

11th March, 2014

LEGAL NOTICE No. 23

THE NATIONAL TRANSPORT AND SAFETY AUTHORITY ACT
(No. 33 of 2012)

IN EXERCISE of the powers conferred by section 54 of the National Transport and Safety Authority Act, the Cabinet Secretary for Transport and Infrastructure in consultation with the Board makes the following Regulations: —

THE NATIONAL TRANSPORT AND SAFETY AUTHORITY (OPERATION OF PUBLIC SERVICE VEHICLES) REGULATIONS, 2014

Citation.

1. These Regulations may be cited as the National Transport and Safety Authority (Operation of Public Service Vehicles) Regulations, 2014.

Interpretation. No. 33 of 2012, No.13 of 2011, Cap 486. Cap 490, Cap.405

2. In these Regulations, unless the context otherwise requires—

"Act" means the National Transport and Safety Authority Act, 2012;

"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;

"commuter service" means a transport service offered by a public service vehicle which commences and terminates its services within the boundaries of a City or other urban area or between such city or urban area and its satellite towns;

"corporate body" means a limited Liability Company registered under the Companies Act, and includes a cooperative society registered under the Cooperative Societies Act and a society registered under the Societies Act;

"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 9 pm;

"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;

"urban area" has the meaning assigned to it under the Urban Areas and Cities Act, 2011.

Application of the Regulations

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

Public Service Vehicle to be Licensed.

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

Conditions to be met by applicants.

5. (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, No. 13 of 2007, insurance, statutory leave days and written contracts of employment for staff; and
- (f) where it operated public service vehicles licensed under these Regulations in the immediately preceding calendar year fully complied with the requirements of these regulations in the immediately preceding year.

(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 sub-regulation (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.

Documents to be submitted with the application. Cap 486, Cap 490

6. 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, or a cooperative society under the Cooperative Societies Act;
- (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 roadworthiness 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. 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) to ensure that passengers are issued with tickets or receipts for fare paid and, as from 1st July 2014, it operates a cashless fare system;

(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 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; and

(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.

(k) ensure that no vehicle is transferred from one Sacco or company to another without the approval of the Authority.

8. Every operator of a public service vehicle shall submit a report to the Authority on 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.

Commuter services

9. 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 bylaws or County legislation of the County or city or urban area within which the vehicle is registered to operate.

Long distance passenger PSVs.

10. (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.

Operation of long distance passenger service.

11. 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) ensures that , except for small parcels and letters, the long distance passenger vehicle does not carry cargo other than luggage accompanying a passenger travelling

on the bus and carried either as hand luggage to be placed in the overhead lockers on board the bus or in the hatch under the vehicle;

(f) ensures that, except for courier services, the long distance passenger vehicle does not operate as a commercial cargo carrier and does not have a cargo carrier mounted on the roof; and

(g) ensure or subscribes to an accident and emergency mutual aid system.

Conditions for nighttime long distance passenger services.

12. (1) Every operator of a nighttime 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.

Insurance.

13. 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;

(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.

Appeals

14. 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.

Offences and penalties.

15. (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 Fifty Thousand Shillings or to imprisonment for a term not exceeding one year 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.

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

17. Legal Notice No. 219 of 2013 is revoked.

Dated the 10th March, 2014.

MICHAEL KAMAU,
Cabinet Secretary for Transport and infrastructure.