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GENERAL NOTICES • ALGEMENE KENNISGEWINGS

DEPARTMENT OF TRANSPORT

NOTICE 2201 OF 2023



**Western Cape
Government**

Western Cape Mobility Department

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Chairperson – Western Cape PRE

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PUBLICATION OF FINAL OPERATING LICENCE CONDITIONS AS DETERMINED BY THE WESTERN CAPE PROVINCIAL REGULATORY ENTITY AND STIPULATED BY PLANNING AUTHORITIES

1. In terms of section 24(1) of the National Land Transport Act (Act no.5 of 2009) ("NLTA"), the Provincial Regulatory Entity ("PRE") must monitor and oversee public transport in the province and receive and decide on applications relating to operating licences for intra-provincial transport. In performing these quasi-judicial functions, the PRE exercises independent discretion.
2. Section 57(5) of the NLTA stipulates that the entity granting an application for the granting, renewal, amendment or transfer of an operating licence may do so subject to **any conditions determined by it**, that are not inconsistent with the Act or with relevant provincial laws of transport plans and must do so where such conditions have been stipulated by the planning authority based on its Integrated transport plan.
3. Conditions attached to operating licences are reviewed periodically by the PRE to respond to changes in the legal framework and the operational environment. Although the imposition of conditions is the sole purview of the PRE and planning authorities, our aim is always to encourage, promote and facilitate public and stakeholder consultation and participation in this important process.
4. The review process was started by the PRE during October 2023. The main objective of the review process was to repackage operating licence conditions in a manner that will make it easier to interpret and to reconcile with the correct legal prescript/instrument. Draft conditions were published in the Government Gazette for public and stakeholder comment during the early part of October 2023. Briefing sessions were also conducted with all industry stakeholders to unpack the draft conditions and to clarify same. All comments were collated and considered by the PRE in arriving at the final conditions.
5. Briefing sessions were also conducted with all municipalities/planning authorities in the Western Cape to standardise municipal conditions. The Draft Standard Municipal Conditions were also published in the Government Gazette for comment. It should be noted that the publication of the final standard municipal conditions does not preclude any municipality from requesting the PRE to impose further "special conditions" to respond/address unique dynamics in a particular area or on a particular route.
6. It should be noted that the operating licence conditions are innately linked to the actual operating licence. Regulation 22(i) of the National Land Transport Regulations (23) stipulates that an operating licence must be in the form shown in Schedule 1 to the Regulations and must contain, inter-alia, the conditions imposed by the regulatory entity (if any). The new conditions listed below will only become effective as operating licence holders conclude transactions on operating licences with the PRE. This will allow the PRE

to impose the new conditions on the affected operating licence. Operators may approach the PRE to amend the operating licence conditions post the publication of this notice. This will be a normal amendment application that will be done over the counter.

7. The PRE is also exploring the possibility of conducting an operating licence review process to amend operating licences *en masse* to impose the new conditions. The amendment will not alter the authority conferred by the operating licence.
8. Should an operating licence holder currently have "special service conditions" attached to an operating licence that is unique to the authorised service, a request must be made to the PRE to consider the retention of such conditions during the review process. To request the PRE to retain such "special service conditions, please contact Mr. Adion George on 021 483 0298/Mr. Xuko Xinwa on 021 483 0336 or send an email to Adion.George@westerncape.gov.za.

Best regards



MARK LLEWELLYN SKRIKER
CHAIRPERSON – WESTERN CAPE PRE

Date: 24 November 2023

WESTERN CAPE PROVINCIAL REGULATORY ENTITY
RECONFIGURED OPERATING LICENCE CONDITIONS

A. AUTHORITY CONFERRED BY THE OPERATING LICENCE

The following authority/authorities are conferred by this operating licence:

(NOTE: One or more of the public transport services listed below may be granted)

1. The provision of minibus-taxi type services along the following routes-
2. The provision of staff services along the following route-
3. **The provision of metered taxi services.....** Please note that in terms of section 66(1)(b) and (c) of the National Land Transport Act (Act no. 5 of 2009), the vehicle may leave the prescribed area if, on the return journey, it is to carry the same passengers that it carried on the outward journey or if the vehicle is to return empty. The vehicle may also pick up passengers outside of the prescribed area if the fare is pre-booked and the passengers will return to such an area.
4. **The provision of charter services from the holders place of business.....**Please note that in terms of section 67(2) of the National Land Transport Act (Act no. 5 of 2009), the vehicle may leave the area/zone described above if, on the return journey, it is to carry the same passengers that it carried on outward journey or if the vehicle returns empty. The vehicle may also pick up passengers outside of the prescribed area if the fare is pre-booked and the passengers will return to such an area.

B. CONDITIONS IMPOSED ON THIS OPERATING LICENCE IN TERMS OF SECTION 57(5) OF THE NATIONAL LAND TRANSPORT ACT (ACT NO. 5 OF 2009) ("NLTA")¹

1. The holder must comply with the authority conferred by this operating licence. Services may only be provided on the route(s), area(s), and zone(s) specified in this operating licence under Part A of this operating licence.
2. Except for the service(s) authorised by this operating licence, no other public transport service may be provided under the guise of this operating licence.
3. The holder of this operating licence may not, with the intent to deceive, forge, alter, deface, damage, or add to this operating licence.
4. The PRE may, at any time, review these operating licence conditions.

Please Note:

- ❖ A person is guilty of an offence if he or she provides a public transport service contrary to the terms and conditions of an operating licence (see section 90(1)(b) of the NLTA);
- ❖ An authorised officer who is satisfied on reasonable grounds that a motor vehicle is being used by any person for the operation of public transport without the necessary operating licence or permit or contrary to the conditions thereof, may impound the vehicle, pending the investigation and prosecution of that person for an offence mentioned in section 90(1)(a) or (b) of the NLTA.
- ❖ The entity who granted the operating licence, may at any time withdraw, amend or suspend an operating licence for any period it may deem fit, if the holder or the employee of the holder has not faithfully carried out the conditions of the operating licence.

C. CONDITIONS IMPOSED BY THE PLANNING AUTHORITY(IES)²

(NOTE: The conditions apply to the extent that the Operator may render that specific category of public transport services)

Intra-municipal services

1. The holder of this operating licence and the employee(s) of the holder must adhere to the facility management and access control requirements at municipal-owned facilities.

¹ The public transport vehicle may be impounded if it is required as evidence as part of the investigation or prosecutorial process.

² The public transport vehicle may be impounded if it is required as evidence as part of the investigation or prosecutorial process.

2. The public transport vehicle specified in this operating licence may not be parked overnight at any municipal-owned public transport facilities.
3. Passengers may only embark and disembark at the designated loading lane or loading area at municipal owned-land as specified by the municipality and in accordance with the authority conferred by the operating licence.
4. The public transport vehicle specified in this operating licence may not intentionally obstruct any ingress or egress points at public transport municipal-owned facilities.
5. The entire route must be traversed. Operators may not turn around along the route or provide intermediate services.

Inter-municipal/inter-provincial services

6. In the instance of long distance services, no passengers must be picked up after the vehicle leaves the loading point (public transport facility at origin or destination point of the journey), unless other pick-up points are specified in the operating licence.
7. In the instance of a long distance service, the holder of the operating licence may not provide commuter / public transport services, including feeder and distribution services within the boundaries of a municipality (local routes). Passengers may also not embark or disembark in the same municipal area (unless local services are authorised by the same operating licence within the particular municipal area).
8. In the instance of long -distance services, the word "via" means that the public transport vehicle may pass through the specified town / area and does not allow the operator to load or set down passengers in the town / area, unless where the operating licence explicitly stipulates that passengers may be loaded in areas en route to the final destination.
9. Once the public transport vehicle specified in this operating licence leaves the authorised long- distance public transport facility, passengers may not be transferred to another vehicle unless where the specified public transport vehicle becomes defective and/or inoperative.

Scholar/learner

10. In the case of a scholar transport service, no municipal public facilities may be used to load passengers.

Staff Service

11. In the case of a staff transport service, no municipal public facilities may be used to load passengers.

Metered Taxi Service

12. No ranking at municipal metered taxi ranks unless authorised by the operating licence.

Charter services

13. The holder of a charter operating licence may not load passengers at a municipal-owned public transport facility.

ANNEXURE 1:
IMPORTANT INFORMATION FOR OPERATING LICENCE HOLDERS

The information contained under this Annexure 1 is for the information of both the holder of the operating licence and/or his/her employee(s) of the holder, who provide a public transport service and does not constitute conditions of an operating licence:

1. Any offence committed, which is mentioned under this Annexure 1 will be dealt with in terms of the relevant legislation.
2. As an operating licence holder, you have the following duties:
 - 2.1. Comply with the terms of the authorisation conferred by the operating licence and the conditions to which it is subject (Regulation 23(a) of the National Land Transport Regulations, 2009) ("NLTR");
 - 2.2. Where the service authorised by the operating licence is provided for in an Integrated Transport Plan, provide the service in accordance with that plan. This includes adherence to the management regulations at municipal-owned public transport facilities/infrastructure;
 - 2.3. Keep the original operating licence in the vehicle. Where such an original operating licence has been lost/stolen, it is the duty of the operating licence holder to apply to the regulatory entity for a duplicate original, which must be kept in the vehicle at all times (Regulation 23(b) of the NLTR);
 - 2.4. On demand by an authorised officer, produce the original operating licence or the duplicate original licence referred to in paragraph 4.3 (Regulation 23(c) of the NLTR);
 - 2.5. Keep the original operating licence or any duplicate original thereof as well as the decal that relates thereto in such a condition that the letters and figures thereon are clearly legible. If the original operating licence is damaged or ceases to be clearly legible, apply for a duplicate original within four working days (Regulation 23(d) of the NLTR). The operating licence may not be laminated;
 - 2.6. Display on the vehicle the operating licence number and type of service as well as any other particulars prescribed by the entity granting the operating licence (Regulation 23(e) and (f) of the NLTR);
 - 2.7. In the case a mini or midibus used to provide minibuss taxi-type services, comply with the regulations on colour coding and branding of vehicles promulgated in terms of Government Gazette Notice 41046 of 18 August 2017.
 - 2.8. At all times keep the vehicle in a safe and roadworthy condition and have the vehicle examined for roadworthiness not later than the time allowed therefore by the National Road Traffic Act (Act no. 93 of 1996) (Regulation 23(i) of the NLTR);

- 2.9. Return the operating licence to the issuing entity if it has lapsed or been withdrawn or cancelled, together with the attendant decal, within seven days (Regulation 23(j) of the NLTR);
- 2.10. Inform the Provincial Regulatory Entity ("PRE") in writing of the sale of the specified vehicle or any other change of ownership within seven days of such a sale or change (Regulation 23(k) of the NLTR);
- 2.11. Comply with the provisions of the NLTA and with any other requirements imposed by provincial laws and other legislation. This includes, inter-alia, the provisions of the National Road Traffic Act (Act no. 93 of 1996) (Regulation 23(m) of the NLTR);
- 2.12. This operating licence does not authorise the holder to operate on or over a road if it is illegal to do so in terms of any other law (section 63(a) of the NLTA); and does not exempt the holder from the obligation to comply with any requirement imposed by or in terms of any other law (section 63(b) of the NLTA);
- 2.13. In the case of a minibus-taxi type service, comply with the provisions of the Code of Conduct and Standard Constitution promulgated in terms of the section 7(A)(13) of the Road Transportation Act 74 of 1977 as amended by the Western Cape Road Transportation Act Amendment Law (Act no. 8 of 1996);
- 2.14. The authority conferred by this operating licence may not be ceded or otherwise alienated by the holder of this operating licence (section 77 of the NLTA);
- 2.15. The motor vehicle specified in this operating licence includes any trailer attached thereto as per the provisions of the National Road Traffic Act (Act no. 93 of 1996), and associated regulations;
- 2.16. Please note that your operating licence may be withdrawn, amended or suspended for any period deemed fit by the regulatory entity, if the holder or employee of the holder has been convicted of an offence under the NLTA or under a law relating to motor vehicles or the regulation of traffic or occupational safety or labour relations, or an offence due to fraud or dishonesty (section 79(2)(a) of the National Land Transport Act).
- 2.17. In the case of long-distance services (bus and minibus taxi), a passenger list must be kept in the public transport vehicle showing the name and address of each passenger as well as the name and contact details of the person that should be contacted in the unlikely event of an accident. The luggage belonging to passengers must be properly tagged/labelled with the name of the passenger to whom the luggage belongs.

- 2.18. The holder of this operating licence may not threaten or intimidate another operator, prevent another legal operator from providing the service authorised by his/her operating licence or extort money from another operator.

ANNEXURE 2:

IMPORTANT INFORMATION FOR OPERATING LICENCE HOLDERS IN RESPECT OF MUNICIPALITIES

The information contained under this Annexure 2 is for the information of both the holder of the operating licence and/or his/her employee(s) of the holder, who provide a public transport service and does not constitute conditions of an operating licence:

1. Passengers may not be picked up or set down at stop streets, traffic intersections, freeways or on/off-ramps to major/national roads.
2. The holder of this operating licence must comply with all applicable municipal by-laws in respect of zoning and parking.
3. In the case of meter taxi and charter services, should the address used as the base of any authority granted, change for whatever reason, then the authority of this operating licence must be amended with immediate effect to reflect the new address used as a base.
4. No illegal dumping/discharging of any chemical substances (including motor oils) in the storm water system inside any facility or the periphery thereof.
5. No loud music is played in any public transport vehicle or within the confines of any facility or on the periphery thereof.
6. The holder of the operating licence will strictly abide by any water demand-management by-laws, which indicates that public transport vehicles may only be washed in demarcated car wash areas at the facility.
7. No public transport vehicle, or any other vehicle, is maintained or repaired within the confines of any facility or on the periphery thereof.
8. Please note that in terms of section 50(2) of the NLTA, an operating licence may authorise the holder to provide more than one type of public transport service i.e. charter and staff service. Where this is the case, the authorities can be operated concurrently (meaning at the same time) but the passenger categories cannot be mixed. The trip must be exclusive to a particular passenger category.
9. In the case of a charter service, the holder of this operating licence must keep a detailed logbook, which may be in electronic format, showing the names and contact details of the client, time of departure, destination, trip purpose and arrival time. The logbook must be kept in the vehicle and presented to an authorised officer on demand/request.

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