
PROVINCE OF WESTERN CAPE

**WESTERN CAPE ROAD
TRANSPORTATION ACT
AMENDMENT LAW, 1996**

PROVINSIE WES-KAAP

**WES-KAAPSE WYSIGINGSWET
OP DIE WET OP
PADVERVOER, 1996**

No , 1996

GENERAL EXPLANATORY NOTE:

Words underlined with a solid line indicate insertions in existing enactments.

LAW

To amend the Road Transportation Act, 1977, insofar as it applies in the Province to add a definition; to provide for the appointment of a Provincial Taxi Registrar and specify his or her powers, duties and functions; to provide for the registration of minibus taxis and members; to provide for minibus taxi permits to be granted on a route or network basis except in limited cases; to provide for radius or area based permits for minibus taxis to be converted to route or network based permits on transfer; to provide for ranks and other facilities to be used by minibus taxi operators to be specified; to provide that permits for minibus taxi services will be granted only to members of registered associations or to registered non-members; to provide that permits must be granted in accordance with transport plans as from a date determined by the Minister; to provide for the provisions of transport plans to be taken into account in considering applications for permits; to provide for recommendations from local authorities, taxi forums and taxi liaison committees to be taken into account in considering applications for minibus taxi permits; to empower permit boards to require holders of minibus taxi permits to submit them for re-issuing, subject to the holder being a member of a registered association or being registered as a non-member and subject to the conversion of the permit to a route or network based permit; and for matters connected therewith.

BE IT ENACTED by the Provincial Legislature of the Province of Western Cape as follows:—

Amendment of section 1 of Act 74 of 1977, as amended by section 1 of Act 93 of 1979, section 1 of Act 91 of 1980, section 1 of Act 64 of 1981, section 1 of Act 78 of 1982, section 1 of Act 8 of 1983, Proclamation 24 of 1990 and Proclamation R22 of 1996 5

1. The Road Transportation Act, 1977 in so far as the administration of provisions thereof has been assigned to a competent authority within the jurisdiction of the government of the province of Western Cape (hereinafter referred to as the principal Act) is hereby amended in section 1 by the insertion after the definition of “local authority” in subsection (1) of the following definition: 10

“ ‘minibus taxi service’ means a service for the conveyance of passengers rendered by means of a motor vehicle with a carrying capacity of not less than nine persons and not more than sixteen persons, including the driver, with no prescribed time table or fares;” . 15

Insertion of section 7A in Act 74 of 1977

2. The following section is hereby inserted in the principal Act after section 7:

“7A. Appointment, powers, duties and functions of Provincial Taxi Registrar and registration of minibus taxi associations and members

- (1) In this section— 5
- (a) “association” means a formal grouping of minibus-taxi operators or a body to which two or more such groupings are affiliated, which is formed not for gain and which is formed for any legal purpose and having as its main objective the promotion of group interests of its members, and which intends to apply its income in promoting such interests; 10
- (b) “primary association” means an association to which no other association is affiliated;
- (c) “federal association” means an association to which two or more other associations are affiliated; 15
- (d) “interprovincial association” means an association whose members pick up or set down passengers in two or more provinces;
- (e) “non-member” means the holder of a public permit authorizing a minibus-taxi service who does not belong to an association;
- (f) “Registrar” means the Provincial Taxi Registrar appointed under subsection (2). 20
- (2) The Minister shall, subject to the laws governing the public service, appoint a Provincial Taxi Registrar, who shall, subject to the directions of the Minister, exercise the powers and perform the duties assigned to such Registrar by this section. 25
- (3) The Director-General: Provincial Administration: Western Cape shall, subject to the laws governing the Public Service, provide the staff necessary to assist the Registrar in the performance of his or her functions and duties.
- (4) No person shall be appointed as Registrar if he or she or any of his or her near relations is financially interested in any business of public transport or is an elected office bearer in an association, or is engaged in any activity which, in the opinion of the Minister, will interfere with the impartial discharge by the Registrar of the duties of his or her office. 30
- (5) When the office of Registrar is vacant or when the Registrar is absent or is for any other reason unable to perform his or her functions or duties, the Minister may appoint an Acting Registrar who shall act temporarily in the Registrar’s stead. 35
- (6) The Registrar shall have the power—
- (a) to consider and decide upon any application for registration in terms of this section; 40
- (b) to grant a certificate of full registration to any primary association and its members, federal association, inter-provincial association or non-member in terms of this section;
- (c) to decide upon the form of the register and certificates to be kept, maintained or issued under this section; and 45
- (d) to 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 Code of Conduct prescribed in terms of subsection (13). 50
- (7) The Registrar shall have the following duties:
- (a) to assist in the promotion of professional practices by registered associations and their members and by non-members; 55
- (b) to take all reasonable steps to encourage associations to register in terms of this section;

- (c) to provide as much advice and assistance to associations as is reasonably possible to enable them to apply successfully for registration;
- (d) to receive and consider applications for registration from associations and non-members; 5
- (e) to grant a certificate of full registration and a registration number to any primary association and each of its members who upon application made by it satisfies the Registrar—
- (i) that it has been in existence for a period not less than the minimum period prescribed by the Minister; 10
 - (ii) that the constitution and code of conduct submitted by the association has been signed and accepted by each member as binding upon each such member;
 - (iii) that the said constitution and code of conduct are consistent with and encompass the provisions of the Standard Constitution and Code of Conduct prescribed in terms of subsection (13); 15
 - (iv) that the number of members meets the minimum prescribed by the Minister;
 - (v) that each member in respect of whom application for registration is made holds a valid public permit for each motor vehicle that he or she operates and that his or her operations are legally within the authority of such permit; 20
 - (vi) that each member has signed and agreed to abide by the constitution and code of conduct submitted by the registered association of which he or she is a member in terms of paragraph (ii); and 25
 - (vii) that all of the information required by the Registrar in terms of this section has been provided by the association.
- (f) to consider and give a decision on—
- (i) the suspension, as contemplated in subsection (22) of the registration of any registered association, member or non-member; 30
 - (ii) the deregistration, as contemplated in subsection (22), of any registered association, member or non-member.
- (8) The Registrar shall grant a certificate of registration to any member of a registered primary association who upon application made by him or her satisfies the Registrar— 35
- (a) that the primary association to which he or she belongs is registered;
 - (b) that he or she holds a valid public permit for each vehicle that he or she operates and that his or her operations are legally within the authority of such permit; 40
 - (c) that he or she has signed and agreed to abide by the constitution and code of conduct submitted by the registered association of which he or she is a member in terms of subsection (6)(e)(ii); and
 - (d) that all of the information required by the Registrar in terms of this section has been provided by the member. 45
- (9) The Registrar shall grant a certificate of full registration to any federal association which upon application made by it satisfies the Registrar—
- (a) that each of its affiliated associations based within the Province has been granted a certificate of full registration; 50
 - (b) that the constitution and code of conduct submitted by the association has been signed and accepted by its office bearers and the office bearers of each of its affiliated associations as binding upon themselves;
 - (c) that the said constitution and code of conduct are consistent with and encompass the provisions of the Standard Constitution and Code of Conduct prescribed in terms of subsection (13); and 55
 - (d) that all of the information required by the Registrar in terms of this section has been provided by the association.
- (10) The Registrar shall grant a certificate of full registration to any non-member who upon application made by him or her satisfies the Registrar that— 60
- (a) no primary association has been established in respect of the route or routes on which he or she operates; or
 - (b) a primary association has been established in respect of the route or 65

- routes on which he or she operates but the conditions set by the association for membership are unfair; or
- (c) a primary association has been established in respect of the route or routes on which he or she operates but the association has failed in two or more applications to be granted registration; and
 - (d) he or she holds a valid public permit for each motor vehicle that he or she operates and that his or her operations are legally within the authority of such permit;
 - (e) that he or she has signed and agreed to abide by the Standard Constitution and Code of Conduct prescribed in terms of subsection (13); and
 - (f) that all of the information required by the Registrar in terms of this section has been provided by such non-member.

(11) The Registrar shall keep a register in which he or she shall cause to be recorded and kept up to date such details or particulars of each association, member or non-member registered in terms of this section as are prescribed by regulation.

(12) The Registrar shall in every calendar year submit to the Minister an annual report containing information concerning the activities of his or her office, registration of associations and their members, the registration of non-members and such other matters as the Minister may direct, and the Minister shall table the report in the Provincial Legislature.

(13) The Minister shall prescribe a Standard Constitution and Code of Conduct for associations and may make additional rules—

- (a) as to the requirements with which an association registered in terms of this section shall comply in conducting its affairs;
- (b) as to the requirements with which a non-member registered in terms of this section shall comply in conducting his or her business; and
- (c) prescribing conduct on the part of a registered association, member or non-member which shall constitute improper conduct for the purposes of this section.

(14) The Minister may make regulations—

- (a) prescribing—
 - (i) the minimum number of members associations shall be required to have in order to be eligible for registration under this section;
 - (ii) the minimum period of time for which associations must have been in existence in order to be eligible for registration under this section;
 - (iii) a tariff of maximum joining and annual membership fees that is payable to any registered association by its members;
 - (iv) any other additional requirements with which an association shall comply in order to qualify for registration;
- (b) determining the method of inquiry into allegations of improper conduct or failure to comply with the provisions of the Standard Constitution and Code of Conduct of which any association, member or non-member registered in terms of this section is alleged to have been guilty;
- (c) providing that forms of assistance rendered by the Province for holders of permits authorizing minibus-taxi services and associations shall be reserved for persons and associations registered under this section;
- (d) prescribing the manner in which an association or non-member shall apply for registration:

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

(15) Any association or non-member who desires to be registered shall lodge with the Registrar in the manner prescribed an application in writing for such registration and such information as may be required by the Registrar.

(16) If after considering the application and verifying the information submitted, the Registrar is satisfied that the applicant has satisfied the

relevant requirements, the Registrar shall register the applicant and issue to the applicant a certificate of registration and a registration number.

(17) If after considering the application the Registrar is not satisfied that the applicant has satisfied the relevant requirements, the Registrar shall inform the applicant of the requirements the applicant has failed to meet, and may provide the applicant with advice and assistance to enable the applicant to meet the said requirements. 5

(18) Upon registration of an inter-provincial association, the Registrar shall forward a copy of the certificate of registration and all registered details of the association to the registrar or department responsible for transport affairs in each province to or from which the members of the said association operate. 10

(19) Upon receiving an application from an inter-provincial association which has already obtained registration in another province, the Registrar may register such association if it meets the relevant requirements specified in this section. 15

(20) The Registrar may, on receipt of a complaint, accusation or allegation or on the ground of information which has come to his or her notice and which may point to the failure of an association or non-member registered in terms of this section to comply with the rules set out in the Standard Constitution and Code of Conduct, conduct an inquiry in the manner prescribed in terms of this section. 20

(21) If any registered association or registered non-member is found in terms of an inquiry contemplated by subsection (20), to have failed to comply with the rules set out in the Standard Constitution and Code of Conduct, for reasons within the control of the association or non-member, the Registrar may send a written notification to such association or non-member directing that the Standard Constitution and Code of Conduct be complied with and setting out the steps to be followed within a stated period, and, if such notification is not complied with, a warning to comply within a stated period. 25

(22) If the notice referred to in subsection (21) is not complied with, the Registrar shall supply the association or member with reasonable assistance to comply therewith, and still failing such compliance may— 30

- (a) impose a fine not exceeding the amount prescribed, or 35
- (b) send a written order signed by him or her of temporary suspension of the certificate of registration; or
- (c) send a written order signed by him or her withdrawing the certificate of registration.

(23) The Registrar shall immediately after issuing an order that the name of any association or non-member be struck off the Register, forward a certified copy thereof to the Minister and to a senior official in any government department or institution providing any benefits or assistance to the deregistered association or its members or deregistered non-member by virtue of their being registered.” 40 45

Amendment of section 13 of Act 74 of 1977, as amended by section 8 of Act 91 of 1980 and section 6 of Act 8 of 1983

3. Section 13 of the principal Act is hereby amended by the insertion after subsection (2) of the following subsections:

“(3) A public permit in respect of a minibus taxi service shall be granted for a specified route or network of routes: Provided that such a permit may be granted for a defined area where the applicant can show that this is justified in exceptional circumstances. 50

(4) No application for the transfer of a public permit in respect of a minibus taxi service which authorizes conveyance in an area or within a radius of a specified point shall be granted unless such authority is converted to a route or network based authority. 55

(5) The board shall determine the ranks and other facilities that may be used by the holder of a permit authorizing minibus taxi services based on recommendations from relevant local authorities, and stipulate these in the permit.

(6) No public permit authorizing minibus taxi services shall be granted unless the applicant is a member of an association that has been registered under section 7A and the application is supported in writing by such association, or the Registrar contemplated in that section certifies in writing that the applicant qualifies as a registered non-member under that section and has applied for registration as such.

(7) As from a date to be determined by the Minister by notice in the *Gazette* no public permit shall be granted except in accordance with the provisions of a transport plan prepared by the relevant local authority or other authority responsible for transport and land use planning in the area concerned.”.

Amendment of section 15 of Act 74 of 1977, as amended by section 10 of Act 91 of 1980

4. Section 15 of the principal Act is hereby amended by the insertion after paragraph (a) of subsection (1) of the following paragraphs:

“(aA) the provisions of any transport or land use plan prepared by a local or other relevant authority;

(aB) In the case of a minibus taxi service, recommendations from relevant local authorities, taxi forums and taxi liaison committees;”.

Amendment of section 21 of Act 74 of 1977, as amended by section 10 of Act 8 of 1983

5. Section 21(3) of the principal Act is hereby amended by the insertion after paragraph (e) of the following paragraph:

“(eA) in the case of a minibus taxi service, a detailed description of all points where passengers may be picked up or set down and the ranks and other facilities that may be used;”.

Amendment of section 25 of Act 74 of 1977, as amended by section 16 of Act 91 of 1980 and section 13 of Act 8 of 1983

6. Section 25(1) of the principal Act is hereby amended—

(a) by the addition at the end of paragraph (c) of “or”; and

(b) by the addition of the following paragraph—

“(d) require that every holder of a public permit authorizing the conveyance of persons in respect of a minibus taxi service shall apply in the manner and on the form prescribed, for the registration and reissuing to him, her or it of such permit, within the period prescribed, failing which such permit shall lapse: Provided that no permit shall be so reissued unless the holder is a member of an association that has been registered under section 7A or is registered as a non-member under that section: Provided further that all such reissued permits shall specify the route or network of routes on which the holder may operate, unless the applicant can show that defining an area of operation is justified in exceptional circumstances;”.

Short title

7. This Law shall be called the Western Cape Road Transportation Act Amendment Law, 1996.