

20th February, 2015

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

Citation.

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.

Interpretation.

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

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

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

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

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

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

"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.

Application of the Regulations.

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

Tourist Service Vehicles to be Licensed.

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

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

Conditions to be met by applicants.

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

- (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, No. 13 of 2007, insurance, statutory leave days and written contracts of employment for staff;
- (e) subscribe to an accident and emergency mutual aid system.

(2) The Authority may -

- (a) refuse to issue a tourist service vehicle license to an applicant who fails to fulfill any of the stipulated conditions
- (b) at its discretion issue a license conditional on the requirement that the applicant demonstrates compliance with stipulated period failing which the license shall be withdrawn upon the expiry of the stipulated period.

Documents to be submitted with the application.

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

Operation of Tourist Service Vehicles.

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 one time;

- (b) subscribe to a data storage system capable of storing data on vehicle speed, location and operation for a period

- (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 investigation report to the Authority within fourteen days containing details of the driver, passengers, time of accident, probable cause and corrective measures undertaken;
 - (f) except for private car hire, boldly display on the vehicle the name of the company under which the vehicle opera
 - (g) maintain a passenger manifest.
- (2) Tourist service vehicles shall conform to the construction and design specifications for tourist service vehicles t shall be approved by the Authority.

Driver of Tourist Service Vehicle.

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 a valid driver license for that category of vehicle.

Insurance.

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

Appeals.

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.

Offences and penalties.

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 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 ai provision under these Regulations;

Act;

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

Application of Legal Notice 217 of 2013

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

Made on the 5th February, 2015.

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