

**DRAFT**

**14<sup>th</sup> September 2013**

**LEGAL NOTICE NO.....**

**The National Transport and Safety Authority Act, 2012**

*(No.33 of 2012)*

**IN EXERCISE** of the powers conferred by section 54 of the National Transport and Safety Authority Act, 2012 the Cabinet Secretary for Transport and Infrastructure makes the following Regulations -

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

Citation                    **1.** These Regulations may be cited as the National Transport and Safety Authority (Operation of Public Service Vehicles) Regulations, 2013.

Interpretation           **2.** In these Regulations, except where the context otherwise requires -

No. 33 of 2012        "Act" means the National Transport and Safety Authority Act, 2012;  
                                 "Authority" means the National Transport and Safety Authority established under section 3 of the Act;  
                                 "Cabinet Secretary" means the Cabinet Secretary for the time being responsible for matters relating to transport;  
                                 "Corporate body" means a body registered under the laws of Kenya with corporate status includes a company, a cooperative society, and a non-governmental organization.  
                                 "Licence" means a licence issued by the Authority under the Act to operate a public service vehicle and "licensee" shall bear a corresponding meaning;  
                                 "Long Distance Passenger services" means a service offered to passengers travelling beyond a distance of 50 kilometres from the point of embarkment to disembarkment.  
                                 "Night time" means the times between 6.00 pm and 6.00 am the day following.  
                                 "Owner" means the corporate body in whose name the public service vehicle is registered;  
                                 "Operator" means the corporate body with operational responsibility over the public service vehicle on a day to day basis either as the 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" or "PSV" means public service vehicle as defined in the Traffic Act, Chapter 403.  
                                 "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.

Application of  
the Regulations

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

PSVs to be licenced.

**4** A person shall not operate a public service vehicle unless there is in place a valid licence issued by the Authority authorizing the use of that vehicle as a public service vehicle for the duration in question.

Only corporations  
to apply

**5** A vehicle shall not be licenced as a public service vehicle unless the owner or operator of the vehicle is a corporate body whose principal objective is the operation of public service vehicles and which meets minimum conditions prescribed by the Authority.

Conditions to be  
met by corporate bodies

**6.** A corporate body desirous of operating public service vehicles shall meet the following minimum conditions:

- (a) Be the registered owner of a minimum of 30 serviceable vehicles licensed as public service vehicles or in respect to which an application for a licence has been or is to be lodged with the Authority; or
- (b) Where it is an operator of vehicles none of which it is the registered owner, have a minimum of 25 serviceable vehicles which it has assumed the responsibility to operate pursuant to contracts or franchise agreements with the registered owners.
- (c) Have in its employment a staff complement which must include at a minimum a driver in respect to each public service vehicle, and inspectors for each route on which the public service vehicle is intended to operate; an office manager, an accounts clerk and a qualified mechanic or a contract under which the services of a mechanic are outsourced.
- (d) Have in place a Code of Conduct approved by the Authority governing its employees, agents and sub-contractors;
- (e) Have a management system including a customer complaints handling system;
- (f) Comply with labour laws and regulations including in respect to statutory deductions, health and safety of the workplace, Work Injuries Benefits Act insurance, statutory leave days and written contracts of employment for staff;

Documents to be submitted

with the application

**7.** A corporate body desirous of applying for a licence for a public service vehicle shall submit to the Authority in support of its application:

- (a) Its certificate of registration as a company under the Companies Act, Chapter 486 or a cooperative society under the Cooperative Societies Act Chapter 490.
- (b) List of directors and senior managers of the corporate body;
- (c) A lease or certificate of ownership of the office from which it is operating or intends to operate;

- (d) Where the vehicle was previously licensed to an operator other than the operator applying for its licensing, a letter of no objection issued by that other operator;
- (e) An inventory of the facilities and equipment available to it for the operation of the public service vehicle;
- (f) A list of the staff it has in its employment, their job descriptions and qualifications;
- (g) Contracts for the driver or drivers of the public service vehicles in respect to which the application for the licence is being made;
- (h) The driving licence, copy of identity card certified to be true, passport size photograph and certificate of good conduct of the driver or drivers who will be in charge of the public service vehicle in respect to which the application for the licence is being made;
- (i) Audited accounts in respect of the immediately preceding financial year;
- (j) A valid certificate of roadworthiness of the vehicle in respect to which an application is being made issued by the Authority;
- (k) A 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 operator or intended operator of the vehicle;
- (l) Copies certified to be true of current third party insurance with an insurer which meets minimum conditions prescribed by the Authority
- (m) The proposed route to be serviced by the public service vehicle and the timetable of the services to be provided with an indication of the proposed departure and arrival times and intended stops and pick up points.
- (n) The proposed fare and tariff structure showing charges for off peak and peak times;
- (o) A PIN certificate; and
- (p) A tax compliance certificate issued by the Kenya Revenue Authority;
- (q) A statement as to whether the public service vehicle is to be used to provide long distance passenger services.

Operation of PSV vehicles

- 8. The operator of licensed public service vehicles shall:**
- (a) Display on the vehicle a sticker as an identification mark approved by the Authority;
  - (b) adhere to the approved schedule or timetable and route;
  - (c) Ensure that passengers are treated with courtesy and respect;
  - (d) Ensure that passengers are issued with tickets and or receipts for fare paid;
  - (e) with effect from 1<sup>st</sup> July, 2014 all PSV Operators licensed under these regulations will be required to implement and operate a cashless payment system for all fares;
  - (f) Ensure that its drivers obey traffic laws and regulations;
  - (g) Report accidents immediately to the relevant authorities
  - (h) Every seven days inspect the vehicle for mechanical and other defects according to a check list drawn up by a qualified

mechanic which shall cover at a minimum tyres, lights, safety belts, brake system for warning horn, wipers, record the defects identified and action taken to rectify the defects.

Reporting and  
Records

**9.** The operator of a public service vehicle shall submit a report to the Authority on a quarterly basis with particulars of:

- (a) number of accidents involving vehicles it is operating with particulars of the cause of the accidents;
- (b) number of passenger complaints received and action taken in respect to each complaint;
- (c) particulars of members who have ceased to be members, if any, the vehicles added or removed from the list of vehicles operated or owned by the operator and drivers who have ceased to be employees and the reasons; and
- (d) any traffic offences and penalties imposed against it.
- (e) the operators of a PSV shall maintain records pertaining to these regulations for at least 24 months.

Long distance  
Passenger PSVs

**10.** A person shall not operate a vehicle for long distance passenger public services unless the vehicle has in place a valid licence issued by the Authority in respect to the long distance passenger services.

Long distance passenger  
service licence

**11.** A long distance passenger service shall state whether the service may be offered during the day only or during either the day or during both daytime and night time.

Conditions for nighttime  
long distance passenger  
services

- 12.**(1) The operator of a nighttime long distance passenger service shall;
- (a) Employ drivers certified by the Authority to drive on the particular route at night time;
  - (b) Ensure that no driver driving a long distance passenger public service vehicle drives for a period longer **than four hours per night shift** without taking minimum break of four hours.
  - (c) Ensure that there are at least two qualified drivers on the vehicle to drive in turns during the night journey.
  - (d) Ensure that there is a mandatory stop of at least 30 minutes for every 4 hours driven to enable passengers and the drivers to refresh;
  - (e) Ensure that it has in place a fleet management system capable of recording speed and location of the vehicle at any one time;
  - (f) Store data on vehicle speed and operation for a period of thirty days which data shall be accessible to the Authority during that period;
  - (g) Ensure that a passenger manifest is taken and maintained before the commencement of each journey.
  - (h) Operate a control centre;
  - (i) Ensure that the vehicle does not operate as a cargo carrier and does not have a cargo carrier mounted on the roof;
  - (j) Have in place or subscribe to an accident and emergency mutual aid system.

Insurance

**13.** A person desirous of providing insurance to licensed public service vehicles shall comply with the following minimum conditions:

- (a) Be licensed by the Insurance Regulatory Authority under the Insurance Act, to provide that category of insurance;
- (b) Submit to the Authority particulars of its shareholders and directors, a declaration as to whether and the extent of their investment in the ownership or operation of public service vehicles, a report on claims made in respect to incidents involving public service vehicles and compensation paid in the immediately preceding year.
- (c) Submit 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 appeal to the Transport Licensing Appeal Board established under section 39 of the Act.

Offences and penalties

**15.**A person who fails to comply with any provision of these Regulations commits an offence and in addition to any other penalties available under law shall on conviction shall be liable to a fine of not less than One Hundred Thousand Shillings (Kshs 100,000) or to imprisonment for a term not exceeding one year.

Dated the ..... 2013.

**ENG M. S. M. KAMAU**  
**CABINET SECRETARY FOR TRANSPORT AND INFRASTRUCTURE**