**DEPARTMENT OF TRANSPORT**

**NOTICE 2250 OF 2023**

**DRAFT REGULATIONS REQUIRED BY THE NATIONAL LAND TRANSPORT AMENDMENT BILL, 2016**

## NATIONAL LAND TRANSPORT ACT, 2009 (ACT NO. 5 of 2009)

## DRAFT SECOND NATIONAL LAND TRANSPORT REGULATIONS

## DEPARTMENT OF TRANSPORT

The following draft regulations are hereby published for public comment in terms of section 8(2) of the National Land Transport Act, 2009 (Act No. 5 of 2009). All interested persons are invited to submit comments relating to the draft regulations within 30 days from the date of publication hereof to:

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[**Notes:** *1. These regulations are required by the National Land Transport Amendment Bill, 2016 (F-Version). The Bill was referred back to Parliament by the President and some provisions regarding contracting for public transport services have been deleted. The amendments to the Bill are currently being considered by the NCOP.*

*2. The National Land Transport Regulations on Contracting for Public Transport Services issued in terms of the NLTA on 31 August 2009 have been incorporated as appropriate.*

*3. Further, these regulations have in detail the new provision of the e–hailing services as required by the new Section 66A of the Amendment Bill.*

*4. Once finalised these regulations will be combined with all other regulations made under the NLTA to form a consolidated and comprehensive set of regulations.*

**GOVERNMENT NOTICE**
**DEPARTMENT OF TRANSPORT**

**No. R …..** **Date: …….**

**NATIONAL LAND TRANSPORT ACT, 2009 (ACT No. 5 OF 2009)**

**SECOND NATIONAL LAND TRANSPORT REGULATIONS**

I, Lydia Sindisiwe Chikunga, the Minister of Transport, after consultation with the MECs hereby make the regulations in the Schedule hereto in terms of section 8 of the National Land Transport Act, 2009 (Act No. 5 of 2009) ("the Act").

**L S Chikunga**

**Minister of Transport**

## Schedule

## Contents

**Definitions**

**1.** In these regulations, unless the context indicates otherwise, any word or expression to which a meaning has been assigned in the Act, has the same meaning, and the following words and expressions have the meanings assigned to them:

**"Act"** or **"the Act"** means the National Land Transport Act, 2009 (Act No. 5 of 2009);

**"IPTN"** means an integrated public transport network as defined in section 1 of the Act;

**"ITP"** means an integrated transport plan contemplated in section 36 of the Act;

**"Minimum Requirements"** means the Minimum Requirements for the Preparation of Integrated Transport Plans, 2016 promulgated in terms of the Act and published under Notice 881 in *Government Gazette* 40174 of 29 July 2016.

**"National Land Transport Regulations, 2009"** means the National Land Transport Regulations, 2009 made in terms of the Act and promulgated in *Gazette* 32821 of 17 December 2009 under Notice R.1208;

**"PRE"** means a Provincial Regulatory Entity contemplated in section 23 of the Act, and

**"Previous Regulations"** means the regulations repealed by regulation 8.

## CHAPTER 1: REGULATIONS ON CONTRACTING FOR PUBLIC TRANSPORT SERVICES

### Definitions for Chapter 1

**2.** In this Chapter, unless the context indicates otherwise, any word or expression to which a meaning has been assigned in the Act or in regulation 1, has the same meaning, and the following words and expressions have the meanings assigned to them:

**"affected operator"** as contemplated in section 41(2) of the Act means an operator who−

(a) holds valid operating licences or permits to provide the affected services;
(b) has been providing those services for at least 180 days prior to the date of a notice published in terms of regulation 3(2)(b);
(c) in the case of a contract contemplated in section 41(1)(a) or (c) of the Act provides services on a route or routes that will be affected by the proposed negotiated contract, and
(d) in the case of a contract contemplated in section 41(1)(b) of the Act is an operator contemplated in paragraphs (a) and (b) and (c) who also is a small business operator or is a person previously disadvantaged by unfair discrimination;

**"appropriate"** in section 41(2) of the Act means that operators who are not affected operators must be excluded from the negotiations contemplated in section 41(2) of the Act as contemplated in section 41(2)(a) thereof;

**"cross-boundary service"** means a public transport service or network of services that crosses the boundary of the area of jurisdiction of one municipality into that of another municipality or municipalities;

**"DORA"** means the Division of Revenue Act contemplated in section 214(1) of the Constitution for the financial year in question;

**"financial year"** means 1 April to 31 March of the following year in the case of a province, subject to the Public Finance Management Act, 1999 (Act No. 1 of 1999), and 1 July to 30 June of the following year in the case of a municipality, subject to the Local Government: Municipal Finance Management Act, 2003 (Act No. 56 of 2003);

**"Grant Framework"** means the Grant Framework published for the financial year in question in terms of DORA;

**"IGRFA"** means the Intergovernmental Relations Framework Act, 2005 (Act No. 13 of 2005), and

**"ITP"** in relation to a contracting authority means an ITP which includes the components required by the Minimum Requirements including a transport register, a transport needs assessment, a contracted services plan, an operating licences plan, a transport infrastructure plan, a travel demand management strategy and an IPTN plan and strategy.

**Requirements for contracts** *[Section 8(1)(d) 8(1)(u) and 42(1) of the Act]*

**3.** (1) Before entering into a contract in terms of section 41 or 42 of the Act the contracting authority must−

(a) in the case of a municipality, develop and finalise its ITP and obtain approval thereof as required by section 36 of the Act read with the Minimum Requirements where it has not already done so and, where relevant, update the ITP in the manner required by the Minimum Requirements, but subject to section 93(4) of the Act;
(b) ensure that the services contemplated in the proposed contract are in line with and are provided for in the relevant sections of the ITP and in particular and where relevant, the transport needs assessment, the contracted services plan the operating licences plan and the travel demand management strategy;
(c) ensure that the public transport plan component of the ITP encompasses and incorporates an IPTN plan as required by section 8.1 of the Minimum Requirements;
(d) make provision for the incorporation of the requirements and conditions promulgated in the Grant Framework for the Public Transport Network Grant in respect of the subsidy funding for the proposed services published in terms of the relevant DORA;
(e) prepare an operational and business plan as contemplated in the Grant Framework that complies with regulation 4;
(f) conduct surveys on the route or routes or area or areas in question to compile a list, insofar as possible, of affected operators, and a list of the associations that represent those affected operators, and
(g) consult with the relevant Public Transport Integration Committee (PTIC) or Committees established in terms of the Grant Framework published under the Division of Revenue Act, 2009 (Act No. 12 of 2009) and referred to in subsequent Grant Frameworks published under relevant DORA's.

(2) Before entering into a negotiated contract in terms of section 41 of the Act, the contracting authority must−

(a) take the steps listed in sub-regulation (1);

(b) publish a notice in one or more newspapers circulating in the area or areas where the proposed services will be provided inviting affected operators to register with the contracting authority by a date stated in the notice, and

(c) keep a register of such affected operators with their contact details and, where applicable, the contact details of their representatives or the representatives of the associations to which they belong, if such representatives are authorized in writing by the operator concerned by submission of a special power of attorney.

(3) The contracting authority must then negotiate with such affected operators, either individually or through their representatives or associations, with a view to concluding an agreement with the operators that may include offering them one or more of the following:

(a) Alternative services to those that will be provided in terms of the contract as contemplated in section 39(1) of the Act;

(b) shares or loan accounts in the operating company or companies or entity or entities that will be established or appointed to provide the services in terms of the contract, or

(c) in the case of a contract to be concluded under section 41(1)(a) of the Act, compensation or another appropriate inducement.

(4) The contracting authority may address a written offer to an operator or operators contemplated in sub-regulation (2) stating a date for acceptance of the offer, which notice must be delivered to the operator or his, her or its representative or person representing the operator's association authorised in terms of sub-regulation (2)(c) at the physical or email address registered in terms of that sub-regulation.

(5) Where an operator to whom an offer has been addressed in terms of sub-regulation (4) fails to accept the offer or to reply to the notice by the date stated for acceptance, the operator will be deemed to have rejected the offer and the contracting authority will not be obliged to negotiate with that operator any further.

(6) Where an operator accepts an offer contemplated in sub-regulation (2), the agreement contemplated in that sub-regulation must include an undertaking by such operator to submit the operating licences or permits held by that operator authorising services on the route or routes that will be operated in terms of the proposed contract, for cancellation, amendment or conversion, as the case may be, to remove authorisation for any services that will compete with the services to be provided in terms of the contract.

(7) Where an operator contemplated in sub-regulation (6) continues operating public transport services on a route or routes in violation of an undertaking

given under that sub-section or is otherwise in breach of an agreement contemplated in sub-regulation (2), the operator will forfeit any benefit granted to that operator in terms of sub-regulation (2)(b) or (c) after affording the operator a reasonable opportunity to provide reasons why the benefits should not be forfeited and if such reasons are not acceptable to the contracting authority.

(8) Any benefit accruing to an operator in terms of an agreement contemplated in sub-regulation (2) may not be paid or transferred to the operator until that operator has complied with sub-regulation (6), subject to sub-regulation (7).

(9) Where an operator has concluded an agreement contemplated in sub-regulation (2), the contracting authority may require the vehicles of the operator to be branded as a feeder-service or other component-service of the relevant IPTN at the expense of the contracting authority.

(10) Before entering into a commercial services contract in terms of section 43 of the Act, the contracting authority must take the steps listed in paragraphs (a), (b), (c) and (f) of sub-regulation (1).

**Operational and business plan**

**4.** The operational and business plan contemplated in regulation 3(1)(a) must at least deal with−

(a) the need and desirability for the contract in that the contract is necessary or advisable to address the needs of passengers and employers in the relevant area or on the relevant routes and reasons why existing passenger transport services are inadequate;

(b) a reference to the transport needs assessment of the relevant ITP or ITPs and how it provides for or gives rise to the need for the contract;

(c) the estimated financial implications of the proposed contract for the contracting authority specifically and for the fiscus generally and in the case of a negotiated contract or subsidised service contract how the contract will provide value for money in terms of the dispensing of subsidies;

(d) as regards the financial implications of the proposed contract, a multi-year financial operational plan, approved by the municipal council in the case of a municipality, covering the full duration of the contract for each phase funded by the PTNG and including operating and maintenance costs and universal design access plans;

(e) verified data on operator revenue and profitability and draft agreements for compensation contemplated in regulation 3(3)(c);

(f) how the contract will promote fiscally and financially sustainable public transport services by estimating fare revenue and other expected revenue and setting it off against expected expenditure;

(g) in the case of a negotiated contract, a short description of the negotiation process, the parties with whom negotiations were conducted and the outcome, as well as agreements concluded in terms of regulation 3(2);

(h) in the case of interprovincial or cross-boundary services, a description of engagements with and agreements between the contracting authority and other relevant provinces or municipalities, and

(i) the arrangements made or to be made for supervision and monitoring of the services that will be provided in terms of the contract

**Transition from existing contracting arrangements** *[Section 42(1) and (3) of the Act]*

**5.** (1) As required by section 42(1) of the Act a contracting authority must commence with the activities contemplated in regulation 3(1) to put in place a new contract not later than one year before the anticipated expiry of a contract where the relevant ITP or ITPs show that passengers on the relevant routes or in the relevant area or areas still require contracted services.

(2) Where an adequate ITP or ITPs is or are not available for the purpose contemplated in sub-regulation (1) the contracting authority must use all other information available to it for the purposes of designing the contract or contracts as contemplated in section 93(4) of the Act.

(3) The contracting authority must synchronize arrangements between the old and new contract and the new contract must be phased in so that there is no break in services to the relevant passengers, and with due regard to section 197 of the Labour Relations Act, 1995 (Act No. 66 of 1995) and other applicable labour legislation.

(4) The contracting authority must advise passengers by means of one or more public meetings or by leaflets distributed or left at terminals, bus stops and other facilities, or by notices in local newspapers other appropriate means, of the new operator and of any changed circumstances applicable to the new contract or the changeover to the new contract.

**General requirements** *[Section 42(6) of the Act]*

**6.** (1) In negotiating or concluding contracts in terms of the Act the contracting authority must give due regard to−

(a) any requirements or model tender and contract documents prescribed or provided in terms of section 42(6) of the Act;
(b) the Regulations Relating to Integrated Fare Systems, 2011 promulgated in *Government Gazette* 32535 of 17 June 2011 (Notice No. R.511);
(c) universal design and access requirements and standards published by the Department, or by the Minister in terms of section 8(1)(y) of the Act, and those published in terms of the National Building Regulations and Building Standards Act, 1977 (Act No. 103 of 1977) and generally ensure that there is provision for the needs of targeted categories of passengers;
(d) relevant policies to promote non-motorised transport and accessible transport regarding both public transport operations and infrastructure;
(e) follow an environmental strategy and consider energy efficiency and environmental aspects such as emission standards and should consider mandatory specifications for average fleet emissions;
(f) fare integration between different modes and services;
(g) the need to promote the economic empowerment of small business and persons previously disadvantaged by unfair discrimination and to prevent the rise or continued existence of monopolies created by previous unfair legislation or practices, and
(h) section 197 of the Labour Relations Act, 1995 (Act No. 66 of 1995) and other applicable labour legislation during the transition from one contract to another.

(2) Contracting authorities must ensure that provision is made for adequate electronic or physical monitoring of the services being provided in terms of contracts involving subsidies in the manner specified in the requirements and model tender and contract documents prescribed or provided in terms of section 42(6) of the Act and in compliance with any grant conditions published in terms of the relevant Division of Revenue Act.

(3) Stopgap contracts contemplated in section 41A of the Act must be used only in exceptional circumstance where they are necessary to provide services in the interim while the contracting authority is in the process of conducting negotiations for a negotiated contract or establishing a network, as contemplated in section 41A(1)(c) of the Act, and should not be used where they are likely to delay the conclusion of appropriate negotiated or subsidised service contracts.

(4) Where services to be provided in terms of a contract will be provided in the areas of jurisdiction of more than one municipality, the municipalities must−

(a) conclude a written agreement between them providing at least for the financial arrangements applicable to the proposed contract between them and taking into account the provisions of the IGRFA, and

(b) where appropriate approach the relevant province or provinces for assistance as contemplated in regulation 8.

(5) Where a proposed contract will impose financial obligations on a municipality beyond the three years covered in its annual budget the municipality must follow the procedures required by section 33 of the Local Government: Municipal Finance Management Act, 2003 (Act. No. 56 of 2003).

(6) A contracting authority may not conclude more than one negotiated contract by applying sections 41(a), (b) and (c) of the Act as alternatives, and thus frustrating the intentions of the Act that such contracts should be concluded once only.

**Requirements for tenderers** *[Section 42(6)(a) of the Act]*

**7.** (1) The tender and contract documents contemplated in section 42(6) of the Act must include that to qualify as a tenderer for a subsidised service contract, an operator and, where appropriate, any person or entity exercising ownership control over an operator, or performing services on behalf of, or in the capacity as agent of, an operator must comply with the following requirements:

(a) Must conduct public transport operations according to business principles with financial ringfencing, and

(b) must have his, her or its tax affairs in order and be able to furnish a valid tax clearance certificate or PIN issued by the South African Revenue Services.

(2) For the purposes of sub-regulation (1)*(a)*, an operator is financially ringfenced if—

(a) the business of the operator’s undertaking is conducted separately from that of another entity or undertaking or any other organisation;

(*b*) the operator keeps separate accounting records, in accordance with generally accepted accounting practice and procedures, of its assets, liabilities, income, expenditure, profits and losses;

(*c*) the operator's undertaking is financially sustainable in terms of its financial statements; and

(*d*) the operator has no unfair advantage as regards access to financial or other support or resources from any organ of state as defined in section 239 of the Constitution, unless such advantage is part of a scheme which applies generally, approved by the contracting authority, to protect or advance public transport operators disadvantaged by unfair discrimination.

(3) For the duration of a subsidised service contract, an operator and, where appropriate, any person or entity exercising ownership control over an operator, or performing services on behalf of or in the capacity as agent of, an operator, must—

(a) keep separate record, in accordance with generally accepted accounting practices and procedures, of his or her or its financial position, performance, flow of funds and change in financial position;

(b) undergo an annual audit by a person registered in terms of the Auditing Profession Act, 2005 (Act No. 26 of 2005);

(c) comply with the requirements of sub-regulation (1);

(d) not enjoy an unfair advantage emanating from an organ of state, but any advantage emanating from a subsidised service contract is not deemed to be an unfair advantage for the purposes of this section.

(4) For the purpose of this regulation—

(a) "ownership control" means control by one person or entity over another as contemplated in section 2 of the Companies Act, 2008 (Act No. 71 of 2008), and

(b) "unfair advantage" means, but is not limited to—

(i) the receipt by an operator of any direct or indirect benefit, including funds, resources, donations, grants, consideration or other advantage, whether financial or otherwise, which is not available on the same terms and conditions to all other potential operators;

(ii) the direct or indirect guarantee or honouring of any of the obligations of the operator, including the arrangement or facilitation of the granting of any such loan;

(iii) the direct or indirect provision of a loan bearing no interest, or interest at a substantially lower rate than would be available commercially to a similar operator under similar conditions, or a loan in respect of which interest payments are deferred for a period of more than six months, including the arrangement or facilitation of the granting of any such loan;

(iv) allowing an operator to make use, or failing to prevent an operator from making use, of any public resources, including infrastructure, property, facilities, assets, human resources, systems, expertise or intellectual property, or facilitating such action, which would not be available to another similar operator on the same terms and conditions.

(5) The contracting authority must consider the fitness of the tenderer as an operator based, among other things, on the latter's record of convictions for criminal offences of a type considered to be relevant by that authority.

**Assistance by provinces** *[Section 11(1)(b)(v) and (vi) and 12(1) of the Act]*

**8.** (1) A province may assist a municipality or more than one municipality with the concluding of a contract or may conclude a contract as agent of a municipality or on behalf of the municipality or municipalities as contemplated by section 238(b) of the Constitution.

(2) In such a case the province and municipality or municipalities, as the case may be, must conclude a written agreement setting out the roles and obligations of the parties, taking into account the provisions of the IGRFA and including, but not limited to−

(a) the financial arrangements applicable to the proposed contract or contracts;

(b) measures that will be undertaken by the province to build capacity and resources into the municipality or municipalities as contemplated by section 154(1) of the Constitution and section 11(1)(b)(v) and (vi) of the Act;

(c) an undertaking by the municipality or municipalities that they commit to availing resources to be capacitated in building municipal capacity or agree to take over resources that may be sourced and trained by the province for that purpose.

(3) The contract or contracts must be provided for in the ITPs of the relevant municipalities and must assist in providing and integrating public transport services to the communities of the municipalities as required by the Act and the Minimum Requirements.

(4) Before signature of the proposed contract it must be submitted to the Department and National Treasury for their comments, and the contracting authority must consider any comments that may be submitted by the Department or National Treasury as may be appropriate.

**Transitional provisions** *[Section 46(3) of the Act]*

**9.** (1) A contract concluded before the date of coming into operation of these regulations remains valid despite the provisions of these regulations.

(2) Negotiations conducted with operators by a contracting authority before the date of coming into operation of these regulations remain valid.

**Repeal of previous regulations on contracting for public transport services**

**10.** The National Land Transport Regulations on Contracting for Public Transport Services promulgated in *Government Gazette* 32535 on 31 August 2009 (Government Notice No. R.877) are hereby repealed.

## CHAPTER 2: REGULATIONS ON ELECTRONIC-HAILING SERVICES

**Definitions for Chapter 2**

**11.** In this Chapter of these regulations, unless the context indicates otherwise, any word or expression to which a meaning has been assigned in the Act or in regulation 1, has the same meaning, and the following words and expressions have the meanings assigned to them:

"**agreement**" or **"e-hailing service agreement"** means the agreement between an operator and the e-hailing platform provider contemplated in regulation 16;

"**app**" or **"application"** means a technology-enabled application contemplated in section 66A(1)(a) of the Act;

**"child"** means a child as defined in the Children's Act, 2005 (Act 38 of 2005);

**"ECA"** means the Electronic Communications Act, 2005 (Act No. 36 of 2005);

**"e-hailing platform provider** or **"platform provider"** means a person who provides the application or any technology that is designed or used in enabling the e-hailing public transport service to be provided, including any or all of the value chain elements listed in regulation 16;

**"equipment"** means equipment as defined in the Type Approval Regulations, 2013;

**"identity card"** means an identity card as defined in the Identification Act, 1997 (Act No. 68 of 1997);

**"NPTR"** means the National Public Transport Regulator;

**"operator"** means a person who is a holder of an e-hailing service operating licence issued in accordance with section 66A of the Act read with these regulations;

**"RICA"** means the Regulation of Interception of Communications and Provision of Communication-Related Information Act, 2002 (Act No.70 of 2002), and

"**Type Approval Regulations, 2013**" means the Type Approval Regulations developed in terms of section 4(1) read with section 35 of the ECA promulgated in *Government Gazette* 36785 of 26 August 2013 under Notice 871.

**Application of Chapter 2** *[Section 66A(4)(a)(iv) of the Act]*

**12.** (1) The regulations in this Chapter apply to all processes contemplated in this Chapter as well as implementation of the provisions of section 66A of the Act.

(2) Operators of e-hailing services must obtain operating licences specific to e-hailing services in terms of section 66A of the Act and are entitled to such licences on proper application by the applicant in accordance with regulation 11 and granting of such licences by the appropriate regulatory entity.

**Requirements for e-hailing services** *[Section 66A(4)(a)(iv) of the Act]*

**13.** E-hailing services may only be provided where there is an e-hailing platform provider and an operating licence for the vehicle being used for the e-hailing service.

**Conversion of operating licences for e-hailing services issued prior to commencement of section 66A of the act** *[Section 8(1)(bba), 8(1A) and 66A(4)(a)(iv) of the Act]*

**14.** (1) All operators providing e-hailing services in terms of operating licences issued before the coming into operation of these regulations, regardless of how those services are described in such licences, must apply within 180 days of coming into effect of these regulations to the regulatory entity that issued the licence for conversion of the operating licence to an operating licence specific to e-hailing services in terms of sections 66A(4)(a)(iv) and 8(1)(bbA) of the Act read with these regulations.

(2) An application made in terms of sub-regulation (1) must be made on the form provided by the regulatory entity and must be accompanied by the applicable application fee.

(3) On receipt of an application in terms of sub-regulation (1) the regulatory entity must check that the application is compliant, that the licence held by the applicant is valid and that it applies to a vehicle that is acceptable for providing e-hailing services that has been issued with a valid and current roadworthy certificate as required by the National Road Traffic Act.

(4) On being satisfied that there is compliance with sub-regulation (3) the regulatory entity must issue an operating licence for the vehicle to the applicant specific to the e-hailing services and notify the applicant that the new licence is available for upliftment.

(5) The new operating licence must be uplifted by the applicant within 30 days of notification in terms of sub-regulation, (4) failing which the licence will lapse.

(6) While waiting for a new operating licence to be issued in terms of sub-regulation (1), the operator may continue to operate the services auhorised by the existing licence and must keep the receipt issued by the regulatory entity for the application in the vehicle as well as a certified copy of the operating licence that is to be converted, at all times while the e-hailing services are being provided.

(7) Where an operating licence is not submitted as required by sub-regulation (1) within the period mentioned therein, the relevant regulatory entity must cancel the operating licence.

(8) As from a date calculated as 180 days after the date of coming into operation of these regulations, no operator may operate e-hailing services using an operating licence that was issued before that date unless it has been reissued in terms of sub-regulation (1), and an operator who does so commits an offence.

**Requirements for an e-hailing application and e-hailing platform providers** *[Section 66A(4)(a)(i) of the Act]*

**15.** (1) The e-hailing application used for e-hailing services must be registered with and approved by the NPTR.

(2) An e-hailing platform provider must be a natural or juristic person with valid South African citizenship or permanent residence or be incorporated in terms of South African laws.

(3) All platform providers must apply for registration with the NPTR by completing the application form provided by the NPTR and providing the information required by it.

(4) On receiving an application under sub-regulation (3) the NPTR must register the platform provider if the application is compliant and the platform provider complies with regulation 17 and the requirements of the ECA and other applicable legislation, and has provided acceptable details of the premises contemplated in sub-regulation (5).

(5) An e-hailing platform provider must have physical premises in each city, town or rural area where it operates to enable operators and drivers to engage with it.

**Minimum specifications for e-hailing platform** *[Section 66A(4)(a)(i) of the Act]*

**16.** (1) The platform must have at least the following functionalities for the passenger:

(a) A user must be able to sign up with the e-hailing platform app.

(b) Provision for the creation of a trip request with end destination.

(c) Provision for section of a service including categories where the e-hailing platform management company provides for varying service offerings.

(d) The user must be able to check the price for the ride beforehand.

(e) Verification of the trip by the user, including confirmation of the data and the pickup location.

(f) The user must be able to interact with the driver after the driver has been allocated to the user.

(g) The user must be able to track the driver's movement before and during the journey.

(h) Provision for push notifications to keep the user up- to- date with the trip request status, driver arrival time, driver and car details.

(i) The user must be able to contact the driver through the app.

(j) The user must be able to book a trip in advance for a selected time of being picked up.

(k) The platform must enable a user to book the ride for another traveler from own account.

(l) Payment must be able to be done automatically after the ride is complete.

(m) The user must be able to select a payment method including adding a credit card or debit card beforehand, where they are the user choice of payment.

(n) The user must be able to review the driver when the trip is complete.

(o) The driver must be able to identify the user by means of a recent photograph of the user supplied to the driver by the App or by other means provided for by the platform provider.

(p) SOS buttons ("panic buttons") must be provided in case of emergency which are connected to relevant law enforcement agencies or private security service providers appointed by the platform provider, and are tested at least once a week to ensure that they are still functional.

(q) Panic buttons contemplated in sub-paragraph (p) must be capable of being accessed and used by passengers as well as by the driver of the vehicle.

(2) The platform must have at least the following functionalities for the driver:

(a) The platform must provide for the driver profile and status which must include−
  (i) a recent picture of the driver and details of his or her valid driving licence and professional driving permit, including expiry dates and
  (ii) the street address where the driver lives as well as the motor vehicle details,
(b) The driver profile and status must be entered and updated only by the platform administrator.
(c) The driver must be able to receive trip orders to accept or decline, including passenger information regarding the location and route.
(d) The platform must provide the driver with navigation and route optimisation that offers the best trip route option.
(e) There must be driver delivery reports that provide the driver with daily, weekly and monthly information regarding trips and earnings, where applicable.
(f) The driver must be able to send and receive messages to and from the passenger using the app.
(g) The app may also be capable of charging the user for waiting time starting from a defined parameter as additional cost on top of the base fare.
(h) The app must be able to provide the driver with a heat map that enables the driver to be aware of high demand areas.
(i) The driver must be able to accept another ride request while completing the current trip, and this capability must be able to be set on defined time parameters of completing the trip.

**Minimum requirements for e-hailing platform administration function** *[Section 66A(4)(a)(i)and (iv) of the Act]*

**17.** The e-hailing platform administration function must at least include the following:

(a) Appropriate and effective driver and user management;
(b) Location and fares management using the latest updated maps and satellite technology;
(c) Management of bookings by users;
(d) Vehicle management;
(e) Management of driver orders and payments to the driver;
(f) Management of notifications between the user and driver and between the driver and platform provider;
(g) Support to the driver and users by the platform provider;
(h) Management of payments from the user to the platform provider and from the platform provider to the operator;

(i) Passenger review management, and
(j) A help centre managed by the platform provider that is available to users at all times to report passenger experiences.

**E-hailing service agreements** *[Section 66A(4)(a)(iv) of the Act]*

**18.** The arrangement between the operator and the e-hailing platform provider must be reduced to writing and include at least the following:

(a) The legal names of the parties as reflected in the identity card or other identity document acceptable to the regulatory entity in the event of natural persons and names as reflected at the institution where the entity is registered in the event of a juristic person.

(b) The authorized representatives with their full details must be reflected in the event of juristic persons.

(c) The type of service and grade contracted for must be reflected in the agreement.

(d) The agreement must be conditional upon the operator obtaining an operating licence from the relevant regulatory entity authorizing the type of service agreed to between the parties, as required by section 50(1) of the Act.

(e) The operator must agree to be allowed access to the platform on providing proof of the operating licence and confirm to abide by the conditions of the operating licence.

(f) The agreement must provide that all the electronic equipment including a mobile phone to be used by the driver must be compliant with the requirement of RICA.

(g) Where the operator will not be driving the vehicle personally, the agreement must provide that the operator will introduce the driver to the platform who must meet all the requirements meant to be met in terms of these regulations for a driver to provide e-hailing services.

(h) The agreement must further provide that where the operator, the driver or the motor vehicle used for the service no longer comply with the requirements of the Act or these regulations or the agreement the service will be terminated subject to the platform provider giving notice for such to the regulatory entity that issued the operating licence for cancellation or amendment, as the case may be.

(i) The agreement must further require the operator to notify the relevant regulatory entity within 24 hours of termination of the e-hailing service agreement and hand over the operating licence to the regulatory entity.

**E-hailing platform provider requirements** *[Section 66A(4)(a)(iv) of the Act]*

**19.** (1) The e-hailing platform provider must meet all of the minimum requirements listed in regulation 13.

(2) All the equipment used by the e-hailing platform provider must have been type-approved in terms of the Type Approval Regulations, 2013.

(3) The e-hailing platform provider must comply with ICASA requirements with regard to being incorporated as a legal entity in terms of South African laws governing the corporate entity concerned.

(4) The relevant type approval certificates and proof of registration as a legal entity incorporated in South Africa must be provided to the relevant regulatory entity.

**Minimum safety requirements for e-hailing services**

**20.** (1) The regulatory entity receiving an application for an e-hailing operating licence must check, in addition to the requirements of the Act, the National Road Traffic Act and the National Land Transport Regulations, 2009, that−

(a) the motor vehicle to be used for the service is registered with the platform provider;
(b) the driver or drivers of the vehicle have been vetted by the platform provider;
(c) the driver or drivers, as the case may be, have signed a declaration stating that there are no pending criminal investigations against them in South African or in another country that may result in conviction for an offence by a court of law, where such offence could have a bearing on the provision by the driver of public transport services;
(d) the driver or drivers hold the driving licences and professional driving permits required by the National Road Traffic Act;
(e) the motor vehicle is fitted with an emergency button as required by regulation 20(1)(p);
(f) the App provides for identification of the user as contemplated in regulation 16(o), and
(g) the motor vehicle is marked with the names, street address and mobile telephone number of the proposed holder of the operating licence as well as the name of the platform provider.

(2) The driver must be able to refuse conveying the user if the driver suspects that the proposed user intends to rob or harm the driver or other users in any way.

**Requirements to be met for the e-hailing platform provider to grant access to use of its infrastructure and service** *[Section 66A(4)(a)(iv) of the Act]*

**21.** The e-hailing platform provider may only grant access to use of its infrastructure and services if the−

(a) mobile device operator is registered in the system as part of the agreement referred to in regulation 16.
(b) mobile device used is compliant with RICA and belongs to the registered driver or operator contracted to the e-hailing platform provider;
(c) mobile devices used by passengers to hail the service can be adequately accommodated to comply with the Act and these regulations;
(d) operator is the holder of an operating licence issued by the regulatory entity for the e-hailing service as required by the Act,
(e) the fares comply with any standards for interoperability between fare collection and ticketing systems set by the Minister in terms of section 5(5) of the Act and any requirements for integrated fare systems prescribed by the Minister in terms of section 8(1)(b) of the Act;
(f) the calculation of fares is compliant with any direction or requirement imposed in terms of the Economic Regulation of Transport Act, 20… (Act No. …. of 20….), and
(g) where the operator has categories of vehicles to provide different standards for passengers, the passengers must be provided the category of the service they ordered.

**Suspension or cancellation of access to e-hailing platform** *[Section 66A(4)(a)(iv) of the Act]*

**22.** (1) The e-hailing platform provider must suspend the operator and the operator’s drivers as soon as it becomes aware of non-compliance with the access conditions, subject to sub-regulation (3).

(2) Such a platform provider must give notice of such suspension and the reasons to the regulatory entity that issued an operating licence to the operator.

(3) The suspension notice to the operator must give timeframes of not more than 14 days for the operator to remedy the causes for the suspension failing which access will be cancelled.

(4) The e-hailing platform provider must give seven-days' notice to the regulatory entity that issued the operating licence of its intention to cancel the access of the operator.

(5) Where the operator has been suspended from accessing an e-hailing platform service, that operator must and cease to operate until access has been restored and must hand in his, her or its operating licence to the regulatory entity within seven days of the suspension for safekeeping until access has been restored.

**Use of more than one e-hailing platform provider** *[Section 66A(4)(a)(iv) of the Act]*

**23.** (1) An operator may have agreements with more than one e-hailing platform provider at the same time.

(2) In such a case the same process of getting the e-hailing platform provider approved by the NPTR must be followed.

(3) Each e-hailing platform provider to be used by an operator must be endorsed on the operating licence by the regulatory entity and within seven days of being endorsed by a new platform provider the operator must submit the operating licence for the vehicle concerned to the regulatory entity that issued them for such endorsement.

(4) While waiting for the operating licences to be endorsed in terms of sub-regulation (3), the operator may continue to operate the services and must keep the receipt issued by the regulatory entity for the endorsement in the vehicle as well as a certified copy of the operating licence relating to the vehicle.

(5) The operator must give notice of registering with another e-hailing platform provider to the current e-hailing platform provider or providers.

(6) Where simultaneous use of more than one e-hailing platform provider using the same equipment may interfere with the proper functioning of the existing e-hailing platform such additional platform provider is not allowed unless the operator terminates with the current provider and replaces it with the new one.

(7) In the event the operator terminates with the current e-hailing platform provider for the purposes of replacing that provider with a new one, the service is suspended until a new e-hailing platform provider has been approved and the operating licence is amended accordingly.

(8) Where an operator concludes an agreement with a new service provider, the operator must hand in the relevant operating licence to the regulatory entity within seven days for amendment of the licence and sub-regulation (4) will apply in such a case with the necessary changes.

**Minimum requirements for the regulatory entity to grant an e-hailing service operating licence** *[Section 66A(4)(a)(iv) of the Act]*

**24.** (1) An applicant applying for an e-hailing operating licence must complete the relevant form in terms of the National Land Transport Regulations, 2009.

(2) In addition to any other documents that may be required in terms of the National Land Transport Regulations, 2009, the applicant must ensure that the regulatory entity has been supplied with or is in possession of a copy of the terms and conditions imposed on the applicant by the platform provider, which must comply with the requirements listed in regulation 16.

(3) The applicant must also provide proof that the e-hailing platform provider is approved by the relevant regulatory entity for the purposes of being used for e-hailing services and must submit to the regulatory entity an approval letter issued by the platform provider certifying that the applicant has been approved for providing the relevant e-hailing services.

(4) The vehicle must be suitable for providing e-hailing services as public transport services for the conveyance of passengers in terms of vehicle type, age and any other condition considered relevant by the regulatory entity.

(5) Where the platform provider has categories of vehicles to provide different standards for passengers, the application for an operating licence must indicate that fact and the standards must be incorporated in the operating licence conditions.

(6) In imposing conditions applicable to the operating licence under section 57(5) of the Act the regulatory entity may specify that non-compliance with the conditions may lead to impoundment of the vehicle in terms of section 87 of the Act in the case of offences of a serious nature as determined by the entity.

**Minimum requirements for electronic equipment used for e-hailing services** *[Section 66A(4)(a)(i) of the Act]*

**25.** No equipment may be used in the e-hailing service provisioning by the e-hailing platform provider, operator or driver unless−

(a) it is type approved in terms of the Type Approval Regulations, 2013;.
(b) it is used in compliance with RICA;
(c) it is registered to the e-hailing platform provider, operator and driver;
(d) the registration for RICA compliance is done using the current identification and address of the person in whose name the equipment is being registered, and

(e) it is fully enabled to access and be used for all relevant services of the e-hailing platform provider.

**E-receipt for passengers** *[Section 66A(4)(a)(iv) of the Act]*

**26.** (1) The driver must issue every passenger using and paying for an e-hailing service with an electronic receipt.

(2) The electronic receipt must reflect at least the following details:

(a) The name and physical address of the operator;
(b) The registration number of the operator where it is a juristic person, otherwise the identity number if a natural person with South African identity document;
(c) Where the operator does not hold South African identification documents, the passport number and visa number of the operator;
(d) The e-hailing platform provider used for the service including its contact details;
(e) The amount paid for the ride;
(f) The date and time the receipt was issued corresponding with the time of the ride by the passenger;
(g) The name of the driver, and
(h) The make, model and registration numbers of the motor vehicle used for the ride.

(3) For the purposes of this regulation, issuing includes any form of electronic communication accessible to the passenger through which the electronic receipt may be received.

(4) An operator who fail to issue an electronic receipt for an e-hailing service that complies with this regulation commits an offence.

**Marking and branding of motor vehicles used for e-hailing services** *[Section 66A(4)(b) of the Act]*

**27.** (1) A motor vehicle used for an e-hailing service must be marked with full details of the operator on both sides of the front doors while providing the service.

(2) The marking must include the full names and physical address of the operator.

(3) The contact telephone or mobile phone number of the operator must be included in the details.

(4) The contact telephone or mobile phone number written on the motor vehicle must be in working order at all times when the service is provided.

(5) The contact telephone or mobile phone number may be that of a call centre used by the operator.

(6) The motor vehicles may be branded according to the operator's requirements or as agreed between the operator and e-hailing platform provider.

(7) A motor vehicle used for an e-hailing service may not be branded for other services than an e-hailing service while it is being used for an e-hailing service.

**Notices by regulatory entity to e-hailing platform provider** *[Section 66A(4)(a)(iv) of the Act]*

**28.** (1) The regulatory entity that approved an e-hailing platform provider may issue a notice to the e-hailing platform provider under the following circumstances:

(a) Requesting records pertaining to any operator licensed with that provider and using the e-hailing platform provider concerned;

(b) Requesting any other information or a response arising out of any inquiry where the e-hailing platform provider is involved;

(c) In the event of any contravention of the Act or these regulations or licensing conditions pertaining to an operator licensed using the e-hailing platform provider, or

(d) Any other matter that the regulatory entity considers relevant for the purposes of its powers and functions in terms of the Act.

(2) A platform provider who fails to comply with a request under sub-regulation (1) commits an offence.

**Transitional arrangements** *[Section 66A(4)(a)(iv) of the Act]*

**29.** (1) Any operating licence issued for e-hailing service before the coming into effect of these regulations remains valid subject to regulation 16.

(2) An application for an operating licence for an e-hailing service that is before a regulatory entity on coming into effect of these regulations must be finalized in compliance with these regulations.

(3) Any operator using an e-hailing platform that is not approved by the regulatory entity must apply to have such e-hailing platform provider approved, failing which that operator must apply to use an approved e-hailing platform provider.

## CHAPTER 3: REGULATIONS ON CONVERSION OF PERMITS AND INDEFINITE PERIOD OPERATING LICENCES TO OPERATING LICENCES REQUIRED BY THE ACT

**Definitions for Chapter 3** *[Section 47(7) of the Act]*

**30.** In this Chapter, unless the context indicates otherwise, any word or expression to which a meaning has been assigned in the Act or in regulation 1, has the same meaning, and the following words and expressions have the meanings assigned to them:

**"operating licence for conversion"** means an operating licence contemplated in section 47(1) of the Act that was issued in terms of the Transition Act for an indefinite period or a period exceeding seven years, and

**"permit"** means a permit as defined in the Act.

**Application of Chapter 3** *[Section 47(7) of the Act]*

**31.** This Chapter of these regulations applies to all holders of permits and operating licences for conversion, and to persons operating vehicles conveying passengers for reward without operating licences, where they are required to hold operating licences in terms of the Act.

**General conversion** *[Section 47(7) of the Act]*

**32.** (1) As required by section 47 of the Act, all holders of permits and operating licences for conversion must apply for conversion of such permits and operating licences to definite period operating licences, and must do so within 24 months of coming into operation of these regulations.

(2) Application for conversion must be made to the relevant regulatory entity by completing the form prescribed in the National Land Transport Regulations, 2009.

(3) The applicant for conversion must have been providing a service authorised by the permit or operating licence for conversion continuously for 180 days as required in terms of section 47(3) of the Act.

(4) The applicant must provide proof of having operated continuously as required by sub-regulation (3) to the satisfaction of the regulatory entity, as contemplated in sub-regulation (5).

(5) The manner of proving continuous operation for 180 days will be at the discretion of the regulatory entity to which the application is made and may include driver employment records and vehicle service records, bank statements showing regular money deposits, association subscription and membership fees or records or any other records that may, when collectively viewed, suggest sufficient proof that the services have been operated as required to qualify for conversion; Provided that the foregoing is not intended to be exhaustive and the different modes of public transport services may be able to provide proof differently based on how they operate.

(6) The permit or operating licence sought to be converted must be linked to a motor vehicle owned by the holder thereof as required by section 64(1) of the Act and have been used to provide the service authorised by such permit or licence for the minimum duration of 180 days prior to the application for conversion.

(7) A permit or operating licence that cannot be linked to a motor vehicle as required in terms of regulation (6) may not be converted to an operating licence.

**Legalisation of operators who do not hold permits or operating licences** *[Section 8(1)(bba) and 8(1A) of the Act]*

**33.** (1) Persons who have been operating public transport services without holding the required permit or operating licence and who qualify in terms of sub-regulation (4) may apply for operating licences to regularise the services they have been operating.

(2) The regulatory entities must issue invitations by a notice or notices in newspapers circulating in the relevant area and by placing notices at their offices and at appropriate public transport ranks or terminals for applications for those who have been operating without permits or operating licences as special applications in terms of this regulation.

(3) The invitations contemplated in sub-regulation (2) must be for a limited period of not more than 90 days for applicants to submit applications for operating licences.

(4) Applicants for legalisation in terms of this regulation must provide proof to the regulatory entity that they have been providing the relevant public transport

services for not less than 180 days prior to the application including details of the motor vehicle or vehicles registered in their names in terms of the National Road Traffic Act that have been used in the provision of the services.

(5) The information contemplated in regulation 30(5) may be provided as proof that the applicant has been operating as required by sub-regulation (4).

(6) The application must be processed as provided for in terms of the Act and the National Land Transport Regulations, 2009 for the type of service applied for.

(7) In the case of a minibus taxi-type service, application for legalisation may be made if the applicant is a member of an association that was provisionally or fully registered in terms of the Transition Act, and only for routes that were so registered.

(8) Operating licences may not be issued for minibus taxi-type services or vehicles who or which were previously refused consideration for operating licences by any regulatory entity or were blocked in any way in the past from applying and obtain operating licences for the relevant services they were rendering or the vehicles in question in terms of the special procedures for legalisation contemplated in section 41 of the Transition Act, or any similar process provided for in provincial legislation.

## CHAPTER 4: MORATORIUM ON OPERATING LICENCES FOR MINIBUS TAXI-TYPE SERVICES

**Imposition of a moratorium on applications for operating licences** *[Section 8(1A)(a) of the Act]*

**34.** (1)The planning authority intending to impose a moratorium on applications for operating licences or the issuing of operating licences in terms of section 39(1)(*b)* read with section 55(3) of the Act must−

(a) conduct a survey on the route targeted for the moratorium, which must include a list of all operators and vehicles using the route for minibus taxi-type services, details of operating licences authorizing such services on the route, a list of vehicles operating such services without operating licences, the names of associations of which the operators are members as well as any other relevant information that the planning authority may consider in compliance with the Act: Provided that such a survey is not necessary if the planning authority has a current ITP that includes already contains the required information;
(b) compile a list of operators that are lawfully operating on the route as well as the association that is legally registered to operate the route;

(c) consult with the operators, associations representing legal operators, the MEC and the regulatory authority responsible for issuing operating licences for the route;
(d) comply with all the local government legislation, to the extent required in arriving at and taking a decision to declare a moratorium;
(e) request the assistance of the MEC or the Minister where it has identified the need for a moratorium but does not have the relevant ITP or funds to conduct a survey in terms of paragraph (a) above, and
(f) after consultation in terms of paragraph (c) make a decision that must be communicated to all the consulted stakeholders by written correspondence or through a notice in the *Gazette*.

(2) The planning authorities in a province may enter into an agreement with the province in terms of section 12(1) of the Act to provide for the provincial declaration of moratoria.

(3) Where the province takes responsibility to declare a moratorium as contemplated in sub-regulation (2), the surveys and consultation processes must be conducted by the province on behalf of the planning authorities who are parties to the section 12(1) agreement.

(4) The moratorium may be declared for a definite period of not more than two years at a time.

(5) The declared moratorium may be extended once without following the process provided for in sub-regulation (1)(a), whereafter the survey and consultations must be conducted for further extension of the moratorium.

**Effect of the moratorium on pending applications** *[Section 8(1A)(a) of the Act]*

**35.** (1) Where the imposed moratorium is on applications for operating licences and the issuing of such licences, the pending applications may be processed by the regulatory entity but the operating licences may not be issued during the period of the moratorium.

(2) Where the imposed moratorium is only for applications for operating licences, the applications that are already in the process with the regulatory entity may continue being finalised in compliance with the Act and the regulations.

**Invitation for new applications for operating licences under special circumstances** *[Section 8(1A)(a) of the Act]*

**36.**(1) Despite the existence of a moratorium, the planning authority may invite applications for new operating licences where new developments or other changed circumstances require public transport services during the course of the moratorium.

(2) The areas for which an invitation contemplated in sub-regulation (1) applies must be outside the surveyed area or areas covered by the relevant information in the ITP or ITPs used to justify the moratorium.

## CHAPTER 5: GENERAL PROVISIONS

**Rationalising services** *[Section 39(1)(a) of the Act]*

**37.** In rationalising services on a route in terms of section 39 of the Act the planning authority must−

(a) conduct a survey on the route to compile a list, insofar as possible, of operators providing services on the route, and a list of the associations that represent those operators, if this information is not already available from the relevant ITP or ITPs;

(b) identify and make a list of organisations representing passengers being conveyed on the route, including those representing targeted categories of passengers;

(c) consult with the operators, associations and organisations identified and listed under paragraphs (a) and (b) on the proposed rationalisation;

(d) liaise with and, where appropriate, conclude an agreement with law enforcement authorities in terms of section 85(2) of the Act to identify and prosecute operators using the route without the required operating licences or permits, or contrary to the conditions of those licences or permits, and to take steps in consultation with the relevant PRE to ensure that the operators either obtain the necessary licences or cease operating on the route, and

(e) as appropriate direct the PRE to impose a moratorium on new applications for operating licences on the route in terms of section 55(3) of the Act.

**Offences and penalties** *[Section 8(3) of the Act]*

**38.** In addition to the offences provided for in sections 66A(7) and (8) and section 90 of the Act, a person who contravenes a provision of these regulations commits and offence and is liable on conviction to a fine not exceeding R20 000 in the case of an operator or driver and R100 000 in the case of an e-hailing platform provider.

**Short title and commencement**

**39.** (1) These regulations are called the Second National Land Transport Regulations, 2023 and come into operation on the date of their publication in the *Gazette*.

(2) Different provisions of these regulations may be brought into operation on different dates.