

Government Gazette
Staatskoerant

REPUBLIC OF SOUTH AFRICA
REPUBLIEK VAN SUID AFRIKA

Vol. 700 5 October / Oktober 2023 No. 49441

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ISSN 1682-5845

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DEPARTMENT OF TRANSPORT

NOTICE 2067 OF 2023

Western Cape Government

Western Cape Provincial Regulatory Entity

NOTICE OF INTENTION TO REVIEW OPERATING LICENCE CONDITIONS

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. Regulation 22(i) of the National Land Transport Regulations (2009) requires that the conditions so imposed by the entity be specified in the operating licence.

3. While it is the sole purview of the PRE to impose conditions, we want to encourage, promote and facilitate public and stakeholder consultation and participation in this important process. The operating licence conditions are reviewed by the PRE at regular intervals to promote safety in public transport and to ensure consistent decision-making. The last comprehensive review was done by the PRE during 2017.

4. Please find below the draft reconfigured operating licence conditions as determined by the Western Cape PRE. It is expedient to note that most of the operating licences issued by the Western Cape PRE confer authority to provide local and intermunicipal/interprovincial transport services. The conditions imposed on operating licences will therefore be used by various municipal and provincial law enforcement agencies.

5. Comments and representations are invited on the draft reconfigured conditions on or before **Friday 13 October 2023**. All comments and representations will be duly considered by the PRE before the final conditions are published in the Government Gazette. Please email your comments to Adion.George@westerncape.gov.za. For more information please contact Mr. George on 021 483 0298 or Mr. Xinwa on 021 483 0336.

Best regards

MARK LLEWELLYN SKRIKER
CHAIRPERSON – WESTERN CAPE PRE
Date: 3 October 2023

RECONFIGURED OPERATING LICENCE CONDITIONS

A. AUTHORITY CONFERRED BY THE OPERATING LICENCE

In terms of section 50(2) of the National Land Transport Act (Act no.5 of 2009), an operating licence may authorise the vehicle to which it relates to operate more than one service or type of service.

Please note that these are only examples.

1. The provision of minibus-taxi type services as defined in section 1 of the NLTA – means an unscheduled public transport service operated on a specific route or routes, or where applicable, within a particular area, by means of a motor car, minibus or midibus. This operating licence authorises and is restricted to conveyance as set out in the following description(s)-

    - PRE route code
    - Route origin
    - Route destination
    - Route description

Authorised ranks and terminals

- Passengers may be loaded and set down at the following ranks/terminals

2. The provision of staff services as defined in section 1 of the NLTA- means a public transport service by road provided by means of a motor vehicle owned by an employer or a vehicle provided by an operator in terms of a contract with the employer, used exclusively for conveying of the employer's employees. Staff in the employment of …..from the residences in Mitchells Plain to their place of employment situated at……Cape Town.

3. The provision of metered taxi services as defined in section 1 of the NLTA- (insert definition) from holder's place of business located at……to points within the City of Cape Town boundaries. Please note that in terms of section 66 of the National Land Transport Act (Act no. 5 of 2009)("NLTA"), 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 as defined in section 1 of the NLTA (insert definition) from the holder's place of business located at……..to points within the Western Cape. Please note that in terms of section 67 of the NLTA, 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. IMPORTANT INFORMATION FOR THE BENEFIT OF THE HOLDER (For your information provisions)

As an operating licence holder, you have the following duties:

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. 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 ranks/infrastructure;
3. Keep the original operating licence or a duplicate original in the specified vehicle (Regulation 23(b) of the NLTR);
4. On demand by an authorised officer, produce the original operating licence (Regulation 23(c) of the NLTR);
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 cease to be clearly legible, apply for a duplicate original within four working days. The operating licence may not be laminated (Regulation 23(d) of the NLTR);
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);
7. 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) (see Regulation 23(i) of the NLTR);
8. Return the operating licence if it has lapsed or been withdrawn or cancelled, together with the attendant decal, within seven days (Regulation 23(j) of the NLTR);
9. Inform the 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);
10. Comply with the provisions of the Act 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) and associated Regulations (Regulation 23(m) of the NLTR);
11. This operating licence 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);
12. 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 Western Cape Road Transportation Act, Amendment Law (Act no.8 of 1996);
13. Apply timeously for the renewal of the operating licence in terms of regulation 25 of the National Land Transport Regulations (Regulation 23(h) of the NLTR);
14. The authority conferred by this operating licence may not be ceded or otherwise alienated by the holder of this operating licence (see section 77 of the NLTA);
15. The motor vehicle specified in this operating licence includes any trailer attached thereto;
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.

C. CONDITIONS STIPULATED BY THE PLANNING AUTHORITY/AUTHORITIES BASED ON ITS INTEGRATED TRANSPORT PLAN

- To be inserted on a case-by-case basis based on municipal directives and integrated transport plan.

D. SERVICE CONDITIONS IMPOSED BY THE PRE IN TERMS OF SECTION 57(5) OF THE NATIONAL LAND TRANSPORT ACT (ACT NO.5 OF 2009)

1. The holder must comply with the authority conferred by this operating licence. Services may only be provided on the route(s), area(s), zone(s) specified in 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 or authorities of this operating licence;
3. The holder of the operating licence may not, with the intent to deceive, forge, alter, deface, damage or add to the operating licence;
4. The operating licence is reviewable at any time.

- ❖ Please note that 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, in terms of section 87(1) of the NLTA, who is satisfied on reasonable grounds that the vehicle is being used for a public transport service contrary to the conditions of this operating licence, may impound the vehicle if it is needed pending investigation and prosecution for an offence in terms of 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 carried out faithfully the conditions of the operating licence.

Printed by and obtainable from the Government Printer, Bosman Street, Private Bag X85, Pretoria, 0001
Contact Centre Tel: 012-748 6200. eMail: info.egazette@gpw.gov.za
Publications: Tel: (012) 748 6053, 748 6061, 748 6065

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