

NO. 33 OF 2012

THE NATIONAL TRANSPORT AND SAFETY AUTHORITY ACT

SUBSIDIARY LEGISLATION

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**THE NATIONAL TRANSPORT AND SAFETY AUTHORITY
(OPERATION OF PUBLIC SERVICE VEHICLES) REGULATIONS, 2013**

[Legal Notice 219 of 2013]

Revoked by Legal Notice 23 of 2014 on 14th March, 2014

**THE NATIONAL TRANSPORT AND SAFETY AUTHORITY
(OPERATION OF PUBLIC SERVICE VEHICLES) REGULATIONS**

ARRANGEMENT OF REGULATIONS

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THE NATIONAL TRANSPORT AND SAFETY AUTHORITY (OPERATION OF PUBLIC SERVICE VEHICLES) REGULATIONS

[Legal Notice 23 of 2014, Legal Notice 75 of 2014,
Legal Notice 92 of 2014, Legal Notice 179 of 2014]

1. Citation

These Regulations may be cited as the National Transport and Safety Authority Operation of Public Service Vehicles) Regulations.

2. Interpretation

In these Regulations, unless the context otherwise requires—

"Act" means the National Transport and Safety Authority Act (Cap. 404);

"Appeals Board" means the Transport Licensing Appeal Board established under section 39 of the Act;

"Authority" means the National Transport and Safety Authority established under section 3 of the Act;

"Cabinet Secretary" has the meaning assigned to it under the Act;

"City" has the meaning assigned to it under the Urban Areas and Cities Act (Cap. 275);

"commuter service" means a transport service offered by a public service vehicle which commences and terminates its services within the boundaries of Nairobi city, Mombasa city and Kisumu city and Nakuru town, Machakos town, Eldoret town, Thika town and such other urban areas as may be determined by the Cabinet Secretary from time to time;

"corporate body" means a limited Liability Company registered under the Companies Act (Cap. 486), and includes a cooperative society registered under the Cooperative Societies Act and a society registered under the Societies Act (Cap. 108);

"innovative decorations" means any pictures, words, symbols or lighting which is painted, sprayed, drawn or affixed to the body of a Public Service Vehicle, whether in one or several colours;

"licence" means a licence issued by the Authority under the Act for the operation of a public service vehicle;

"licensee" means a person to whom a license is issued under the Act;

"long distance passenger service" means a transport service, other than a commuter service, offered by a public service vehicle;

"long distance night time passenger service" means a passenger service, other than a commuter service, offered by a public service vehicle registered to operate from or after the hours of 6 pm or whose scheduled time of arrival at its destination is after 9pm;

"owner" means the registered owner of the public service vehicle;

"operator" means the corporate body with operational responsibility over the public service vehicle on a day to day basis either as the registered owner of the vehicle or pursuant to the terms of a contract or franchise agreement with the registered owner of the vehicle;

"Public Service Vehicle" has the meaning assigned to it under the Act;

"satellite town" means a town that serves as a place of residence for a large number of persons who commute regularly to a neighbouring city or urban area;

"Third Party Motor Vehicle Insurance" means an insurance policy by that name issued in respect to a public service vehicle pursuant to the provisions of the Third Party Motor Vehicle Insurance Act (Cap. 405);

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"urban area" has the meaning assigned to it under the Urban Areas and Cities Act (Cap. 275).

[L.N. 179/2014, r. 2.]

3. Application of the Regulations

These Regulations shall apply to all public service vehicles operating on a public road in Kenya.

4. Public Service Vehicle to be Licensed

A person shall not operate a public service vehicle without a valid license issued by the Authority.

5. Conditions to be met by applicants

(1) A person desirous of operating public service vehicles shall be a member of a body corporate which shall—

- (a) be licensed to operate if the body corporate owns a minimum of thirty serviceable vehicles registered as public service vehicles or in respect to which an application for a licence has been or is to be lodged with the Authority;
- (b) have in its employment a staff complement which must include at a minimum—
 - (i) a driver in respect to each public service vehicle;
 - (ii) an inspector for each route on which the public service vehicle is intended to operate;
 - (iii) an office manager;
 - (iv) an accounts clerk; and
 - (v) a qualified mechanic or a contract under which the services of a mechanic are outsourced;
- (c) have in place a code of conduct approved by the Authority governing its employees, agents and sub-contractors;
- (d) have in place a documented management system, safety management system based on ISO 39001:2012 "Road Traffic Safety Management Systems" or equivalent and customer complaints handling system;
- (e) comply with labour laws and regulations including in respect to statutory deductions, health and safety of the workplace, Work Injuries Benefits Act (Cap. 236) insurance, statutory leave days and written contracts of employment for staff; and
- (f) *deleted by L.N. 92/2014, r. 2.*

(2) The Authority may—

- (a) refuse to issue a public service vehicle licence to an applicant who fails to comply with any of the minimum conditions stipulated in subregulation (1); or
- (b) at its discretion issue a licence conditional on the requirement that the applicant demonstrates compliance within a stipulated period failing which the licence shall be withdrawn upon the expiry of the stipulated period.

[L.N. 92/2014, r. 2.]

6. Documents to be submitted with the application

A person applying to for a licence shall submit to the Authority certified copies of—

- (a) certificate of registration as a company under the Companies Act (Cap. 486), or a cooperative society under the Co-operative Societies Act (Cap. 490);
- (b) a list of its directors and senior management officers;

- (c) a lease or certificate of ownership of the head office from which it is operating or intends to operate the public service vehicle business;
- (d) audited accounts in respect of the immediate preceding financial year;
- (e) Personal Identification Number certificate issued by the Kenya Revenue Authority;
- (f) a tax compliance certificate issued by the Kenya Revenue Authority;
- (g) where the vehicle was previously operated by a licensee other than the operator applying for its licensing, a letter of no objection issued by the previous licensee;
- (h) a description of the operator's management system, safety management system and customer complaints handling system;
- (i) an inventory of the equipment and facilities available to the operator for the operation of the passenger transport service;
- (j) the code of conduct for the employees, agents and sub-contractors;
- (k) a list of the staff it has in its employment and their job descriptions and qualifications;
- (l) the contracts of the drivers of the public service vehicle in respect to which the application for the licences is being made;
- (m) the driving licence, identity card, and certificate of good conduct of each person who shall drive the public service vehicles in respect to which the application for the licences is being made;
- (n) a valid certificate of road worthiness issued by the Authority of each vehicle in respect to which an application is being made;
- (o) the certificate of ownership or other evidence of ownership in the name of the owner of the vehicle or a contract or franchise agreement between the applicant and the operator or intended operator of the vehicle; and
- (p) the current third party insurance with an insurer which meets minimum conditions prescribed by the Authority.

7. Operation of PSV vehicles

Every operator of licensed public service vehicles shall—

- (a) display at a conspicuous place on the vehicle a sticker or an identification mark approved by the Authority;
- (b) ensure that the driver and conductor if any wears the prescribed uniform and identification badge while at work;
- (c) the driver of the vehicle adheres to the approved routes, schedule and drop off and pick up points;
- (d) ensure that passengers are treated courteously;
- (e) ensure that music played does not exceed the prescribed limits in the course of the journey;
- (f) ensure that passengers are issued with tickets or receipts for fare paid and, as from 1st July 2014, it operates a cash light fare system by the use of a contactless integrated circuit card which conforms to the ISO IEC 14443 standard;
- (fa) a person desirous of providing the cash light fare system service shall obtain a letter of no objection from the Central Bank of Kenya;
- (g) report any accidents involving their vehicles immediately to the relevant authorities;
- (h) on a weekly basis and, in the case of a long distance passenger service, before the commencement of each journey, have the vehicle inspected by a

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- qualified mechanic for defects according to a check list which shall cover at a minimum tyres, lights, safety belts, brake pads, wipers, and warning horn;
- (i) keep a record of the defects identified during the defects inspection for a minimum period of six months and of the actions taken to rectify the defects;
 - (j) boldly display at the front, rear and sides of the vehicle the name of the Sacco or company under which the vehicle operates in letters not less than ten inches in height and in such a colour as to be visible by day from a distance of at least two hundred and seventy five meters;
 - (k) ensure that no vehicle is transferred from one Sacco or company to another without the approval of the Authority;
 - (l) ensure that all innovative decorations are not offensive;
 - (m) ensure that no innovative decorations are painted, sprayed, drawn on or affixed to any window, the front and back windscreens, lights, indicators or chevrons of the vehicle;
 - (n) ensure that none of the passenger, co-driver and driver windows, the front and back windscreens, lights, indicators or chevrons of the vehicle are tinted or painted, sprayed or drawn on any innovative decorations;
 - (o) ensure that innovative decorations do not have reflective properties; and
 - (p) ensure that no additional exterior and interior lighting is affixed other than those affixed by the manufacturer of the vehicle.

[LN 75 of 2014, r. 2 and 3, LN 179 of 2014, r. 3.]

8. Reporting

Every operator of a public service vehicle shall submit a report to the Authority on a quarterly basis with particulars of—

- (a) any accidents in which any of the vehicles it is operating may have been involved during the reporting period and shall attach a certified copy of the report of its investigation of the cause of each accident and action taken in respect to each accident;
- (b) the number and nature of passenger complaints received during the reporting period and action taken in respect to each complaint;
- (c) any members who have ceased to be its members during the reporting period, if any;
- (d) the vehicles which may have been added or removed from the list of vehicles it is operating during the reporting period;
- (e) any drivers who may have ceased to be employees during the reporting period and the reasons; and
- (f) the traffic offences committed by the drivers during the reporting period and the penalties imposed against the body, the drivers or other employees during the reporting period.

9. Commuter services

(1) Every operator of a commuter service vehicle shall ensure that a driver, conductor or any other staff member employed to work in the vehicle—

- (a) does not work for a period longer than eight hours in any twenty four hour period;
- (b) receives a regular salary and is not paid a commission based on the number of trips made per day;
- (c) does not tout, make loud noise or harass passengers or other persons in, or awaiting to board a vehicle;
- (d) at all times only picks up and drops off passengers at designated bus stops; and

- (e) complies with the by-laws or County legislation of the County or city or urban area within which the vehicle is registered to operate.

(2) The Authority shall not license any new Public Service Vehicle as Commuter Service Vehicle whose seating carrying capacity is less than twenty-five passengers.

(3) The Authority shall not, with effect from the 1st January, 2016, renew the licence of any Public Service Vehicle whose seating carrying capacity is less than twenty five passengers.

[L.N. 179/2014, r. 4.]

10. Long distance passengers PSVs

(1) A person shall not operate a long distance night time passenger service vehicle without a valid license issued by the Authority.

(2) A person applying for a long distance night passenger service licence shall specify—

- (a) whether the service is intended to be offered during the day only; or
- (b) during both daytime and night time.

11. Operation of long distance passenger service

Every operator of a long distance passenger service vehicle shall—

- (a) have in place or outsource a fleet management system capable of recording speed and location of the vehicle at any one time;
- (b) subscribe to a data storage system capable of storing data on vehicle speed, location and operation for a period of thirty days and when required by the Authority provide the data to the Authority before the expiry of the prescribed storage period;
- (c) before the commencement of each journey arrange for the taking of a passenger manifest;
- (d) operate or subscribe to an outsourced control centre;
- (e) *deleted by L.N. 92/2014, r. 3(a);*
- (f) *deleted by L.N. 92/2014, r. 3(b);*
- (g) ensure or subscribes to an accident and emergency mutual aid system.

[L.N. 92/2014, r. 3.]

12. Conditions for night time long distance passenger services

Every operator of a night time long distance passenger service shall—

- (a) employ drivers certified by the Authority to drive on the particular route or routes at night time and meets conditions imposed by the Authority;
- (b) ensure that no driver driving a long distance night time passenger public service vehicle works for a period exceeding eight hour night in a shift;
- (c) ensure that a person driving a long distance night time passenger service takes a break of a minimum of eight hours before the next night shift;
- (d) plan the journey in a manner that allows for a thirty minute refreshment break for both the driver and passengers at an appropriate location or facility every three to four hours in the course of the journey; and
- (e) employ two drivers for each vehicle.

13. Insurance

A person shall take out an insurance cover for a public service vehicles where the Insurance company—

- (a) is licensed by the Insurance Regulatory Authority under the Insurance Act to provide that category of insurance;

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- (b) submits to the Authority a report on claims made in respect to accidents involving public service vehicles it has insured and compensation paid in the immediately preceding year; and
- (c) submits to the Authority its customer service charter and claims payment policy.

14. Appeals

A person aggrieved by the decision of the Authority taken under these Regulations may within fourteen days of receiving the decision appeal to the Appeals Board.

15. Offences and penalties

(1) A person who—

- (a) operates a public transport vehicle without a valid licence issued by the Authority in respect to that vehicle;
- (b) drives a public service vehicle in breach of any provision of these regulations; or
- (c) provides false information to the Authority,

commits an offence and is liable on conviction to a fine not exceeding twenty thousand shillings or to imprisonment for a term not exceeding six months or, both.

(2) The Authority may in addition to any other penalty prescribed under these Regulations—

- (a) cancel or withdraw the licence of a public service vehicle operated by an operator who has been convicted of an offence under these Regulations;
- (b) cancel or revoke the license or certificate of a driver who has been convicted of an offence under these Regulations;
- (c) where it deems necessary order that all vehicles belonging to the SACCO or Company involved be subjected to inspection.

[L.N. 92/2014, r. 4.]

16. Commencement of Regulation 11

Regulation 11 shall come into operation on the Fifteenth day of April, 2014.

17.

[Spent]

**THE NATIONAL TRANSPORT AND SAFETY AUTHORITY
(OPERATION OF MOTORCYCLES) REGULATIONS**

ARRANGEMENT OF REGULATIONS

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 6. Responsibilities of a Rider
 7. Responsibilities of a Passenger
 8. Carriage of Loads
 9. Registration of motorcycle taxi operators
 - 9A. Conditions for registration as motorcycle taxi operators
 - 9B. Responsibilities of motorcycle taxi operators
 10. Requirements for operation of three wheeled motorcycles taxi
 11. Responsibility of owners
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 13. Responsibilities of a Passenger
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THE NATIONAL TRANSPORT AND SAFETY AUTHORITY (OPERATION OF MOTORCYCLES) REGULATIONS

[Legal Notice 19 of 2015, Legal Notice 121 of 2022]

1. Citation and Commencement

(1) These Regulations may be cited as the National Transport and Safety Authority (Operation of Motorcycles) Regulations and shall come into force upon publication in the *Gazette*.

(2) Notwithstanding the provisions of paragraph (1), regulations 5(b) and 9 shall come into force on the 1st January, 2016.

2. Interpretation

In these Regulations, unless the context otherwise requires—

"Act" means the National Transport and Safety Authority Act (Cap. 404);

"Authority" means the National Transport and Safety Authority established under section 3 of the Act;

"Cabinet Secretary" has the meaning assigned to it under the Act;

"corporate body" means a limited liability company registered under the Companies Act (Cap. 486) and includes a cooperative society registered under the Cooperative Societies Act (Cap. 490) and a society registered under the Societies Act (Cap. 108);

"lane-splitting" means the riding of a motorcycle on a public road at a speed not exceeding fifteen kilometres per hour between rows of stationary motor vehicles or, if the motor vehicles are in motion, at a speed which exceeds the speed of those motor vehicles;

"licence" means a driving licence issued by the Authority under the Act;

"two wheeled motorcycle" means any mechanically propelled vehicle with two wheels the weight of which unladen does not exceed eight hundred kilograms;

"three wheeled motorcycle" means any mechanically propelled vehicle with three wheels the weight of which unladen does not exceed eight hundred kilograms;

"two wheeled motorcycle Taxi" means a two wheeled motorcycle used for the purpose of carrying or ferrying of a passenger for reward or hire;

"three wheeled motorcycle Taxi" means a three wheeled motorcycle used for the purpose of carrying or ferrying of a passenger for reward or hire;

"motorcycle" means any mechanically propelled vehicle with less than four wheels the weight of which unladen does not exceed eight hundred kilograms;

"owner" means the registered owner of a motorcycle;

"ride" means to operate, manage or to be in control of a motor cycle;

"rider" means the person operating or person in control of a motorcycle;

"Third Party Motor Vehicle Insurance" means an insurance policy by that name issued in respect to a motorcycle pursuant to the provisions of the Insurance (Motor Vehicles Third Party Risks) Act (Cap. 405);

"Third Party Public Service Vehicle Insurance" means an insurance policy by that name issued in respect to a motorcycle pursuant to the provisions of the Insurance (Motor Vehicles Third Party Risks) Act (Cap. 405).

[L.N. 121/2022, r. 2.]

[Subsidiary]

3. Application of the Regulations

These Regulations shall apply to all motorcycles operating on a public road in Kenya.

4. Protective Gear

(1) No motorcycle shall be sold or transferred by any person without the following protective gear —

- (a) two helmets which comply with the standards established by the Kenya Bureau of Standards;
- (b) two reflective jackets which shall have the registration number of the motorcycle indelibly printed in letters not less than four inches in height on the back of the jacket.

(2) A person desirous of transferring a motorcycle must present physical proof of compliance with regulation 4 (1) to the Authority.

(3) No supplier, distributor or person involved in the business of selling motorcycles in Kenya shall sell, distribute or otherwise convey a motorcycle without the protective gear described in regulation 4.

(4) For Purposes of this regulation the term "reflective jacket" shall also mean a reflective vest.

[L.N. 121/2022, r. 3.]

5. Responsibilities of Owners

Every owner of a two wheeled motorcycle shall—

- (a) provide the rider and passenger with the protective gear stipulated in regulation 4 (1);
- (b) *deleted by L.N. 121/2022, r. 4;*
- (c) not cause or permit any person to ride their motorcycle unless such person is the holder of a valid driving licence or a valid provisional licence endorsed in respect of that class of motorcycle;
- (d) for private motorcycles, ensure that the motorcycle is at the very minimum insured against third party risks in accordance with the Insurance (Motor Vehicles Third Party Risks) Act (Cap. 405);
- (e) for two wheeled motorcycle taxi, ensure that motorcycle has a Third Party Public Service Vehicle Insurance;
- (f) ensure that no structural modifications to the motorcycle are undertaken that may affect the safe operation of the motorcycle;
- (g) ensure that no structural modifications to the motorcycle are undertaken that may obstruct the visibility of the rear number plates;
- (h) ensure that no modifications to the exhaust system or any other noise abatement device of a motorcycle are done so as to cause the noise emitted by the motorcycle to be above that emitted by the motorcycle as originally manufactured.

[L.N. 121/2022, r. 4.]

6. Responsibilities of a Rider

Every rider of a motorcycle shall—

- (a) have a valid driving license issued by the Authority;
- (b) ensure that they shall not ride or carry a person on a motor cycle without the prescribed protective gear properly fastened;
- (c) not carry more than one person at a time;
- (d) ensure that passengers are carried on a proper seat with foot rests securely fixed to the motor cycle behind the rider's seat;

- (e) ensure that a passenger sits astride the motor cycle;
- (f) ensure that the headlights of the motorcycle are on at all times when riding;
- (g) ensure that loads and passengers are not carried at the same time;
- (h) keep the protective gear in a clean, dry and generally wearable condition;
- (i) ensure that the rear number plates are visible at all times;
- (j) overtake on the right hand side and not to overtake in the same lane occupied by vehicle being overtaken;
- (k) observe traffic lights;
- (l) observe all traffic rules;
- (m) not park in undesignated areas.

7. Responsibilities of a Passenger

- (1) Every passenger in a motorcycle shall —
 - (a) properly wear a helmet and reflective jacket whenever being carried on a motorcycle;
 - (b) not board or be carried on a motorcycle that already has a passenger except as provided by Regulation 7(2)(a);
 - (c) not board or be carried on a motorcycle that is carrying any load;
 - (d) sit astride in the seat fixed behind the rider's seat.
- (2) For the purposes of these Regulations—
 - (a) a child who is less than thirteen years old may be carried together with an adult provided the child is seated between the rider and the adult and wears a helmet designed for children;
 - (b) persons with disabilities will be exempted from the requirement to sit astride while being carried on a motorcycle.

8. Carriage of Loads

- (1) A motorcycle rider shall not carry a load—
 - (a) whose width projects more than fifteen centimeters beyond the outside end of the handle bars;
 - (b) whose height is more than two metres from the ground;
 - (c) whose weight is more than thirty kilograms for a motorcycle whose carrying capacity does not exceed fifty cc and kilograms for a motorcycle whose carrying capacity does not exceed four hundred cc;
 - (d) which projects to the rear beyond the maximum overall length of the motorcycle by more than sixty centimeters. The rear extremity of the load must be plainly indicated by a conspicuous red marker during the day and by a red light at night.
- (2) The rider of a motorcycle carrying loads shall ensure that no part of the load carried drags on the road.
- (3) For the purpose of this regulation the term "load" excludes luggage carried by a passenger provided such luggage does not exceed ten kilograms in weight and does not project more than fifteen centimeters beyond the outside end of the handle bars.
- (4) The luggage in subregulation (3) may be carried together with the passenger provided the luggage is properly secured between the rider and the passenger.

9. Registration of motorcycle taxi operators

A person shall not operate a two-wheeled or three wheeled motorcycle taxi without being a member of a body corporate that is validly registered with the Authority as a motorcycle taxi operator.

[L.N. 121/2022, r. 5.]

[Subsidiary]

9A. Conditions for registration as motorcycle taxi operators

A body corporate that wishes to operate as a motorcycle taxi operator shall—

- (a) provide the Authority with a copy of its certificate of registration or incorporation;
- (b) have a membership of at least one hundred operators of two-wheeled taxis and three-wheeled taxis; and
- (c) provide a list of the owners of the motorcycles and motorcycle registration numbers operating as part of the body corporate.

[L.N. 121/2022, r. 6.]

9B. Responsibilities of motorcycle taxi operators

A motorcycle taxi operator shall—

- (a) when required so to do, submit to the Authority in the prescribed manner a list of registration numbers of motorcycle riders operating under the body corporate and the geographical area of operation;
- (b) when required so to do, submit to the Authority in the prescribed manner a list of motorcycle riders operating under the body corporate;
- (c) report to the Authority in the prescribed manner any accident involving any motorcycle taxi belonging to the body corporate resulting in death within twenty-four hours after the accident; and
- (d) report to the Authority in the prescribed manner any incident involving sexual assault or grievous bodily harm by any member of a motorcycle taxi operator.

[L.N. 121/2022, r. 6.]

10. Requirements for operation of three wheeled motorcycles taxi

Every three wheeled motorcycle taxi shall—

- (a) be fitted with a seat belt for the rider and a seat belt per seating position for passengers;
- (b) have covered body;
- (c) have painted on both sides and on the rear, a broken horizontal yellow band having a width of one hundred and fifty millimeters and of a consistency sufficient to enable such band to be clearly visible by day at a distance of two hundred and seventy five meters;
- (d) no part of the motorcycle, whether unladen or laden, other than the driving mirror or direction indicators, shall project more than fifteen centimeters, beyond the outside wall of the outmost rear tyre;
- (e) have at the minimum a motor commercial public service vehicle insurance cover.

11. Responsibility of owners

Every owner of a three wheeled motorcycle taxi shall—

- (a) not cause or permit any person to ride their motorcycle unless such person is the holder of a valid driving licence or a valid provisional licence endorsed in respect of that class of motorcycles;
- (b) ensure that all three wheeled motorcycles taxi owned have at the minimum a Third Party Public Service Vehicle Insurance.

12. Responsibilities of a Rider

Every rider of a three wheeled motorcycle shall—

- (a) not ride a motorcycle unless that person has a valid driving licence issued by the Authority;

- (b) not ride a motor cycle without properly wearing a seat belt or carry passengers who have not properly worn their seat belts;
- (c) not carry more than passengers in excess of the seating positions provided;
- (d) ensure that the headlights of the motorcycle are on at all times when riding;
- (e) overtake on the right hand side and not to overtake in the same lane occupied by the vehicle being overtaken;
- (f) observe traffic lights;
- (g) not to lane split where other motor vehicles are traveling at a speed exceeding ten kilometers per hour or in public roads near junctions, interchanges, turnoffs, or highway entries and exits;
- (h) keep the seat belts in a clean, dry and generally wearable condition;
- (i) observe all traffic rules.

[L.N. 121/2022, r. 7.]

13. Responsibilities of a Passenger

Every passenger in a three wheeled motorcycle shall —

- (a) wear seatbelt whenever being carried on a motorcycle;
- (b) not board or be carried on a motorcycle that already has the maximum number of passengers allowed.

14. Areas of operation

The Authority in consultation with the relevant county government shall designate —

- (a) the areas of operation of motorcycle taxis;
- (b) the hours of operation of motorcycle taxis.

15. Offences and penalties

A person who contravenes any provision of these Regulations and whose penalty is not provided for in the Traffic Act (Cap. 403), commits an offence and is liable on conviction to a fine not exceeding twenty thousand shillings or to imprisonment for a term not exceeding six months or, both.

16.

[Spent]

**THE NATIONAL TRANSPORT AND SAFETY AUTHORITY
(OPERATION OF TOURIST SERVICE VEHICLES) REGULATIONS**

ARRANGEMENT OF REGULATIONS

Regulation

1. Citation
 2. Interpretation
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 4. Tourist Service Vehicles to be Licensed
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 6. Documents to be submitted with the application
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 12. Application of LN 217/2013
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THE NATIONAL TRANSPORT AND SAFETY AUTHORITY (OPERATION OF TOURIST SERVICE VEHICLES) REGULATIONS

[Legal Notice 20 of 2015]

1. Citation

These Regulations may be cited as the National Transport and Safety Authority (Operation of Tourist Service Vehicles) Regulations and shall come into force upon publication in the *Gazette*.

2. Interpretation

In these Regulations, unless the context otherwise requires—

"Act" means the National Transport and Safety Authority Act (Cap. 404);

"Appeals Board" means the Transport Licensing Appeal Board established under section 39 of the Act;

"Authority" means the National Transport and Safety Authority established under section 3 of the Act;

"Cabinet Secretary" has the meaning assigned to it under the Act;

"corporate body" means a limited liability company registered under the Companies Act (Cap. 486) and includes a cooperative society registered under the Cooperative Societies Act, (Cap. 490) and a society registered under the Societies Act (Cap. 108);

"licence" means a tourist service licence issued by the Authority;

"licensee" means a person to whom a license is issued under the Act;

"owner" means the registered owner of the tourist service vehicle;

"private car hire" has the same meaning as assigned to it in the Traffic Act (Cap. 403);

"tourist service vehicle" means any vehicle (including private hire vehicles) operated by a licensed tour operator and used exclusively for the carriage of tourists;

"Third Party Motor Vehicle Insurance" means an insurance policy by that name issued in respect to a tourist service vehicle pursuant to the provisions of the Insurance (Motor Vehicle Third Party Risks) Act (Cap. 405);

"tour operator" means the corporate body with operational responsibility over the tourist service vehicle on a day to day basis either as the registered owner of the vehicle or pursuant to the terms of a contract or franchise agreement with the registered owner of the vehicle.

3. Application of the Regulations

These Regulations shall apply to all tourist service vehicles operating on a public road in Kenya.

4. Tourist Service Vehicles to be Licensed

(1) A person shall not operate a tourist service vehicle without a valid license issued by the Authority.

(2) A person desirous of operating a tourist service vehicle shall make an application to the Authority and shall be accompanied with the fee prescribed in the First Schedule.

5. Conditions to be met by applicants

(1) A person desirous of operating tourist service vehicles shall

- (a) have a valid tour operators license issued by the Tourism Regulatory Authority;

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- (b) have in place a code of conduct approved by the Authority governing its employees, agents and sub-contractors;
 - (c) have in place a documented management system, safety management system based on ISO 39001:2012 "Road Traffic Safety Management Systems" or equivalent and customer complaints handling system;
 - (d) comply with labour laws and regulations including those relating to statutory deductions, health and safety of the workplace, Work Injuries Benefits Act (No. 13 of 2007), insurance, statutory leave days and written contracts of employment for staff;
 - (e) subscribe to an accident and emergency mutual aid system.
- (2) The Authority may—
- (a) refuse to issue a tourist service vehicle license to an applicant who fails to fulfill any of the stipulated conditions; or
 - (b) at its discretion issue a license conditional on the requirement that the applicant demonstrates compliance within a stipulated period failing which the license shall be withdrawn upon the expiry of the stipulated period.

6. Documents to be submitted with the application

A person applying for a license shall submit to the Authority certified copies of —

- (a) a valid tour operators license issued by the Tourism Regulatory Authority;
- (b) certificate of registration as a company under the Companies Act (Cap. 486) or a cooperative society under the Cooperative Societies Act (Cap. 490).
- (c) a list of its directors;
- (d) a lease or certificate of ownership of the head office from which it is operating or intends to operate the tourist service vehicle business;
- (e) tax compliance certificate issued by the Kenya Revenue Authority;
- (f) a description of the operator's management system, safety management system and customer complaints handling system;
- (g) valid driving license, identity card, and certificate of good conduct of each person who shall drive the tourist service vehicles in respect to which the application for the license is being made;
- (h) valid inspection certificate issued by the Authority of each vehicle in respect to which an application is being made;
- (i) the certificate of ownership or other evidence of ownership in the name of the owner of the vehicle or a contract or franchise agreement between the applicant and the operator or intended operator of the vehicle; and
- (j) the current third party insurance.

7. Operation of Tourist Service Vehicles

- (1) Every operator of licensed tourist service vehicles shall —
- (a) have in place or outsource a fleet management system capable of recording speed and location of the vehicle at any one time;
 - (b) subscribe to a data storage system capable of storing data on vehicle speed, location and operation for a period of thirty days;
 - (c) provide the data stored in (b) to the Authority before the expiry of the prescribed storage period;
 - (d) in case of any accident resulting in a fatality, submit an investigation report to the Authority within fourteen days containing details of the driver, passengers, time of accident, probable cause and corrective measures undertaken;
 - (e) boldly display at a conspicuous place on the vehicle an identification mark approved by the Authority;

- (f) except for private car hire, boldly display on the vehicle the name of the company under which the vehicle operates;
- (g) maintain a passenger manifest;

(2) Tourist service vehicles shall conform to the construction and design specifications for tourist service vehicles that shall be approved by the Authority.

8. Driver of Tourist Service Vehicle

(1) Every driver of a tourist service vehicle shall —

- (a) have a valid driver's license for that category of vehicle;
- (b) have a valid Public Service Vehicle License;
- (c) have a valid tourism driver-guide license issued by the Tourism Regulatory Authority.

(2) Notwithstanding subsection 8(1), persons who hire tourist service vehicle for self-drive shall only be required to have a valid driving license for that category of vehicle.

9. Insurance

A person shall take out an insurance cover for a tourist service vehicles, where the insurance company —

- (a) is licensed by the Insurance Regulatory Authority under the Insurance Act (Cap. 487) to provide that category of insurance;
- (b) submits to the Authority a report on claims made in respect to accidents involving tourist service vehicles it has insured and compensation paid in the immediately preceding year; and
- (c) submits to the Authority its customer service charter and claims payment policy.

10. Appeals

A person aggrieved by the decision of the Authority taken under these Regulations may within fourteen days of receiving the decision appeal to the Appeals Board.

11. Offences and Penalties

(1) A person who—

- (a) operates a tourist service vehicle without a valid license issued by the Authority in respect to that vehicle;
- (b) drives a tourist service vehicle in breach of any provision of these Regulations:
or
- (c) provides false information to the Authority,

commits an offence and is liable on conviction to a fine not exceeding twenty thousand shillings or to imprisonment for a term not exceeding six months or both.

(2) The Authority may—

- (a) suspend, cancel or withdraw the license of a tourist service vehicle operated by an operator who contravenes any provision under these Regulations;
- (b) suspend, cancel or revoke the license of a driver who contravenes any provisions of these Regulations or the Traffic Act (Cap. 403);
- (c) where it deems necessary order that all vehicles belonging a Company be subjected to inspection.

12. Application of LN 217/2013

Legal Notice 217 of 2013 on speed governors shall apply to Tourist Service Vehicles.

**THE NATIONAL TRANSPORT AND SAFETY AUTHORITY
(OPERATION OF COMMERCIAL VEHICLES) REGULATIONS**

ARRANGEMENT OF REGULATIONS

Regulation

1. Citation
2. Interpretation
3. Application of these Regulations
4. Safety responsibility
5. Commercial vehicle to be licensed
6. Application for a commercial vehicle licence
7. Securing of cargo generally
8. Securing of certain cargo
9. Retro-reflective contour markings for commercial vehicles and trailers
10. Parking
11. Daily driving and on-duty time
12. Mandatory rest time
13. Daily log sheet
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15. Record and reporting requirements
16. Removal or towing of vehicles
17. Revocation or suspension of commercial vehicle licence
18. Power of the Authority to order inspection
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SCHEDULES

APPLICATION FOR FOR COMMERCIAL SERVICE LICENCE

FEEES

RETRO-REFLECTIVE MARKING FOR COMMERCIAL VEHICLES AND THEIR TRAILERS

DAILY LOG

ACCIDENT REPORT FORM

**THE NATIONAL TRANSPORT AND SAFETY AUTHORITY
(OPERATION OF COMMERCIAL VEHICLES) REGULATIONS**

[Legal Notice 3 of 2018]

1. Citation

These Regulations may be cited as the National Transport and Safety Authority (Operation of Commercial Vehicles) Regulations.

2. Interpretation

In these Regulations, unless the context otherwise requires—

"Appeals Board" means the Transport Licensing Appeals Board established under section 39 of the Act;

"authorised officer" means

"Authority" means the National Transport and Safety Authority established under section 3 of the Act;

"Cabinet Secretary" has the meaning assigned to it under the Act;

"carrier" means a corporate body or an individual with operational responsibility over a commercial vehicle on a day to day basis either as the registered owner of the vehicle or pursuant to a contract or franchise agreement with the registered owner of the vehicle but does not include the driver of the vehicle;

"commercial vehicle licence" means a licence issued by the Authority under the Act, for the operation of a commercial vehicle;

"commercial vehicle" has the meaning assigned to it under the Traffic Act (Cap. 403);

"corporate body" means a limited liability company registered under the Companies Act (Cap. 486), and includes a cooperative society registered under the Cooperative Societies Act (Cap. 490) and a society registered under the Societies Act (Cap. 108);

"heavy commercial vehicle" has the meaning assigned to it under the Traffic Act (Cap. 403);

"off-duty time" means any period other than on-duty time;

"on-duty time" means driving time;

"owner" means the registered owner of a commercial vehicle;

"public road" has the meaning assigned to it under the Public Roads and Roads of Access Act (Cap. 399);

"retro-reflective marking material" means a surface or a device from which, when directionally illuminated, a relatively large portion of the incident radiation is retro- reflected;

"Third Party Motor Vehicle Insurance" means an insurance policy by that name issued in respect to a public service vehicle pursuant to the provisions of the Insurance (Motor Vehicle Third Party Risks) Act (Cap. 405); and

"urban area" has the meaning assigned to it under the Urban Areas and Cities Act (Cap. 275).

3. Application of these Regulations

These regulations shall apply to any commercial vehicle—

- (a) whose tare weight is more than three thousand and forty eight kilograms; and
- (b) operating on a public road in Kenya.

[Subsidiary]

4. Safety responsibility

A carrier shall not operate a commercial vehicle if—

- (a) the vehicle does not comply with these regulations;
- (b) the driver of the commercial vehicle fails or refuses to take any action required to be taken under these regulations;
- (c) the cargo transported by the commercial vehicle is not contained, covered, immobilized or secured in accordance with these regulations; or
- (d) the driver of the commercial vehicle is not licensed to drive a commercial vehicle.

5. Commercial vehicle to be licensed

(1) A carrier or a driver shall not operate a commercial vehicle without a valid commercial vehicle licence issued by the Authority in accordance with the provisions of regulation 6.

(2) All commercial vehicles shall be fitted with a speed governor that conforms to the Kenyan Standard KS 2295 or as approved by the Authority.

(3) A commercial vehicle licence shall be valid for a period of one year and may be renewed annually.

6. Application for a commercial vehicle licence

(1) A carrier or a driver may apply for a commercial vehicle licence by submitting an application in the form set out in the First Schedule and the application shall be accompanied by—

- (a) the prescribed fee as set out in the Second Schedule;
- (b) a certificate of incorporation if the applicant is a company incorporated under the Companies Act (Cap. 486);
- (c) a certificate of registration if the applicant is a co-operative society registered under the Co-operative Societies Act (Cap. 490);
- (d) a certificate of registration if the applicant is a society registered under the Societies Act (Cap. 108);
- (e) a national identity card if the applicant is an individual;
- (f) the certificate of ownership or other evidence of ownership of the vehicle in the name of the applicant or a contract or franchise agreement between the owner and the carrier or intended carrier of the vehicle;
- (g) a valid certificate of roadworthiness issued by the Authority for each vehicle in respect to which an application is being made;
- (h) a valid insurance cover for the vehicle;
- (i) evidence showing that the commercial vehicle has been fitted with the prescribed speed governor; and
- (j) evidence of installation of a fleet management system accredited by the Authority for heavy commercial vehicles.

(2) The Authority may—

- (a) refuse to issue a commercial vehicle licence to an applicant who fails to comply with any of the requirements set out in subregulation (1); or
- (b) issue a licence on the condition that the applicant demonstrates compliance with the requirements set out in subregulation (1) within a stipulated period failure to which the licence shall be withdrawn upon the expiry of the stipulated period.

(3) The Authority shall make a decision on an application under this regulation within fourteen days of receiving the application.

7. Securing of cargo generally

A driver or a carrier shall ensure that any cargo transported by the commercial vehicle is contained, covered, immobilised or secured so that the cargo does not leak from, spill from, blow off, fall from, fall through or otherwise be dislodged from the vehicle.

8. Securing of certain cargo

(1) Cargo that comprises of—

- (a) sand, gravel, crushed stone, ore or salt, or any mixture of sand, gravel, crushed stone, ore or salt or whole stones;
- (b) waste; or
- (c) shredded scrap metal, that is carried by a commercial vehicle on a public road and is not enclosed by the vehicle or a load container must be covered as provided for in subregulation (2).

(2) The covering referred to in subregulation (1) shall be—

- (a) made of tarpaulin, canvas, wire mesh, netting or other material capable of containing the load within the vehicle or load container; and
- (b) secured to the vehicle or load container in such a manner that it cannot become separate from the vehicle or load container.

(3) The carrier shall be responsible for any damage caused to a public road by spilled cargo that should have been enclosed or covered in accordance under subregulation (1) and shall be responsible for the cost of any repairs that may be needed to the public road.

9. Retro-reflective contour markings for commercial vehicles and trailers

(1) A commercial vehicle shall be required to have retro-reflective contour markings that conform to the standard KS 1820: 2005, that identify as close as possible the entire length and width of the motor vehicle when viewed from the front, side or rear as illustrated in the Third Schedule.

(2) The minimum width of the retro-reflective contour markings should be two inches.

10. Parking

(1) A carrier or driver shall ensure that a commercial vehicle is not parked in an undesignated parking area including road sides, road reserves, road ways, bridges and tunnels.

(2) A carrier or driver shall ensure that a commercial vehicle is parked at least five metres from the edge of the road so as not to block a pedestrian way, obstruct the view of other road users or affect the safe operation of the road.

11. Daily driving and on-duty time

(1) A carrier shall ensure that a commercial vehicle is not driven if—

- (a) the driver has accumulated eight hours of driving time within twenty four hours; or
- (b) has driven for a total of three hundred kilometres within a period of twenty four hours whichever is achieved first.

(2) A carrier shall ensure that a commercial vehicle is operated by two drivers where the vehicle—

- (a) is to be driven for a distance of more than five hundred kilometres; or
- (b) is to be driven for more than eight hours.

12. Mandatory rest time

(1) A driver of a commercial vehicle shall rest for a period of at least one hour for each period of continuous driving of four hours.

(2) A carrier shall ensure that every driver of a commercial vehicle rests as specified

[Subsidiary]

13. Daily log sheet

(1) A driver of a heavy commercial vehicle shall prepare a daily log sheet accounting for the driver's on duty and off duty time in the form set out in the Fourth Schedule.

(2) A carrier shall ensure that the driver of the heavy commercial vehicle has completed the daily log sheet for the preceding day before allowing the driver to drive the vehicle.

(3) A driver shall—

- (a) not keep more than one daily log sheet in respect of any day;
- (b) keep in the vehicle, logs sheets for the preceding seven days; and
- (c) not enter inaccurate information in the daily log sheet.

(4) An authorised officer from the Authority or a police officer may stop and inspect the daily log sheets and supporting documents of the commercial vehicles as stipulated in sub regulation (3).

(5) An authorized officer from the Authority or a police officer above the rank of superintendent of police may order the detention of the driver or the commercial vehicle where—

- (a) the driver refuses to produce the daily log sheet;
- (b) the driver has not completed the required log sheet; or
- (c) the officer suspects that a driver has entered inaccurate information in the daily log sheet.

14. Safety audits

(1) The Authority may conduct a safety audit of any carrier, owner or driver of a commercial vehicle.

(2) A safety audit shall include—

- (a) an examination of the qualification of the driver of the commercial vehicle;
- (b) an examination of the duty status of the driver of the commercial vehicle; and
- (c) an examination of the maintenance records of the commercial vehicle.

15. Record and reporting requirements

(1) A carrier or driver shall keep, in electronic or written format—

- (a) a maintenance record for a commercial service vehicle for a minimum period of one year;
- (b) the inspection report for the vehicle; and
- (c) a monthly record of the daily logs for a period of one year.

(2) A carrier shall—

- (a) where there has been an accident involving the vehicle that results in the death of a person, submit to the Authority within twenty-four hours a report of the accident which shall include the probable cause of the accident and any remedial action intended to be taken by the carrier; and
- (b) on the fifth day of each quarter beginning on the first day of January, submit to the Authority—
 - (i) a list of authorized drivers in the employment of the carrier; and
 - (ii) a copy of the monthly daily log sheets of each driver.

(3) The report under subregulation (2)(a) shall be in the form set out in the Fifth Schedule.

16. Removal or towing of vehicles

(1) The carrier or driver of a commercial vehicle shall—

- (a) in case of a break-down or stalling of the commercial vehicle, ensure that the commercial vehicle is removed from the road as soon as possible; and

- (b) in case of a break-down or stalling of a heavy commercial vehicle and where specialized equipment is required to move the vehicle, ensure that the vehicle is moved from the road within twenty four hours of the incident.

(2) The driver of a commercial vehicle shall, in case of a breakdown, immediately place on the road not less than fifty metres from the commercial vehicle, two red reflecting triangles of such construction and dimensions as may be prescribed, one ahead of the vehicle and one behind it so that each reflecting triangle is clearly visible to drivers of vehicles approaching the commercial vehicle from ahead or behind as the case maybe.

(3) Subject to subregulation (1), the Authority may tow or remove a commercial vehicle that has stalled or broken down on a road or arrange for a third party to tow or remove such a vehicle at the carrier's cost if in the opinion of the Authority such vehicle poses a risk to the safety of other road users.

- (4) The cost referred to in subregulation (3) shall be recoverable as a civil debt:

Provided that the Authority shall ensure that any person engaged to tow or remove stalled commercial vehicles on the road shall charge a standard fee that is reasonable and based on the distance travelled from the place where the commercial vehicle broke down or stalled to the place directed for delivery by the Authority.

(5) The Authority may prescribe the fees to be charged for the purposes of this regulation.

17. Revocation or suspension of commercial vehicle licence

- (1) The Authority may suspend or revoke a commercial vehicle licence where the carrier

- (a) fails to keep any of the records required to be kept in accordance with the provisions of these Regulations;
- (b) fails to submit the records required to be submitted under these regulations to the Authority;
- (c) fails a safety audit under regulation 14;
- (d) permits an unqualified driver to drive a commercial vehicle;
- (e) provides inaccurate information to the Authority;
- (f) fails or refuses to settle any towing charges imposed by the Authority;
- (g) fails to equip the vehicle with two red reflecting triangles of the approved construction and dimensions; or
- (h) fails to properly secure cargo as required under these Regulations.

(2) The Authority shall, before suspending or revoking a commercial vehicle licence, give the licensee a reasonable opportunity to present his or her case.

18. Power of the Authority to order inspection

The Authority may order the inspection of any commercial vehicle to establish the road worthiness of the vehicle.

19. Insurance

A carrier shall take out, at the minimum, third party insurance cover for each of its commercial vehicles.

20. Appeals

A person aggrieved by any decision made by the Authority under these regulations may, within fourteen days of being notified of the decision, appeal to the Appeals Board against the decision.

[Subsidiary]

21. Offences and penalties

Any person who contravenes any provision of these regulations commits an offence and shall be liable on conviction to a fine not exceeding twenty thousand shillings or to imprisonment for a term not exceeding six months or to both.

FIRST SCHEDULE

[r. 6(1)]

APPLICATION FOR FOR COMMERCIAL SERVICE LICENCE



APPLICATION FOR COMMERCIAL SERVICE LICENCE

FOR OFFICIAL USE

Application Number

[Empty rectangular box for Application Number]

A. APPLICANT'S INFORMATION

Name of Registered Owner: _____ Address: _____

E-mail address _____ Mobile No. _____

B. TYPE OF VEHICLE.

Tick the type of vehicle.

Commercial Vehicle

Heavy Commercial Vehicle

C. DOCUMENTATION REQUIRED. (Applicant MUST provide copies of the listed documents).

DOCUMENT REQUIRED TICK IF PROVIDED FOR OFFICIAL USE

Certificate of incorporation as a company under the Companies Act if the applicant is a company or certificate of registration if the applicant is a cooperative society under the Cooperative Societies Act or if the applicant is a society or national identification card if the applicant is an individual. The certificate of ownership or other evidence of ownership in the name of the owner of

the vehicle or a contract or franchise agreement between the owner and the carrier or intended carrier of the vehicle.
 A valid certificate of roadworthiness issued by the Authority of each vehicle in respect to which an application is being made.
 Valid insurance cover.
 Evidence showing that all the commercial vehicles have been fitted with the prescribed speed governor.
 Evidence of installation of a fleet management system accredited by the Authority (for heavy commercial vehicles only).

D. DECLARATION.

I declare that I have read all the answers I have given to the questions in this application and that the answers given by me are complete, true and correct in every detail.

I understand that if I have stated anything that is false or misleading, the licence granted to me as a result of this application may be absolutely void and have no legal effect whatsoever.

I understand that I may be prosecuted for giving or stating facts or misleading information or documents.

I also declare that I have read and understood the general duties and responsibilities of a transport operator and hereby agree to be bound by them.

Applicant's signature

Date _____

SECOND SCHEDULE

[r. 6(1)(a)]

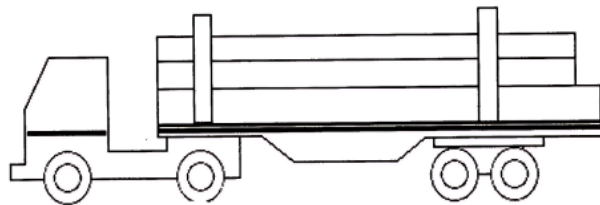
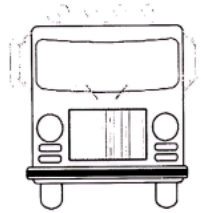
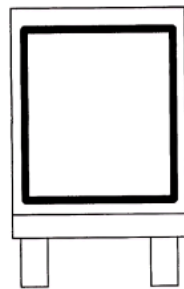
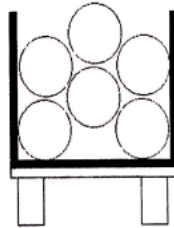
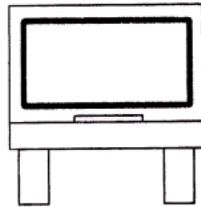
FEES

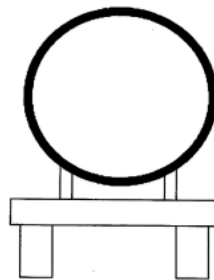
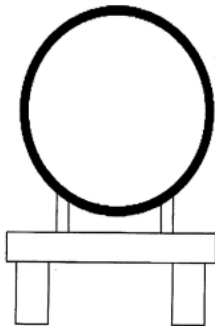
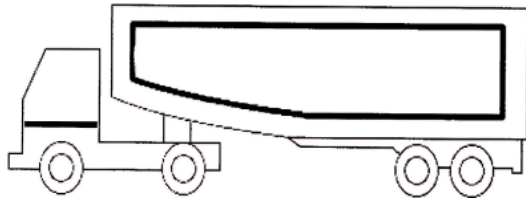
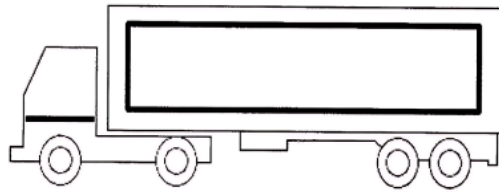
Application fee for a commercial licence (per vehicle)	Kshs 2,000.
Renewal of licences	Kshs 1,500.
Replacement of damaged or lost licence	Kshs 1,500.

THIRD SCHEDULE

[r. 9(1)]

RETRO-REFLECTIVE MARKING FOR
COMMERCIAL VEHICLES AND THEIR TRAILERS





FOURTH SCHEDULE

[r. 13(1)]

DAILY LOG

DATE	START OF DRIVING TIME	END OF DRIVING TIME	REST PERIODS TAKEN (TIME)	LOCATION OF VEHICLE AT START OF JOURNEY AND MILEAGE READING	LOCATION OF VEHICLE AT END OF JOURNEY AND MILEAGE READING
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Driver's name

Signature.....

[Subsidiary]

Vehicle Registration No

FIFTH SCHEDULE

[r. 15(3)]

ACCIDENT REPORT FORM

Name of Registered Owner of Commercial Vehicle:- _____

Date and location of accident:- _____

Registration number of vehicles involved in accident:- _____

Licence Number of commercial vehicle:- _____

Driver's Name:- _____

Driving licence No. of driver of Commercial Vehicle:-

Number of confirmed fatalities: _____

Circumstances about the accident/ probable cause:- _____

**NATIONAL TRANSPORT AND SAFETY AUTHORITY
(TRANSPORT NETWORK COMPANIES, OWNERS,
DRIVERS AND PASSENGERS) REGULATIONS**

ARRANGEMENT OF REGULATIONS

PART I – PRELIMINARY

Regulation

1. Citation
2. Interpretation
3. Purpose of the Regulations
4. Application of the Regulations

PART II – TRANSPORT NETWORK COMPANIES

5. Transport network company to be licensed
6. Requirements for licensing
7. Application for transport network company license
8. Processing of applications
9. Transport network agreements
10. Kenyan law shall apply to agreements
11. Duties of transport network companies
12. Validity and renewal
13. Suspension or cancellation of licences
14. Operations of transport network companies
15. Deactivation, suspension or revocation of transport network vehicles
16. Promotional price offerings
17. Maintenance and retention of records
18. Reporting

PART III – TRANSPORT NETWORK VEHICLES

19. Requirements for transport network vehicles

PART IV – TRANSPORT NETWORK DRIVERS

20. Requirements for transport network drivers
21. Duties of transport network drivers

PART V – TRANSPORT NETWORK PASSENGERS

22. Duties of transport network passengers

PART VI – MISCELLANEOUS PROVISIONS

23. Appeals
24. Transitional Provisions
25. Offences and penalties

SCHEDULES

FEES

**NATIONAL TRANSPORT AND SAFETY AUTHORITY
(TRANSPORT NETWORK COMPANIES, OWNERS,
DRIVERS AND PASSENGERS) REGULATIONS**

[Legal Notice 120 of 2022]

PART I – PRELIMINARY

1. Citation

These Regulations may be cited as the National Transport and Safety Authority (Transport Network Companies, Owners, Drivers and Passengers) Regulations.

2. Interpretation

In these Regulations, unless the context otherwise requires—

"transport network company" means a person, entity or company who or that connects transport network passengers with transport network drivers for transport network services exclusively through the offering, use or operation of a transport network platform but does not include a person, entity or company that provides street-hailing taxicab services, limousine or other transportation service arranged by a method other than through a transport network platform;

"transport network driver" means a person authorized by a transport network company to offer transport network services to transport network passengers through a transport network platform;

"transport network owner" means the registered owner, hirer or lessee of a transport network vehicle;

"transport network passenger" means an individual who uses a transport network platform to connect with a transport network driver who provides transport network services to the passenger using a transport network vehicle;

"transport network platform" means a digital platform or any other similar system offered, used or operated by a transport network company and used by persons for the transportation of passengers for compensation by a transport network driver;

"transport network vehicle" means a motor vehicle with a manufacturer's seating capacity originally designed for not more than seven passengers excluding the driver, used to provide transport network services through a transport network platform, but does not include a taxicab, motorcycle or shared pool motor vehicle; and

"transport network service" means—

- (a) any time a transport network driver operating a transport network vehicle is logged onto a network for the purposes of accepting requests for transportation services for compensation from prospective passengers;
- (b) any time from the moment a transport network driver operating a transport network vehicle has accepted a ride request through a transport network, continuing while that transport network driver is *en route* to pick up a passenger to provide transport services for compensation, and ending when the passenger reaches the final destination or a trip is cancelled, whichever is later; or
- (c) any time from the moment a transport network driver operating a transport network vehicle has a passenger in a transport network vehicle, continuing while such passenger is being transported for compensation, and ending when the passenger reach the final destination.

[Subsidiary]

3. Purpose of the Regulations

The purpose of these Regulations shall be to regulate the provision of transport network services by transport network drivers through transport network platforms.

4. Application of the Regulations

These Regulations shall apply—

- (a) to transport network companies;
- (b) to transport network owners;
- (c) to transport network drivers; and
- (d) to transport network passengers.

PART II – TRANSPORT NETWORK COMPANIES

5. Transport network company to be licensed

A person, entity or company that wishes to offer transport network services in Kenya shall apply in the prescribed form for a transport network licence.

6. Requirements for licensing

A person, entity or company shall be eligible to apply for a transport network license shall if that person, entity or company is—

- (a) a body corporate that is legally recognized in Kenya.;
- (b) tax compliant;
- (c) duly registered by the Data Commissioner as a data; controller or data processor, whichever the case maybe; and
- (d) have a registered office in Kenya.

7. Application for transport network company license

An application under regulation 5 shall be accompanied by—

- (a) certified copy of the certificate of incorporation if the applicant is a company incorporated under the Companies Act (Cap. 486);
- (b) the standard contract between the transport network company and owners of the vehicles in their fleet;
- (c) the revenue sharing agreement between the transport network company, the owner and the driver;
- (d) pricing mechanism between the transport network company and the subscribers;
- (e) a list of the vehicles in the transport network company's service fleet;
- (f) a list of the makes, models, passenger capacity and number plates of vehicles in the transport network company's service fleet;
- (g) the procedure for handling complaints from drivers, owners or passengers;
- (h) the procedure for activating and deactivating subscription service;
- (i) list of owners of the vehicles in the transport network company's service fleet;
- (j) a tax compliance certificate or equivalent issued by the Kenya Revenue Authority;
- (k) registration certificate issued by the Data Commissioner as a data controller or data processor, whichever the case maybe; and
- (l) the transport network company's deactivation policy.

8. Processing of applications

(1) Before granting or refusing to grant a transport network company license, the Authority shall consider the following—

- (a) whether the applicant has complied with the requirements of these Regulations; and
- (b) public interest.

(2) Where the Authority is satisfied that the applicant has complied with the requirements of these Regulations, the Authority shall grant the applicant the license upon the payment of the fee prescribed in the Schedule.

(3) All applications shall be considered within fourteen days after the submission of the application.

(4) Where the Authority refuses to grant an applicant with a licence, it shall notify that applicant in writing of the refusal and specify the grounds for the refusal in the notification.

9. Transport network agreements

(1) A transport network company shall not offer transport network services unless it has entered into an agreement with—

- (a) the owner of a motor vehicle that shall be used to offer transport network services;
- (b) a person who is licensed to drive a motor vehicle and possesses a Public Service Vehicle license; and
- (c) a person who has subscribed to the transport network service being offered by the transport network company.

(2) A transport network agreement shall contain the following—

- (a) the duties of the transport network company to the owner of the motor vehicle being used to offer transport network services;
- (b) the duties of the owner of the motor vehicle being used to offer transport network services to the transport network company;
- (c) the duties of the transport network company to a person who has subscribed to the service being offered by the company;
- (d) the duties of a transport network driver to a subscriber of the transport network service;
- (e) the procedure for subscribing to a transport network service, and activating and deactivating the service;
- (f) the period during which the agreement shall be valid; and
- (g) the commission which shall be paid by a transport network driver or a transport network owner to the transport network company, which shall not exceed eighteen per cent of the total earnings of the trip.

(3) A transport network agreement shall not include and terms or conditions designed to increase the commission payable by a transport network driver or transport network owner such that it exceeds eighteen per cent of the total earnings per trip as required under subregulation (2)(g).

10. Kenyan law shall apply to agreements

(1) The governing law in respect of an agreement under regulation 9 shall be laws of Kenya.

(2) Any dispute relating to an agreement under regulation 9 shall be adjudicated before Kenyan courts or tribunals.

11. Duties of transport network companies

Each transport network company shall—

- (a) ensure that all the vehicles in its fleet have a valid transport network vehicle license;
- (b) report any accident that results in any death or serious injury to the Authority within twenty-four hours after the accident;

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- (c) ensure that any transport network vehicle or driver whose license is suspended or revoked by the Authority cannot access the transport network platform during the period of suspension or revocation upon communication from the Authority;
- (d) ensure that all vehicles under its transport network platform have valid insurance covers;
- (e) provide the Authority with any information or documentation requested for within 72 hours of the request being received;
- (f) ensure that appropriate action is taken following the submission of complaints within a reasonable timeframe;
- (g) ensure that the motor vehicles in its fleet have valid certificates of worthiness; and
- (h) provide a panic button with appropriate response for the drivers and passengers in the digital platform which shall be connected to a response centre which will be manned at all times.

12. Validity and renewal

(1) Subject to these Regulations, a transport network company license shall be valid for a period of one year from the date of issue.

(2) A transport network company licence may be renewed after the expiry of one year in accordance with the procedure, with the necessary modifications, set out in regulation 6.

(3) The Authority shall, before renewing a transport network company license, conduct an audit of the transport network company and its operations to confirm compliance with these Regulations and may renew a transport network company's license if that company has complied in full with these Regulations.

13. Suspension or cancellation of licences

(1) The Authority may suspend or cancel the license of a transport network company on the following grounds—

- (a) failure to comply with any of the terms and conditions of the transport network company license;
- (b) failure to comply with any of the provisions of these Regulations;
- (c) the suspension, revocation or expiration of the registration issued by the Data Commissioner; or
- (d) the transport network company has been declared to be insolvent.

(2) Before suspending or cancelling the license of a transport network company, the Authority shall—

- (a) notify the transport network company in writing of the intention to suspend or cancel the license and the reasons thereof;
- (b) afford the transport network company adequate opportunity to present their case against the suspension or cancellation;
- (c) give the transport network company written reasons for the decision to suspend or cancel the licence; and
- (d) notify the transport network company of the company's right of appeal.

14. Operations of transport network companies

(1) A transport network company shall be required to provide passengers with the following information before a trip that has been booked through a transport network platform commences—

- (a) the motor vehicle's make and model to be used during the trip;
- (b) the motor vehicle's registration number;
- (c) the transport network driver's name;

- (d) the transport network driver's photo; and
- (e) the estimated fare that shall be presented in a clear and transparent manner prior to a passenger accepting a ride.

(2) A transport network company shall put in place a system to verify the identity of each passenger during enrollment on to the transport network platform.

(3) A transport network company shall provide a printed or electronic receipt to the passenger at the conclusion of every trip.

(4) The receipt provided under subregulation (3) shall include the following information—

- (a) the rates, fees or surcharges charged for the trip;
- (b) the date and time of the trip;
- (c) the location at which the passenger was picked up and location which the passenger was transported to;
- (d) the transport network driver's name;
- (e) the transport network vehicle used during the trip and its motor vehicle registration number; and
- (f) the duration and distance of the trip.

(5) A transport network company shall put in place measures to guarantee the security, protection and privacy of the transport network driver and transport network passenger.

(6) The personal information of the transport network driver and transport network passenger collected, processed or otherwise used in relation to a transport network service shall be protected, processed or otherwise used in accordance with the Data Protection Act.

(7) A transport network company shall maintain and publish for the benefit of its transport network passengers a service support system with the capability to leave messages at all times and where such messages shall be responded to within twenty-four hours by the company.

(8) A transport network company shall provide a system through which passengers can retrieve items that may have been left behind after a trip in a transport network vehicle.

(9) A transport network company shall not discriminate against passengers with special needs or disabilities including by ensuring that there are no additional charges or increased fares and wheelchairs and service animals are adequately accommodated during the provision of a transport network service.

(10) A transport network company shall configure its transport network platform to ensure that after eight hours of continuous services in a twenty-four-hour period, the driver shall log out of the platform for at least four consecutive hours.

(11) During a trip, no other person, except a transport network driver, shall be permitted to be in the transport network vehicle without the express consent of the transport network passenger.

15. Deactivation, suspension or revocation of transport network vehicles

(1) A transport network company shall, before deactivating, suspending or removing a transport network vehicle owner or a transport network driver from the transport network platform—

- (a) ensure that the deactivation, suspension or removal complies with the duly submitted transport network company's deactivation, suspension or removal policy;
- (b) give adequate notice to the transport network vehicle owner or transport network driver in writing of the intention to deactivate, suspend or remove the owner or driver from the transport network platform and the reasons thereof;
- (c) afford the transport network vehicle owner or transport network driver with adequate opportunity to challenge the deactivation, suspension or removal; and

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- (d) give the transport network owner or transport network driver written reasons for its decision to deactivate, suspend or remove the owner or driver from the transport network platform.

(2) The transport network company shall notify the Authority of the deactivation, suspension or removal of a transport network vehicle owner or a transport network driver from the transport network platform within seven days after the deactivation, suspension or removal.

(3) The Authority shall publish on its website and in any other appropriate medium the details of transport network drivers or transport network owners who have been deactivated, suspended or removed from a transport network platform, and the reasons for the deactivation, suspension or removal.

(4) The transport network company's deactivation, suspension or removal policy shall provide for—

- (a) the conditions for the deactivation, suspension or removal of a transport network driver or transport network owner from the transport network platform;
- (b) in the case of suspension, the duration of suspension of a transport network driver or transport network owner from the transport network platform; and
- (c) the conditions and procedure for the reactivation and reinstatement of a transport network owner or transport network driver who was deactivated, suspended or removed from the transport network platform.

16. Promotional price offerings

A transport network company shall ensure that an owner is not negatively affected in cases of promotional price offerings to passengers.

17. Maintenance and retention of records

(1) A transport network company shall maintain the following data for each transport network service offered through a network platform for a period of three years—

- (a) the motor vehicle registration number used to offer the transport network service;
- (b) the name, driving license number and Public Service Vehicle registration number of the transport network driver who provided the transport network service;
- (c) the name and relevant identification details of the transport network passenger who was provided with the transport network service;
- (d) the date, time and location of pick-up and drop-off relating to the transport network service;
- (e) the method of payment made by the transport network passenger for the transport network service; and
- (f) the details relating to the pricing of transport network service.

(2) The transport network company shall provide copies of the records—

- (a) to the Authority on request and after adequate notice;
- (b) to a duly authorised police officer in relation to the investigation of an offence; or
- (c) as the transport network company may be directed by an order of a court of competent jurisdiction.

18. Reporting

(1) A transport network company shall deactivate a transport network driver from the transport network platform and notify the Authority of the deactivation where the driver's conduct that raises public safety concerns including any of the following—

- (a) criminal complaint, investigation or arrest;
- (b) allegation or complaint of sexual misconduct;
- (c) allegation or complaint of traffic accident that resulted in a fatality;
- (d) conviction of drunk driving; or
- (e) allegation or complaint of assault or battery or verbal abuse.

(2) The notification under subregulation (a) shall be made within forty-eight hours after the deactivation and shall specify—

- (a) the driver's name;
- (b) the driver's license number;
- (c) the motor vehicle registration number driven or owned by the deactivated driver; and
- (d) the reason for the driver's deactivation.

PART III – TRANSPORT NETWORK VEHICLES

19. Requirements for transport network vehicles

(1) Each transport network vehicle shall, before it is used to offer transport network services—

- (a) have a valid vehicle insurance cover;
- (b) have a valid certificate of roadworthiness; and
- (c) not be more than sixteen years from the date of manufacture.

(2) Each transport network vehicle used to offer transport network services shall—

- (a) at all times, be maintained in such condition as to ensure its safe operation and the safety of transport network passengers; and
- (b) be equipped with a hands-free accessory for mobile devices.

(3) If the transport network vehicle's owner and transport network driver are different persons—

- (a) the transport vehicle's owner shall maintain the driver's license details for a minimum period of one year; and
- (b) enter into a written agreement with the transport network driver detailing the nature of their relationship.

PART IV – TRANSPORT NETWORK DRIVERS

20. Requirements for transport network drivers

Each transport network driver shall, before being authorized to offer transport network services—

- (a) have a valid driving license with the relevant driver endorsement issued by the Authority; and
- (b) a valid Public Service Vehicle badge.

21. Duties of transport network drivers

(1) Each transport network driver offering transport network services shall—

- (a) display at a conspicuous place on the transport network vehicle a sticker or an identification mark approved by the Authority;
- (b) treat transport network passengers courteously;
- (c) when playing music in a transport network vehicle, ensure that the music played does not exceed the prescribed limits in the course of the journey;
- (d) ensure that passengers are issued with tickets or receipts for fare paid;
- (e) report any accidents involving the transport network vehicle immediately to the relevant authorities;

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- (f) ensure that all innovative decorations on the transport network vehicle are not offensive;
- (g) ensure that no innovative decorations are painted, sprayed, drawn on or affixed to any window, the front and back windscreens, lights, indicators or chevrons of the transport network vehicle;
- (h) ensure that none of the passenger, co-driver and driver windows, the front and back windscreens, lights, indicators or chevrons of the transport network vehicle are tinted or painted, sprayed or drawn on any innovative decorations;
- (i) ensure that innovative decorations on the transport network vehicle do not have reflective properties;
- (j) ensure that no additional exterior and interior lighting is affixed other than those affixed by the manufacturer of the transport network vehicle;
- (k) ensure that his or her own acts or omissions do not adversely affect the health and safety of transport network passengers, and
- (l) comply, so far as is reasonable, with any lawful instruction that is given by the transport network company to enable compliance with these Regulations.

(2) No transport network driver shall—

- (a) drive while having consumed any intoxicating liquor;
- (b) drive if impaired by any legally prescribed or over-the-counter drugs or medications;
- (c) smoke any substance or use any device that produces a smoke-like vapor while operating carrying a passenger;
- (d) chew khat while driving;
- (e) drive transport network passengers to their destination by any other than the shortest and most direct route, unless requested to do so by the passenger;
- (f) drive any transport network vehicle while using a mobile communications device without a hands-free accessory;
- (g) be physically or verbally abusive to any transport network passenger;
- (h) use offensive gestures; or
- (i) refuse to transport to a requested destination any transport network passenger of proper demeanor whose request for service the transport network driver has accepted on the transport network service platform.

(3) For purposes of clarity, a transport network driver may refuse to transport a transport network passenger where—

- (a) the passenger is acting in a disorderly or threatening manner; or
- (b) the passenger refuses to state a specific destination upon entering the vehicle.

(4) A transport network driver may not assign, transfer to, or allow usage of the transport network service platform account by any other person, including another licensed transport network driver.

(5) A transport network driver shall return any lost articles recovered in a transport network vehicle to the rightful owner at the transport network passenger's cost.

(6) A transport network driver shall not pick up passengers at cabstands, or solicit rides, or respond to street-hails.

(7) A transport network driver shall not offer or provide transport network services for more than eight continuous hours in a twenty-four-hour period.

(8) A transport network driver shall ensure that no other person not being a transport network passenger shall be permitted to be in the transport network vehicle except with the express consent of the transport network passenger.

PART V – TRANSPORT NETWORK PASSENGERS

22. Duties of transport network passengers

A transport network passenger shall, while using a transport network service or riding in a transport network vehicle—

- (a) not willfully obstruct or impede the transport network driver of the transport network vehicle;
- (b) not use obscene or offensive language or conduct himself or herself in a riotous or disorderly manner;
- (c) not smoke or carry a lighted pipe, cigar or cigarette in the transport network vehicle;
- (d) not spit upon or from the transport network vehicle or willfully damage, soil or defile any part of the transport network vehicle;
- (e) not throw out of the transport network vehicle any bottle, liquid or litter or any other article or thing;
- (f) pay the fare for the whole journey taken; and
- (g) not willfully do or cause to be done with respect to any part of the transport network vehicle or its equipment, or any accessory thereto, anything which is calculated—
 - (i) to obstruct or interfere with the working of the transport network vehicle or to cause damage; or
 - (ii) to cause injury, discomfort, annoyance or inconvenience to any other person; or
 - (iii) enter or alight from the transport network vehicle while it is in motion.

PART VI – MISCELLANEOUS PROVISIONS

23. Appeals

A person aggrieved by any decision of the Authority under these Regulations may appeal to the Appeals Board.

24. Transitional Provisions

(1) Each transport network company and transport network vehicle that was in operation before the commencement of these Regulations shall continue to operate for a period of ninety days within which they shall be required to acquire the necessary licenses provided for under these Regulations.

(2) A person who fails to apply for a new license under these Regulations within the prescribed period shall cease to operate the licensed activity.

25. Offences and penalties

A person who contravenes any provision of these Regulations commits an offence and shall be liable on conviction to a fine not exceeding twenty thousand shillings or to imprisonment for a term not exceeding six months or both.

 SCHEDULE

[r. 8(2)]

FEES

Subject

Application and renewal fee for transport network company license

Fee (Ksh.)

100,000 per annum