

@DDLPS

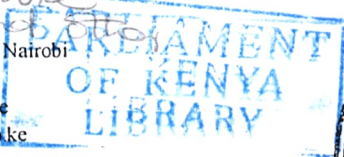


(3) Mr. Anger  
As schedule for  
tabling by the  
Chair of Session  
Committee on  
delegated  
legislation

Please check if there  
are any legal  
statutory provisions  
relating to the  
legal notices  
Prepare schedule  
for tabling and  
action

MINISTRY OF TRANSPORT & INFRASTRUCTURE  
STATE DEPARTMENT OF TRANSPORT  
OFFICE OF THE PRINCIPAL SECRETARY

Telegrams: "TRANSCOMS", Nairobi  
Telephone: 2729200  
Email: ps@transport.go.ke  
Website: www.transport.go.ke



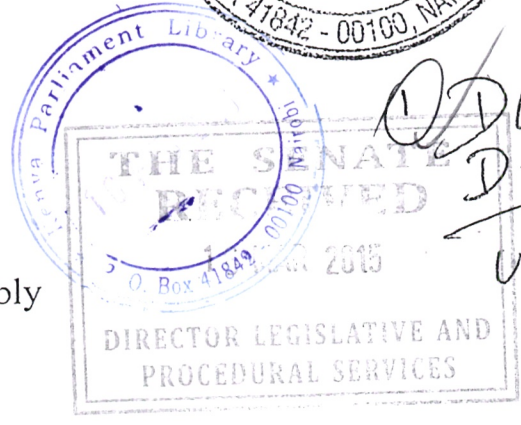
\* Check what  
required from  
TRANSCOM HOUSE  
NGONG ROAD  
P. O. Box 52692-00200  
NAIROBI, KENYA  
the Senate  
plus final  
res. 16/3/15

11<sup>th</sup> March, 2015

MOT&I/C/ RDT/019. VOL. II (23)

Mr. J. M. Nyegenye  
Clerk of the Senate  
Parliament buildings  
NAIROBI

Mr. Justin N. Bundi  
Clerk of the National Assembly  
Parliament Buildings  
NAIROBI



DDLPS  
D-Committee  
urgently deal.  
13/03/15  
Paper laid.  
17/03/15  
Samuel

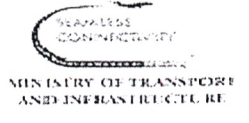
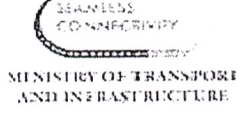
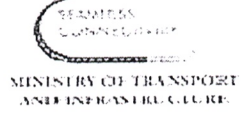
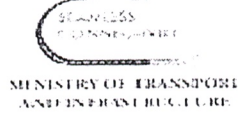
Dear Sir,

SUBMISSION OF EXPLANATORY MEMORANDA FOR:

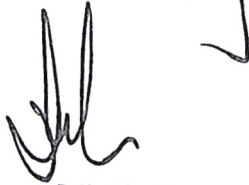
- 1) LEGAL NOTICE NO. 19 OPERATION OF MOTORCYCLES REGULATIONS 2015
- 2) LEGAL NOTICE NO. 19 OPERATION OF TOURIST SERVICE VEHICLES
- 3) LEGAL NOTICE NO. 11 - THE TRAFFIC (AMMENDMENT) RULES, 2015

Reference is made to the above regulations published by the Government Printer on 6<sup>th</sup> March, 2014 for items 1 and 2 above and 9<sup>th</sup> March, 2015 for item 3.

Find enclosed copies of the regulations and their respective explanatory memoranda to be laid before the two houses of Parliament within seven (7) days of publication as required by the law.



Kindly take the necessary action.

Yours *Sincerely*  


**Nduva Muli, EBS**  
**PRINCIPAL SECRETARY**

Encls.

Copy to: **Eng. M. S. M. Kamau, CBS**  
Cabinet Secretary  
**NAIROBI**

**Hon. Aden Duale**  
Leader of Majority in the National Assembly  
Parliament Building  
**NAIROBI**

**Prof. Kithure Kindiki**  
Leader of Majority in the Senate  
Parliament  
**NAIROBI**

**Hon. Maina Kamanda**  
Chairman  
Transport, Public Works and Housing  
**NAIROBI**

**Hon. Abu Chiaba**  
Chairman Senate Committee on Roads & Transport  
Parliament Building  
**NAIROBI**

## EXPLANATORY MEMORANDUM

### EXPLANATORY MEMORANDUM TO THE NATIONAL TRANSPORT AND SAFETY AUTHORITY (OPERATION OF MOTORCYCLES) REGULATIONS, 2014

#### PART I

**Name of the Statutory Instrument:** The National Transport and Safety Authority (Operation of Motorcycles) Regulations, 2014.

**Name of the Parent Act:** The National Transport and Safety Authority Act.

**Enacted Pursuant to:** Section 54 of the National Transport and Safety Authority Act.

**Name of the Ministry/ Department:** Ministry of Transport and Infrastructure and the National Transport and Safety Authority.

**Gazetted on** 6<sup>th</sup> March 2015

**Tabled on** 10<sup>th</sup> March 2015



#### PART II

##### 1. Purpose of the Statutory instrument

To regulate the motorcycle transport sector and in particular motorcycle taxis popularly known as boda boda and three wheeled motorcycles popularly known as tuk tuks.

##### 2. Legislative Context

The statutory instrument in question is an amendment of the National Transport and Safety Authority (Operation of Motorcycles) Regulations to provide a legal framework in which two wheeled and three wheeled motorcycle taxis will operate in public roads to promote road safety. The amendment provides for the registration and areas of operation of motorcycle taxis. It also provides for the protective gear required for riders and passengers and the responsibilities of riders, passengers and owners of motorcycle taxis. In addition, it provides the requirement of a person engaging in motorcycle taxis services to be a member of a body corporate which will promote self-regulation in the industry.

### **3. Policy Background**

#### **◦ What is being done and why**

3.1 The key policy objective of the NTSA Act is to ensure road safety and a sustainable and well organized road transport system. This will entail the formulation and enforcement of regulations covering the different modes of road transport including motorcycles. This instrument promotes road safety by providing guidelines on how motorcycles shall operate including the safe transportation of passengers. The instrument also seeks to promote the creation of employment at the same time by clearly providing the qualifications and requirements of riders.

Currently the operation of motorcycles is unregulated which has led to an increase in the number of fatalities involving motorcycle riders and their passengers. Also a number of criminal activities have been associated with them. In order to address this challenge there is need to have a legal instrument that regulates this sector hence this regulation.

The regulations also encourage self regulation by formation of Saccos or companies through which the motorcycle operators will exercise control over their members.

### **4. Consultation outcome**

4.1 The Ministry and the National Transport and Safety Authority held various consultations with the stakeholders including but not limited to motorcycle associations, motorcycle assemblers, the parliamentary committee on transport, public works and housing, manufacturers and the general public over a period of 2 -3 months.

From these consultations, majority of the respondents, at least 80% were concerned with the restriction of motorcycle taxis from the central business districts and towns of Kenya. Following these responses, the Ministry and Authority responded to these opinions by amending the regulations to empower the Authority and relevant County governments to agree on the areas and hours of operation of the motorcycle taxis.

### **5. Guidance**

5.1 The Ministry and National Transport and Safety Authority intends to embark on awareness campaigns throughout the country targeting motorcycle operators

and their users in order to explain and promote the regulations. This will be done through engagement in the media and holding of forums. Further the Ministry and Authority have partnered with the motorcycle assemblers and manufacturers to produce a pictorial handbook explaining the regulations.

## **6. Impact**

6.1 The amendment shall have no fundamental effect to the rights and freedoms.

6.2 The amendment will lead to creation of informal employment

## **7. Monitoring and review**

7.1 The success criteria of this amendment will be a reduction in fatalities arising from motorcycles by at least 20% in the course of the next three years.

## **8. Contact**

8.1 Francis Meja, Director General NTSA.  
[Francis.meja@ntsa.go.ke](mailto:Francis.meja@ntsa.go.ke)  
0720 2395838

## EXPLANATORY MEMORANDUM

### EXPLANATORY MEMORANDUM TO THE NATIONAL TRANSPORT AND SAFETY AUTHORITY (OPERATION OF TOURIST SERVICE VEHICLES) REGULATIONS, 2015

#### PART I

**Name of the Statutory Instrument:** The National Transport and Safety Authority (Operation of Tourist Service Vehicles) Regulations, 2015.

**Name of the Parent Act:** The National Transport and Safety Authority Act.

**Enacted Pursuant to:** Section 54 of the National Transport and Safety Authority Act.

**Name of the Ministry/ Department:** Ministry of Transport and Infrastructure and the National Transport and Safety Authority.

*Gazetted on 6<sup>th</sup> March 2015*

Tabled on 9<sup>th</sup> March 2015

#### PART II

##### 1. Purpose of the statutory instrument

To regulate the operations of vehicles involved in the carriage of both local and international tourists by setting out minimum standards for their operations.

##### 2. Legislative Context

The Tourism sector plays a major role in Kenya's economic growth, contributing approximately 11% of GDP. The Sector is highly labour intensive and also has several backward and forward linkages, with extensive multiple ripple effects, in various economic activities including transportation of passenger. While the National Transport and Safety Authority Act currently provides for a "Tourist License" this should be extended to gazetting of a new category of vehicle namely the Tourist Service Vehicle (TSV) as envisaged under the Tourism Act 2011.

##### 3. Policy Background

• What is being done and why

3.1 The Tourism Industry requires to remain competitive with respect to key competing destinations both regionally and beyond. Tourist transportation is one key area where there is dire need for intervention in terms of the regulatory framework and standards of the product. Introducing a dedicated Tourist Service Vehicle category will be the first major step towards addressing existing concerns in the sector.

In earlier attempts to address the problem of "illegal" tour operations, the Ministry of Tourism gazetted a "Tourist Vehicle Sticker" designed to easily identify registered and licensed tour operators. This followed concerns raised that "matatus" were being used to ferry tourist into National Parks and Reserves which in addition to violating the Tourism Industry Licensing Act also served to lower tour guiding standards. This ended up giving Kenya a bad image internationally. While this sticker partly succeeded in reducing the incidence of illegal operations, there is need to go a step further and develop measures that create an enabling environment for growth in this important sector.

Introducing a TSV category would have the following benefits: -

1. Easier detection of illegal operators especially to the Parks and Reserves and Airports.
2. Development and maintenance of high standards in the tour industry
3. Easier administration of the various laws and regulations by allowing clear distinction between mainstream PSV and tourist vehicles.

#### **4. Consultation outcome**

4.1 The Ministry and the National Transport and Safety Authority held various consultations with the stakeholders including but not limited to tourist associations, operators, the national parliamentary committee on transport and the general public over a period of 2 -3 months.

From these consultants, a vast majority of the respondents, at least 98% supported the introduction of these regulations.

#### **5. Guidance**

5.1 The Ministry and National Transport and Safety Authority intend to embark on engage tourist operators through educative forums. Further the Authority has being in engagement with the Kenya Association of Tourist Operators (KATO) who have being educating their members on the regulation.

#### **6. Impact**

6.1 The amendment shall have no fundamental effect to the rights and freedoms.

6.2 The amendment will uplift the standards of tourist service operators.

## 7. Monitoring and review

7.1 The success criteria of this regulation will be measured by the increased detection of "illegal" operators and especially those going to the Parks and Reserves as well as the Airports.

## 8. Contact

8.1 Francis Meja, Director General NTSA.

[Francis.meja@ntsa.go.ke](mailto:Francis.meja@ntsa.go.ke)

0720 2395838



## EXPLANATORY MEMORANDUM

### EXPLANATORY MEMORANDUM TO THE TRAFFIC (AMENDMENT) RULES 2014

**Name of the Statutory Instrument:** The Traffic (Amendment) Rules 2014

**Name of the Parent Act:** The Traffic Act

**Enacted Pursuant to:** Section 119 (1) (c) of The Traffic Act.

**Name of the Ministry/ Department:** Ministry of Transport and Infrastructure/ State Department of Transport.

**Gazetted on** 30<sup>th</sup> January 2015

**Tabled on**

#### PART II

##### 1. Purpose of the Statutory instrument

To permit and create provisions for standing passengers in high capacity public service vehicles in major towns.

##### 2. Legislative Context

The statutory instrument in question is an amendment of the Traffic Rules to give provisions for standing of passengers in high capacity public service vehicles. The Traffic Rules currently give provisions for seating passengers in Public Service Vehicles and thus the need to include a provision for standing passengers in high capacity public service vehicles which can carry up to 100 passengers.

##### 3. Policy Background

3.1 The Integrated National Transport Policy advocates for the use of high capacity public service vehicles in major towns to help reduce congestion on roads.

3.2 The department intends to consolidate the relevant legislation before the end of the year to accommodate for subsequent amendments if any.

#### **4. Consultation outcome**

4.1 Stakeholders from the Public Service Vehicles Industry have severally petitioned the Ministry of Transport to allow standing passengers in high capacity public service vehicles. This resulted in several consultative forums to chart the way forward to address the issue of standing passengers in high capacity public service vehicles. Moreover these consultations led to the development of Passenger Body Vehicle Construction Specification Standards KS.372.2014.

5.1 The Ministry of Transport and Infrastructure intends to sensitize stakeholders on the importance of high capacity vehicles with provision for standing passengers in major towns to reduce congestions.

#### **6. Impact**

6.1 The amendment shall have no fundamental effect to the rights and freedoms.

6.2 The amendment will lead to the reduction of the operational costs for public service vehicles in major towns where there are traffic jams as the high capacity service vehicles will carry many passengers and as a result less vehicles on the road.

#### **7. Monitoring and review**

7.1 The success criteria of this amendment will be an increase in business opportunities and revenue for Public Service Vehicle operators as the cost in operations will reduce because the high capacity public service vehicles will carry many passengers and there will be no need of operating several smaller vehicles to carry many passengers. The congestion on the roads will also reduce significantly when the number of smaller Public Service Vehicles reduce on the roads.

8.1 Francis Meja, Director General NTSA.

[Francis.meja@ntsa.go.ke](mailto:Francis.meja@ntsa.go.ke)

0720 2395838

LEGAL NOTICE NO. 11

THE TRAFFIC ACT

(Cap. 403)

IN EXERCISE of the powers conferred by section 119 (1) (c) of the Traffic Act, the Cabinet Secretary for Transport and Infrastructure makes the following Rules—

THE TRAFFIC (AMENDMENT) RULES, 2015

1. These Rules may be cited as the Traffic (Amendment) Rules, 2015. Citation.
2. The Traffic Rules are amended by inserting the following new rule immediately after rule 86 — Sub-Leg

Licensing of public service vehicles carrying both seating and standing passengers.

86A. (1) The Authority shall licence public service vehicles which shall carry both sitting and standing passengers.

- (2) Public service vehicles licensed to carry both sitting and standing passengers shall only operate on commuter service routes determined by the Authority.
- (3) The Authority shall not issue a licence to a public service vehicle to carry sitting and standing passengers unless the public service vehicle conforms to the prescribed construction standard of KS 372:2014.
- (4) The licence issued by the Authority to a public service vehicle to carry both sitting and standing passengers shall indicate the maximum number of standing passengers.
- (5) The public service vehicle licence issued under this rule shall have a system that will reconcile the total number of passengers on board at all times while in operation.
- (6) The number of passengers on board shall be displayed on a real time basis on an electronic screen on the front and rear of the vehicle.

- (7) Public service vehicles licensed to carry sitting and standing passengers shall have all its doors closed at all times when the vehicle is in motion.
- (8) Standing passengers in a public service vehicle licensed under this rule shall not be subject to the provisions of rule 22A.
- (9) An operator of a public service vehicle licensed under this rule shall not cause or permit that public service vehicle to carry more persons than it is licensed to carry, whether seated or standing.
- (10) An operator who contravenes the provisions of paragraph (9) commits an offence and shall be liable upon conviction—
- (a) for a first offence, to a fine of five thousand shillings for each passenger in excess of the licensed capacity;
  - (b) for a second and subsequent offence, to revocation or suspension of the licence by the Authority.
- (11) An operator of a public service vehicle licensed to carry sitting and standing passengers who contravenes or fails to comply with any other prescribed conditions under this rule relating to the licence shall be liable, upon conviction—
- (a) for a first time offence, to a fine of twenty thousand shillings;
  - (b) for a second and subsequent offence, to revocation or suspension of the licence by the Authority.
- (12) For the purposes of this rule an "operator" means the owner, driver or the conductor of the licensed public service vehicle under this rule.

Dated the 19th January, 2015.

M. S. M. KAMAU,  
*Cabinet Secretary for Transport and Infrastructure.*

(Legislative Supplement No. 11)

LEGAL NOTICE NO. 19

## 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 MOTORCYCLES) REGULATIONS, 2015

1. (1) These Regulations may be cited as the National Transport and Safety Authority (Operation of Motorcycles) Regulations, 2015 and shall come into force upon publication in the Gazette.

Citation and  
commencement.

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

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

Interpretation.

“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” has the meaning assigned to it under the Act;

“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;

Cap 486.

“licence” means a driving licence issued by the Authority under the Act;

Cap 490.

“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 un laden 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.

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

Application of the Regulations.

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

Protective Gear.

(a) two helmets which comply with the standards established by the Kenya Bureau of Standards and which shall have the registration number indelibly printed in letters not less than three inches in height on both sides of the helmet:

(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.

5. Every owner of a two wheeled motorcycle shall—

Responsibilities of Owners.

(a) provide the rider and passenger with the protective gear stipulated in regulation 4 (1):

(b) ensure that the helmets provided under (a) are yellow if the two wheeled motorcycle is a taxi:

(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.

6. Every rider of a motorcycle shall—

Responsibilities of a Rider

- (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. (1) Every passenger in a motorcycle shall—

Responsibilities of a Passenger.

- (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.

Carriage of Loads

8. (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 sub-regulation (3) may be carried together with the passenger provided the luggage is properly secured between the rider and the passenger.

9. (1) Any person engaging in business of motorcycle taxis services shall be a member of a body corporate which shall have a minimum of one hundred motorcycle taxis.

Membership in a body corporate.

(2) For two wheeler motorcycle taxis, the name of the group or sacco which they are members of must be indelibly printed in letters not less than four inches in height on the back of both jackets.

10. 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 a 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

Requirements for operation of three wheeled motorcycle taxi.



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. Every owner of a three wheeled motorcycle taxi shall—

Responsibility of owners.

- (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 motorcycle;
- (b) ensure that all three wheeled motorcycle taxi owned have at the minimum a Third Party Public Service Vehicle Insurance.

12. Every rider of a three wheeled motorcycle shall—

Responsibilities of a Rider.

- (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 vehicle being overtaken;
- (f) observe traffic lights;
- (g) not ride or operate a motorcycle between lanes of traffic or between adjacent lines or rows of vehicles;
- (h) keep the seat belts in a clean, dry and generally wearable condition;
- (i) observe all traffic rules.

13. Every passenger in a three wheeled motorcycle shall—

Responsibilities of a Passenger.

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

Areas of operation.

- (a) the areas of operation of motorcycle taxis;

(b) the hours of operation of motorcycle taxis.

15. A person who contravenes any provision of these Regulations and whose penalty is not provided for in the Traffic Act, 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.

Offences and penalties.  
Cap 403.

16. Regulation 25A of Legal Notice 173 is revoked.

Repeal.

Made on the 5th February, 2015.

MICHAEL S.M. KAMAU,  
*Cabinet Secretary for Transport and infrastructure.*

#### LEGAL NOTICE NO. 20

### 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 TOURIST SERVICE VEHICLES) REGULATIONS, 2015

1. These Regulations may be cited as the National Transport and Safety Authority (Operation of Tourist Service Vehicles) Regulations, 2015 and shall come into force upon publication in the Gazette.

Citation.

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

Interpretation.

“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;

“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;

Cap 486.

Cap 490.

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

4. (1) A person shall not operate a tourist service vehicle without a valid license issued by the Authority. Tourist Service Vehicles to be Licensed.

(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. (1) A person desirous of operating tourist service vehicles shall — Conditions to be met by applicants.

- (a) have a valid tour operators license issued by the Tourism Regulatory Authority;
- (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, 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. No. 13 of 2007

6. 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, or a cooperative society under the Cooperative Societies Act;
- (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.

Documents to be submitted with the application.

Cap 486.

Cap 490.

7. (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;

Operation of Tourist Service Vehicles.

(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. (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 driver license for that category of vehicle.

9. 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 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. 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. (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;

(c) where it deems necessary order that all vehicles belonging a Company be subjected to inspection.

Driver of Tourist  
Service Vehicle.

Insurance.

Cap 487.

Appeals.

Offences and  
penalties.

Cap 487.

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

Application of Legal Notice 217 of 2013.

Made on the 5th February, 2015.

MICHAEL S.M. KAMAU,  
*Cabinet Secretary for Transport and infrastructure.*

LEGAL NOTICE NO. 21

THE EXPORT PROCESSING ZONES ACT

(Cap. 517)

DECLARATION OF EXPORT PROCESSING ZONE

IN EXERCISE of the powers conferred by section 15 (1) of the Export Processing Zones Act, the Cabinet Secretary for Industrialization and Enterprise Development declares the land parcel specified in the Schedule hereto to be an Export Processing Zone.

SCHEDULE

All that piece of land being subdivision No. MN/IV/1365 measuring approximately 1.429 hectares or thereabouts situated North of Mtwapa Creek in Kilifi County.

Dated the 10th February, 2015.

ADAN MOHAMED,  
*Cabinet Secretary for Industrialization and Enterprise Development.*

LEGAL NOTICE NO. 22

THE LABOUR RELATIONS ACT

(No. 14 of 2007)

IN EXERCISE of the powers conferred by section 49 (1) of the Labour Relations Act, 2007, the Cabinet Secretary for Labour, Social Security and Services makes the following Order:—

THE UNION OF KENYA CIVIL SERVANTS (DEDUCTION OF AGENCY FEES) ORDER, 2015

1. This Order may be cited as the Union of Kenya Civil Servants (Deduction of Agency Fees) Order, 2015.
2. Every employer shall—
  - (a) deduct on a monthly basis, the sum specified in the Schedule in respect of each unionsable employee who is not a member of the Union of Kenya Civil Servants but is benefiting from the Collective Bargaining Agreement signed between the Government of Kenya and the Union of Kenya Civil Servants;
  - (b) remit within ten days of the date of deduction, the total sums deducted under item (a) by crossed cheque made payable to the Union of Kenya Civil Servants' account number

01126120993000 at the Co-operative Bank of Kenya, Moi Avenue Branch, Nairobi;

- (c) notify the Union of Kenya Civil Servants in writing within one month of all payments together with a bill schedule of the paid up members; and
- (d) make written returns to the Registrar of Trade Unions at P.O. Box 47606, Nairobi within one month of making all the payments to the Union of Kenya Civil Servants.

SCHEDULE

A sum equal to 1.5 per centum from each employee's basic wage per month.

Made on the 10th February, 2015.

SAMWEL K. O. O. KAMBI  
*Cabinet Secretary for Labour, Social Security and Services*