the services are going to be undertaken, is or will be registered in the Province. 20
- (2) The Board may not grant an application for a permit authorising inter-provincial taxi services, or for the renewal or transfer of such permit, or for an amendment of the permit affecting public transport services in the other province, except with the agreement of the board or other body responsible for issuing permits in the other province. 25
- (3) Where the Board is unable to obtain the agreement of such board or other body within the prescribed period, the Board must submit the matter as an appeal to the Transport Appeal Tribunal in accordance with the Transport Appeal Tribunal Act, 1998. 30
- (4) Appeals concerning inter-provincial taxi services must be made to the Transport Appeal Tribunal in accordance with the Transport Appeal Tribunal Act, 1998. 35
- (5) In the case of inter-provincial taxi services, passengers may not be picked up or dropped except at the points of origin and destination: Provided that if there is no alternative service between the origin or destination and the drop-off or pick-up point, or the relevant registered primary associations operating on the route(s) have agreed thereto, passengers may be so picked up or dropped. 40

International taxi services

36. An application for a permit authorising an international taxi service must be made to the Regulatory Committee in terms of the Cross-Border Road Transport Act, 1998 (Act No 4 of 1998), and any appeals relating thereto must be dealt with in terms of that act. 45

Tourist services

37. (1) The MEC may make regulations providing for special requirements in respect of applications for permits regarding tourist services or motor vehicles or drivers used in such services, in addition to or in lieu of those provided for in this Act. 5
- (2) The regulations referred to in subsection (1) may require that recommendations must be obtained from the Free State Tourism Marketing Board, before applications for permits authorising tourist services are considered. 10

Validity period of a permit

- *38. (1) The period of validity of a permit issued in terms of this Act shall be as prescribed. 15
- (2) When an existing fixed period permit expires, and an application for its renewal is pending before the Board, the permit shall continue in force until the application has been disposed of. 20

Issue of permit and provisions thereof

39. (1) Subject to subsection (2), the Board must issue, in the manner prescribed, a permit granted, renewed, amended or transferred by it in terms of this Act. 25
- (2) The Board may not issue a permit unless - 30
- (a) it is satisfied that every motor vehicle to which the permit relates is suitable for the type of transport for which it is to be used; 35
- (b) in respect of each such motor vehicle a certified copy of a valid roadworthy certificate, issued under the law relating to the licensing and registration of motor vehicles in the Province, on or after a date determined by regulation, has been submitted to it; and 40
- (c) the applicant is registered with the Registrar or has applied for registration. 45
- (3) (a) If, during the currency of a permit, the roadworthy certificate for a motor vehicle to which the permit relates, becomes invalid for any reason, the permit itself shall be suspended, and the holder must submit it and any permit disc relating thereto to the Board for safekeeping within 14 days from the date on which the roadworthy certificate concerned became invalid. 40
- (b) Together with the submission of the permit and permit disc referred to in paragraph (a), such holder must submit to the Board all distinguishing marks relating to such motor vehicle or proof that all such distinguishing marks have been removed or destroyed and such holder must, once such suspension has been revoked, apply afresh for distinguishing marks. 45

- (4) Any permit issued in terms of this section must specify the following, namely -
- (a) the name and address of the holder; 5
 - (b) the number of passengers that may be conveyed in the motor vehicle concerned in terms of the relevant roadworthy certificate: Provided that the maximum number of passengers approved by the Board shall not be exceeded; 10
 - (c) the registration number, make, vehicle identification number, year of manufacture, type, seating or passenger capacity of the motor vehicle in respect whereof it is issued; 15
 - (d) the route or network of routes on which or the area or areas within which the relevant services may be undertaken, as well as the points of origin and destination, all points where passengers may be picked up or dropped and the ranks, stands and other facilities that may be used; 20
 - (e) any other conditions which the Board may impose in its discretion. 25
- (5) Together with each permit that it issues or converts, the Board must issue a permit disc and distinguishing mark or marks in the form and manner prescribed, or failing such regulations, in the form and manner determined by the Board.

Verification of existing permits 25

40. (1) (a) The MEC may by notice in the *Provincial Gazette*, determine an area, a route or a network of routes in respect of which all holders of permits authorising minibus taxi-type services or metered taxi services to be conducted in such area or on such route or network of routes, must have their permits verified by the Board within a period stated in the notice, in the manner prescribed. 30
- (b) A permit that has not been verified in accordance with subsection (1), shall lapse in so far as it authorises the rendering of such services in the Province and must be handed together with its related permit disc and any distinguishing mark or proof that all distinguishing marks have been removed or destroyed to the Board within seven days of lapsing. 35
- (2) The MEC may prescribe the process which the Board must follow in verifying existing permits. 40
- (3) The Board may reissue a permit verified in terms of subsection (1) if -
- (a) the existing permit is radius or area based in order to convert it to a route or network based permit; or 45
 - (b) the MEC determines that the format of existing permits must change, 50
- Provided that only the permits of holders based in the Province may be so reissued.

- (4) Where the Board is of the opinion that the permit of a holder based in another province should be reissued, it must make written representations in this regard to the authority responsible for the issuing of permits in the other province.
- (5) (a) All reissued permits must clearly specify the route or network of routes on which, or area in which, the holder may operate: Provided that not more than the prescribed number of routes or corridors determined by the Head of Department may be allocated to a particular permit. 5
- (b) Area permits may only be reissued in the case of - 10
 - (i) minibus taxi-type services or metered taxi services to be rendered in areas where there are no defined roads;
 - (ii) feeder services between a confined area and a major terminal or interchange facility; 15
 - (iii) off-peak or weekend services between a confined area and a major attractor of passengers, such as a hospital or shopping centre. 20
- (6) No compensation shall be payable in respect of routes or areas that are not allocated to the reissued permit under subsection (5).
- (7) The Board must check the particulars of permits submitted under subsection (1) and of their holders against relevant information systems, and must, where necessary, correct or enter details on or into such systems. 25
- (8) The MEC may by notice in the *Provincial Gazette*, determine an area in respect of which the Board may not grant any new permit applications until the processes contemplated in subsection (2) and the registration process contemplated in section 18 have been completed. 30
- (9) Permits must be reissued with the same periods of validity applicable to the original permit, subject to the provisions of this Act regarding withdrawal and suspension. 35

***Ad hoc* authorisations**

41. (1) *Ad hoc* authorisations may be issued under this section to the holder of a permit in respect of a minibus taxi-type service or a metered taxi service for the prescribed purposes and under the prescribed circumstances. 40
- (2) (a) Such holder may, on payment of the prescribed fee, apply to the secretary of the local taxi council of the area where the journey commences for the issue of an *ad hoc* authorisation, the form of which must be prescribed. 45
- (b) The local taxi council concerned must keep a register containing copies of all the *ad hoc* authorisations issued by it.

- (3) Each local taxi council must apply to the Board for the issue to it of a series of *ad hoc* authorisations.
- (4) The Board must number in sequence *ad hoc* authorisations issued by it and keep a register thereof with the name of the local taxi council to which they have been issued. 5
- (5) The holder of an *ad hoc* authorisation must, while providing the service authorised by it, keep such authorisation at all times in the motor vehicle to which it relates and it must be produced to an authorised officer on demand. 10
- (6) Within seven days of the end of each month, every local taxi council must submit to the Board copies of *ad hoc* authorisations issued by it during that month.
- (7) The MEC may prescribe the conditions on which *ad hoc* authorisations may be issued and the maximum number of *ad hoc* authorisations that may be issued to the holder of a permit in a prescribed period or for a prescribed purpose. 15
- (8) In the event of there being no local taxi council in the area referred to in subsection (2)(a), the associations in that area must, in consultation with the Board, determine the procedure to be followed with regard to the issuing of *ad hoc* authorisations. 20
- (9) No person may use an *ad hoc* authorisation otherwise than in accordance with this section. 25
- (10) Where a local taxi council or other body issues *ad hoc* authorisations otherwise than in accordance with this section or abuses the issue of *ad hoc* authorisations, the Board may refuse to issue *ad hoc* authorisations to it under subsection (3). 30

Record of permits

42. The Board must -

- (a) keep at its place of business a copy of every permit issued by it in terms of this Act and of every amendment made to any such permit; 35
- (b) enter the prescribed particulars regarding such permits, the holder of the permit and the relevant motor vehicle on a data basis as prescribed; 40
- (c) allow any person who is in any way affected by such a permit or amendment, to inspect it, and may at the request of such a person, furnish him or her with a copy of the permit concerned and every amendment thereof upon payment of the prescribed fee.

Temporary replacement of motor vehicle to which a permit relates

43. (1) Where a motor vehicle to which a permit relates has become defective or, due to an accident, has been temporarily withdrawn from service, the Board or a member thereof designated by the chairperson of the Board for that purpose may, subject to subsections (2) and (3), at will grant written permission that any motor vehicle may be used by the holder of the permit concerned for the public transport service authorised by that permit, in the place of the first-mentioned motor vehicle. 5
- (2) The seating capacity of the replacement motor vehicle must be equal to or smaller than or not exceed by more than 20 percent that of the motor vehicle to which the permit relates. 10
- (3) The replacement motor vehicle may be used for such period not exceeding 42 days as the Board or member concerned determines. 15
- (4) The replacement motor vehicle shall during the period referred to in subsection (3), for purposes of this Act, be deemed to be the motor vehicle to which the permit concerned relates. 20

Additional authority conveyed by a permit

44. A permit shall, in addition to the transportation expressly authorised by it, also authorise the conveyance of a person necessary in connection with such expressly authorised transportation. 25

Duties of the holder of a permit

45. (1) The holder of a permit must - 30
- (a) conduct the service authorised by the permit in accordance with the applicable passenger transport plan and the conditions of the permit; 35
- (b) carry the permit or the written permission referred to in section 43, and the holder's registration certificate issued under section 18, on the motor vehicle to which they relate and produce them on demand to an authorised official; 40
- (c) keep the permit, permit disc and any distinguishing mark relating thereto, in such a condition that the letters and figures on it are clearly legible and, if the permit, permit disc or distinguishing mark is damaged or ceases to be clearly legible, apply for a duplicate in the manner prescribed; 45
- (d) cause the name, address and nature of business of the holder to be borne in a conspicuous place on the motor vehicle to which the permit relates, 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 determined by the Board or as prescribed;
- (f) affix and keep affixed in the manner prescribed, any permit disc and distinguishing mark issued in terms of this Act on the motor vehicle used in terms of the permit;

- (g) apply in time for the renewal of the permit;
 - (h) ensure that all information contained in the permit is kept up to date by appropriate applications for amendments; 5
 - (i) submit to the Board within one calendar month of expiry of the annual roadworthy certificate a certified copy of a new roadworthy certificate for the motor vehicle to which the permit relates;
 - (j) return to the Board for cancellation a permit in respect of a motor vehicle which has been disposed of by the holder. 10
- (2) A permit issued under this Act -
- (a) shall not authorise the holder thereof to undertake a public transport service in the area of jurisdiction of a municipality if it is unlawful to do so under any other law applicable in such area; 15
 - (b) shall not exempt the holder from the obligation to comply with a requirement imposed upon him or her under any other law or under any licence or permit issued by another authority. 20

Withdrawal, suspension or amendment of a permit

46. (1) Subject to the provisions of subsection (4), the Board may at any time withdraw, amend or suspend, for such period as it may deem fit, a permit granted by it - 25
- (a) if the holder of such permit or an employee of the holder has been convicted of an offence under this Act or under a law relating to motor vehicles or the regulation of traffic or occupational safety or labour relations, or of a prescribed offence; or 30
 - (b) if, in the opinion of the Board, the holder has not carried out faithfully the conditions or requirements of the permit; or 35
 - (c) if the holder has failed to initiate the service authorised by the permit or any part thereof within six months of the issuing of the permit unless the holder can prove to the Board that there are good reasons for this, which reasons may include, but shall not be limited to - 40
 - (i) illness or incapacity of the holder;
 - (ii) the fact that the motor vehicle is temporarily out of service due to an accident; 45
 - (iii) arrangements being made for the transfer of the permit due to the death of the holder;
 - (iv) financial hardship due to circumstances beyond the control of the holder; or 50
 - (v) the fact that the holder is prevented from conducting the service due to a conflict situation; or

- (d) if the holder has ceased to operate the service or any part thereof for 180 consecutive days; or
- (e) if the holder has failed to submit to the Board a certified copy of a new annual roadworthy certificate in respect of the motor vehicle to which the permit relates, within one calendar month after the expiry of such certificate; or 5
- (f) if the holder has disposed of the motor vehicle to which the permit relates. 10
- (2) Where the holder of a permit has ceased to be registered with the Registrar, either as a member of a deregistered primary association or personally, the Board must withdraw all permits held by that holder.
- (3) Where an association has suspended one of its members, the Registrar must, subject to section 22(4), submit the report of the relevant disciplinary committee to the Board, whereupon the Board must suspend all permits held by that member for the period of suspension of the member. 15
- (4) The Board may not withdraw or suspend a permit under subsection (1), (2) or (3), unless - 20
 - (a) at least 21 days' written notice of its intention to do so, with reasons, has been given to the holder by registered post; and 25
 - (b) the holder has been given an opportunity, either personally or through his or her duly authorised representative, to appear before the Board and provide evidence or submit representations in regard to the proposed action. 30
- (5) On a second or subsequent conviction of a person of an offence involving the undertaking of unauthorised services the Board may - 35
 - (a) by notice in writing sent by registered post, withdraw or suspend a permit held by that person for the period that it may deem appropriate; and 40
 - (b) during the period that the Board may deem fit, and irrespective of whether or not a permit held by that person has been withdrawn under paragraph (a), refuse to consider an application for the granting or transfer of a permit to him or her or to a legal person or partnership of which he or she is a director, member or partner, or for the renewal of a permit held by him or her or such a legal person or partnership. 45

Withdrawal of a permit in terms of a passenger transport plan

47. (1) If in terms of a passenger transport plan it appears that - 45
- (a) an oversupply of minibus taxi-type services or metered taxi services on a route or network of routes have resulted from the reissuing of permits contemplated in section 40; or 50

- (b) there has been a material change to a route or network of routes or the manner in which minibus taxi-type services or metered taxi services are being provided, resulting in an oversupply of such services,

the planning authority must use its best endeavours to offer relevant permit holders alternative services or services with similar income generation, which offer may not be unreasonably refused by the holders.

- (2) (a) If alternative services contemplated in subsection (1) are not available, the Board may commence with the process to withdraw surplus permits. 10
- (b) In order to give effect to the process referred to in paragraph (a), the Board must invite the holders of permits on a route or network of routes contemplated in subsection (1) to indicate on or before a specified date in writing the amount of compensation for which they are willing to surrender their permits. 15
- (3) After consideration of the amounts submitted by the holders (if any), the planning authority may pay the amounts claimed and the Board may withdraw the relevant permits. 20
- (4) If, after completion of the process referred to in subsections (2) and (3), there are still surplus permits on the said route or network of routes the Board, if it desires to withdraw these permits, must proceed to withdraw these permits on a "last-in-first-out" basis and the planning authority must pay to the holders fair compensation calculated according to guidelines determined by the MEC. 25
- (5) All actions taken by the Board in terms of this section must be done with the concurrence of the relevant planning authority. 30

Impoundment of motor vehicles

48. (1) An authorised official who is reasonably satisfied that a motor vehicle is being used for unauthorised services, may impound the motor vehicle. 35
- (2) A motor vehicle impounded under subsection (1) must be stored by the Department and may not be released until, in the case where the holder of the permit authorising the use of the motor vehicle concerned, has been convicted of undertaking unauthorised services - 40
- (a) he or she has paid the prescribed administration fee, which fee shall be used by the Department to defray the costs of establishing and maintaining the relevant pound or pounds and the balance, if any, shall be paid into the Provincial Urban Transport Fund; and 45
- (b) he or she has paid the relevant fine or served the relevant term of imprisonment,
- Provided that the administration fee for a second impoundment shall be an amount as prescribed and shall be doubled for each subsequent impoundment. 50
- (3) The impoundment of a motor vehicle under this section shall not exempt the holder concerned, or the owner or driver thereof from being prosecuted for an offence under this Act or a law relating to the regulation and control of road traffic. 55

Special measures in certain areas

49. (1) The MEC may, if he or she deems it necessary, by notice in the *Provincial Gazette*, determine an area, route or network of routes in respect of which the special measures provided for in this section will apply. 5
- (2) (a) The MEC may make regulations providing that one or more routes or ranks shall be closed to the operation of minibus taxi-type services or metered taxi services in an area determined under subsection (1) for a period stated in the regulations, and that no person may undertake such services on the route or routes or at the rank or ranks during that period. 10
- (b) The regulations may provide that the contravention thereof will constitute an offence and prescribe penalties not exceeding those specified in section 54(2) in respect thereof. 15
- (3) Regulations under subsection (2) may provide for the issuing of temporary permits to the holders of permits that authorise the use of motor vehicles with a seating capacity of more than 17 persons, including the driver, to operate the closed routes for the period of their closure. 20

CHAPTER 9

LAW ENFORCEMENT

25

Offences and prohibitions

50. A person who -
- (a) undertakes minibus taxi-type services or metered taxi services without the authority of a permit; 30
- (b) being the holder of a permit, undertakes minibus taxi-type services or metered taxi services contrary to the conditions or requirements of the permit, or fails to comply with any permit condition; 35
- (c) being the holder of a permit or the agent or employee of a permit holder, enables a person who does not hold a permit, to use the permit holder's permit;
- (d) with the intent to deceive, forges, alters, defaces, mutilates or adds to a permit; 40
- (e) knowing that any writing is not a permit or document issued under this Act, utters or uses such writing or other document for the purposes of this Act;
- (f) knowing that any permit or other document issued under this Act has been altered, defaced, mutilated or added to, uses it for the purposes of this Act; 45
- (g) except as allowed by this Act, transfer a permit, permit disc or distinguishing mark, without the consent in writing of the Board, to a motor vehicle or person other than a vehicle or person referred to or named in the permit, permit disc or distinguishing mark; 50

- (h) pretends that he or she is an authorised official;
 - (i) wilfully obstructs or hinders or interferes with an authorised official in the exercise of his or her powers or the performance of his or her duties; 5
 - (j) fails to comply with a direction or demand made by an authorised official;
 - (k) without sufficient reason fails or refuses to appear before the Board or member thereof after having been required to do so in terms of this Act, or fails or refuses to answer to the best of his or her knowledge a question lawfully put to him or her or to produce a book, plan or other document or article which he or she has been so required to produce; 10
 - (l) gives false information when required to supply information in terms of this Act; 15
 - (m) fails to state the information referred to in section 29(6) in his or her application;
 - (n) applies for or obtains a permit knowing that another permit has already been issued to another person or another legal person in relation to the same motor vehicle; 20
 - (o) displays a permit disc or distinguishing mark on a motor vehicle used for minibus taxi-type services or metered taxi services, which has not been lawfully issued under this Act or any other law;
 - (p) fails to affix or keep affixed a permit disc or distinguishing mark on any motor vehicle as prescribed; 25
 - (q) fails to -
 - (i) return a permit disc or distinguishing mark to the Board upon demand being made for its return by the Board or Department; 30
 - (ii) submit proof to the Board of the removal or destruction of a distinguishing mark upon being required to do so; or 35
 - (iii) destroy a permit disc or distinguishing mark upon demand being made for its destruction by the Board or Department;
 - (r) being a passenger in a motor vehicle, fails to provide his or her name and address to an authorised official or to state to such official whether or not he or she has paid for the conveyance in question; 40
 - (s) being the holder of a permit, undertakes unauthorised services; or
 - (t) contravenes or fails to comply with any provision of this Act, if such contravention or failure is not elsewhere declared an offence, 45
- is guilty of an offence and liable upon conviction to a fine not exceeding R100 000, or to imprisonment for a period not exceeding three years or to both such fine and imprisonment. 50

Presumptions and proof of certain facts

51. (1) In a prosecution under this Act -

- (a) a person who has conveyed a person by means of a motor vehicle with a seating capacity of less than 17 persons, including the driver, or who has permitted the conveyance by such means of a person in addition to the driver of the motor vehicle, shall be presumed, in the absence of evidence to the contrary, thereby to have undertaken minibus taxi-type services or metered taxi services, as the case may be; 5
- (b) if it is proved that a person was conveyed in contravention of this Act by means of a particular motor vehicle, the owner of the motor vehicle shall be presumed, in the absence of evidence to the contrary, to have so conveyed the person; 10
- (c) a person in whose possession any writing falsely purporting to be a permit issued under this Act is found, or in whose possession a permit which has been altered, defaced, mutilated or added to in contravention of this Act is found, shall be presumed, in the absence of evidence to the contrary, to have made such writing or to have altered, defaced, mutilated or added to such permit. 15
- (2) A document which purports to be a permit issued under this Act, or a copy of such a permit certified as a true copy by a person who purports to be an officer of the Board, shall on its production by a person in a prosecution under this Act, be admissible in evidence and be *prima facie* proof that it is a permit which has been validly issued under this Act, or that it is a true copy of such a permit, as the case may be, and that every statement contained therein is correct. 20 25
- (3) A document that states that a motor vehicle is lawfully registered in the name of a person named therein, and which purports to have been issued by the authority charged with the registration of motor vehicles at the place where such vehicle is registered, shall be admissible in evidence and be *prima facie* proof of the correctness of the statements contained therein in a prosecution for an offence under this Act. 30

Jurisdiction

52. A magistrate's court has jurisdiction to try any case with regard to an offence as contemplated in this Act and to impose any penalty in connection therewith. 35

Limitation of liability

53. No person is liable in respect of anything done in good faith in the exercise of a power or the carrying out of a duty conferred or imposed by or under this Act. 40

CHAPTER 10

GENERAL PROVISIONS

Regulations

54. (1) The MEC may make regulations - 50
- (a) with reference to -

- (i) the information to be submitted with an application for the grant, renewal, amendment or transfer of a permit;
- (ii) the procedure to be followed by the Board in dealing with any such application; 5
- (iii) the information to be submitted with an appeal to the Transport Appeal Tribunal against an act, direction or decision of the Board;
- (iv) the information to be supplied by the Board to the Transport Appeal Tribunal or the appellant in connection with an appeal, and the manner in which, and time within which, the information must be supplied; 10
- (v) the information to be supplied to the Department by permit holders, municipalities and registered associations; 15
- (vi) the offences that the Board should take into account in considering permit applications; 20
- (vii) the numbering of routes and the allocation thereof to particular registered primary associations or their members, or non-members, and the form and issuing of permit discs and distinguishing marks in that regard; 25
- (viii) the keeping by the Registrar of a register of registered associations, members and non-members, the manner in which it shall be kept and the information to be contained therein;
- (b) (i) regulating the undertaking of scholar transport by holders of permits; 30
- (ii) regulating the provision of taxi training;
- (iii) regarding conflict resolution and arbitration between associations or the holders of permits; 35
- (iv) regulating metered taxi services including, but not limited to, the standard of service, fares, motor vehicles used and the drivers thereof; 40
- (v) providing for a system of grading of holders of permits and drivers;
- (vi) providing for a system of registering drivers involved in providing minibus taxi-type services; 45
- (vii) regulating the provision, control and use of ranks and stands;
- (c) requiring the payment of fees and the actual costs involved in connection with - 50
 - (i) an application for the grant, renewal, amendment or transfer of a permit;

- (ii) any appeal provided for in this Act; 5
 - (iii) the issue of a permit, permit disc, distinguishing mark or other document or a duplicate thereof; 5
- and prescribing the amount of any such fee, the circumstances in which an amount paid by way of such fee shall be forfeited or refunded in whole or in part, the amount of a partial refund and the circumstances in which an amount so paid may in the discretion of the Board be forfeited in whole or be refunded in whole or in part; 10
- (d) prescribing special co-ordinated law enforcement exercises or measures regarding minibus taxi-type services; 15
 - (e) prescribing or otherwise dealing with any matter which in terms of any other provision of this Act is required to be or may be prescribed or otherwise dealt with by regulation; and 15
 - (f) generally for the better carrying out of the provisions and objects of this Act. 20
- (2) Any regulation made under subsection (1) may provide that a person contravening a provision thereof or failing to comply therewith, shall be guilty of an offence and liable on conviction to a fine, or to imprisonment for a period not exceeding three years. 25

By-laws

55. (1) A municipality may make by-laws to - 30
- (a) regulate the size, class or number of motor vehicles that may enter a specified portion of its area of jurisdiction and determine the time or times when a class of motor vehicle may enter any such portion; 35
 - (b) regulate or prohibit the entry of any class of motor vehicle in such portion during any specified period; 40
 - (c) prohibit the loading or off-loading of motor vehicles in any such portion during a specified period or periods, and determine the time or times when such loading or off-loading may take place; 45
 - (d) regulate the conduct of drivers of motor vehicles used for minibus taxi-type services or metered taxi services; 45
 - (e) control the use by holders of permits, drivers and the public of any road, route, picking up or dropping point, holding area, rank, stand, terminal or passenger transfer facility; 45
 - (f) regulate the rights and obligations of passengers; 45

- (g) regulate operational safety on public transport vehicles;
 - (h) regulate the carriage of luggage and animals on public transport vehicles;
 - (i) regulate the handling and disposal of lost property; and 5
 - (j) regulate and control the provision and use of taxi ranks.
- (2) Any by-law made under this section may provide that a person contravening a provision thereof or failing to comply therewith, shall be guilty of an offence and liable on conviction to a fine, or to imprisonment for a period not exceeding three years. 10

Finances

56. Subject to section 48(2)(a), all moneys received by the Board, the Tribunal or the Registrar under this Act, including fines and penalties, shall be paid into the Provincial Urban Transport Fund, or, on demise of that Fund, into the Provincial Land Transport Fund, and all expenditure incurred in the administration of this Act must be defrayed out of those Funds: Provided that expenditure incurred in connection with the performance of the functions of an authorised official, must be defrayed by the employer of the official concerned. 15 20

Repeal of laws, savings and validation

57. (1) Sections 4, 5, 6, 7, 8, 9, 10 and 11(2) of the Road Transportation Act, 1977, is hereby repealed. 25
- (2) At the commencement of this Act all assets, liabilities, rights and obligations of local road transportation boards established under the Road Transportation Act, 1977, shall vest in the Board. 30
- (3) Subject to this Act, any appointment, designation, regulation, notice, authorisation, permission, approval, decision, exemption, direction, order, suspension, determination or condition issued, given, granted, made or imposed under any provision of the Road Transportation Act, 1977, or similar law, will be regarded and treated as having been issued, given, granted, made or imposed under the corresponding provisions of this Act by the person or functionary competent in terms of this Act to do so. 35 40
- (4) Any application for the issue or granting of a permit relating to minibus taxi-type services or metered taxi services in terms of the Road Transportation Act, 1977, or similar law, which was not disposed of at the commencement of this Act, shall be deemed to be an application under this Act for the issue or granting of the appropriate permit. 45
- (5) Any reference to "board" or "local road transportation board", or "inspector" in the Road Transportation Act, 1977, must be construed as a reference to the Board or an inspector, respectively.

- (6) (a) Anything done on or after 1 August 1997 under, in terms of or by virtue of a provision of Chapter 5, read with section 1, of this Act, which could have been so done if the said Chapter 5 and section 1 had been in operation, shall be deemed to have been lawfully done. 5
- (b) Regulations made by the MEC and distributed under his or her authority on or after 1 August 1997 as if sections 17(3) and 54(1) of this Act had been in operation, shall within seven days of the commencement of this Act be published in the *Provincial Gazette* in proper form and those provisions of such regulations which relate to Chapter 5, read with section 1, of this Act shall be deemed to have come into operation on 1 August 1997. 10
- (c) Anything done on or after 1 August 1997 under, in terms of or by virtue of a regulation deemed under paragraph (b) of this subsection to have been in operation, shall be deemed to have been lawfully done. 15
- (d) Any association conditionally registered by the Registrar in terms of section 18(2) on or after 1 August 1997 shall, at the commencement of this Act, be deemed to still be conditionally registered notwithstanding that such conditional registration may have lapsed in terms of that section and the date on which this Act comes into operation shall, for the purpose of calculating the expiration of the six months period referred to in the proviso to section 18(2), be deemed to be the date of conditional registration of such an association. 20
- (e) Any constitution submitted by an association to the Registrar in terms of section 18(2) or (3) in the period on or after 1 August 1997 and prior to the commencement of this Act shall be deemed to have been signed by all the members of such association notwithstanding the fact that it was not so signed. 25
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Short title and commencement

58. (1) This Act is called the Free State Interim Passenger Transport Act, 1998, and comes into operation, subject to subsection (2), on a date determined by the MEC by notice in the *Provincial Gazette*. 35
- (2) Different dates may be so determined in respect of different provisions of this Act, and dates so determined may differ in respect of different areas in the Province.