



Western Cape  
Government

# PROVINCIAL REGULATORY ENTITY

OL Conditions Review

October 2023

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What is this process about?

# The OL Review and Repackaging Process

The PRE is starting a **process to review and repackage the general operating licence conditions** applicable to road based public transport services

## Why?

- The **last comprehensive OL review** by the **PRE** was in **2017**
- The **OL Conditions** are **used across all provincial municipalities** – need for **certainty** and **clarity** regarding the **interpretation of OL conditions**
- The PRE has been informed that certain conditions imposed on OLs are **not practical/plausible** and are **difficult to interpret** and **reconcile with other legal prescripts** - making the management and enforcement of the public transport systems exceedingly difficult

## How?

- **The PRE is going to repackage/reconfigure OL conditions** in a manner that:
  - a. Makes it easy to interpret, and
  - b. Will allow authorized officers to exercise discretion rationally and in accordance with the appropriate legal prescripts, without compromising safety

# How does this affect the OL Holder?

- OL Holders will receive a **new file and vehicle copy** of the reviewed and repackaged Operating Licence Conditions
- **The new OL Conditions will be:**
  - clear;
  - straightforward to interpret; and
  - set out in a way that assists authorized officers with the exercise of their discretion

- The process **will not change existing permits** or route authorities
- **OL Holders will still keep all their current authorities**

**Most importantly, it will result in a consolidated/uniform view within the Government on the intention of these conditions.**

# Legislative Authority & Responsibilities of the PRE

- The **PRE** has a legal **mandate** to **monitor and oversee public transport** in the Province - **s24(1)** of the NLTA
- The PRE has the **authority to impose OL conditions** in terms of **s57(5)** of the NLTA and **can grant OLs subject to any conditions determined by it**
- **Reg 22** of the NLT Regs requires that the **conditions imposed** by the PRE be **specified in the OL**
- OL Conditions are **reviewable at any time** ito **s79(2)(b)** of the NLTA

# Stakeholder Participation

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- While the authority to impose conditions lies exclusively with the PRE, the **PRE wants to encourage, promote and facilitate public and stakeholder consultation and participation** as it is **critical to the success of this important process**.
  
- **Stakeholders** are therefore **invited to submit comments** on the revised and repackaged OL Conditions

# The Repackaged OL Conditions



# OL Condition Review & Repackaging

The PRE has **arranged the information contained in OLs into the following categories:**

1. **(A).** Authority Conferred by the OL;
2. **(B).** Important Information for the OL Holder;
3. **(C).** Conditions Stipulated by the Planning Authority based on its ITP; and
4. **(D).** Conditions Imposed on this Operating Licence in terms of section 57(5) of the National Land Transport Act (Act No.5 of 2009).

# OL Condition Review & Repackaging

The reconfigured OL Document will be divided into the following sections:

## ● A. Authority Conferred by the OL

- This section will **set out the** specific operating **authorities** that are **conferred on the holder of the OL**
- This will include, for e.g. **the type of service**, the **authorised route**,

## ● B. Important Information for the OL Holder

- This section will include **information for the benefit of the OL holder** and are **not conditions that can trigger potential impoundment** ito s87(1)
- This will **include** for e.g. **extracts from the NRTA and NRT Regs** which draws the attention of the OL Holder to the

## ● C. Conditions Stipulated by the Planning Authority based on its ITP

- This section will include **conditions proposed by the relevant planning authority/ies**
- It should be noted that any such **proposed conditions** must be **limited to what is based on its ITP**

## ● D. Conditions Imposed on this Operating Licence in terms of section 57(5) of the National Land Transport Act (Act No.5 of 2009)

- This section will contain **conditions imposed by the PRE** ito the authority granted to it by s57(5) of the NLTA
- Authorised officers who rely on these conditions to exercise his/her discretion to impound a minibus taxi may only do so if the vehicle is needed for evidence in the ensuing criminal investigation and prosecution

# Example of the new Operating Licence Conditions Format

# Solution: OL Condition Review

## ● A. Authority Conferred by the OL

- This section will set out the specific operating authorities that are conferred on the holder of the OL
- This will include, for e.g. the type of service, the authorised route,

## A. AUTHORITY CONFERRED BY THE OPERATING LICENCE

The following authority/authorities are conferred by this operating licence (note that these are only examples):

1. The provision of minibus-taxi type services along the following routes-
2. The provision of staff services along the following route-
3. **The provision of metered taxi services from holders place of business located at.....** Please note that in terms of section 66 of the NLTA, the vehicle may leave the prescribed area if, on the return journey, it is to carry the same passengers that it carried on the outward journey or if the vehicle is to return empty, The vehicle may also pick up passengers outside of the prescribed area if the fare is pre-booked and the passengers will return to such an area.
4. **The provision of charter services from the holders place of business located at.....**Please note that in terms of section 67 of the National Land Transport Act (Act no.5 of 2009), the vehicle may leave the area/zone described above if, on the return journey it is to carry the same passengers that it carried on outward journey or if the vehicle returns empty. The vehicle may also pick up passengers outside of the prescribed area if the fare is pre-booked and the passengers will return to such an area.

# Solution: OL Condition Review

## ■ B. Important Information for the OL Holder

- This section will include information for the benefit of the OL holder and are not conditions that can trigger potential impoundment ito s87(1)
- This will include for e.g. extracts from the NRTA and NRT Regs which draws the attention of the OL Holder to the rules that s/he and/or the driver needs to comply with

## **B. IMPORTANT INFORMATION FOR OPERATING LICENCE HOLDERS (For your information provisions)(Please note that these are not conditions but important information for the benefit of the operating licence holder)**

As an operating licence holder, you have the following duties:

1. Comply with the terms of the authorisation conferred by the operating licence and the conditions to which it is subject (Regulation 23(a) of the National Land Transport Regulations, 2009) (“NLTR”);
2. Where the service authorised by the operating licence is provided for in an Integrated Transport Plan, provide the service in accordance with that plan. This includes adherence to the management regulations at municipal-owned ranks/infrastructure;
3. Keep the original operating licence or a duplicate original in the specified vehicle (Regulation 23(b) of the NLTR);
4. On demand by an authorised officer, produce the original operating licence (Regulation 23(c) of the NLTR);
5. Keep the original operating licence or any duplicate original thereof as well as the decal that relates thereto in such a condition that the letters and figures thereon are clearly legible. If the original operating licence is damaged or cease to be clearly legible, apply for a duplicate original within four working days. The operating licence may not be laminated (Regulation 23(d) of the NLTR);
6. Display on the vehicle the operating licence number and type of service as well as any other particulars prescribed by the entity granting the operating licence (Regulation 23(e) and (f) of the NLTR);

# Solution: OL Condition Review

## ● B. Important Information for the OL Holder (continued)

- This section will include information for the benefit of the OL holder and are not conditions that can trigger potential impoundment into s87(1)
- This will include for e.g. extracts from the NRTA and NRT Regs which draws the attention of the OL Holder to the rules that s/he and/or the driver needs to comply with

## **B. IMPORTANT INFORMATION FOR OPERATING LICENCE HOLDERS (For your information provisions)(Please note that these are not conditions but important information for the benefit of the operating licence holder)**

As an operating licence holder, you have the following duties:

7. At all times keep the vehicle in a safe and roadworthy condition and have the vehicle examined for roadworthiness not later than the time allowed therefore by the National Road Traffic Act (Act no.93 of 1996) (see Regulation 23(i) of the NLTR);
8. Return the operating licence if it has lapsed or been withdrawn or cancelled, together with the attendant decal, within seven days (Regulation 23(j) of the NLTR);
9. Inform the PRE in writing of the sale of the specified vehicle or any other change of ownership within seven days of such a sale or change (Regulation 23(k) of the NLTR);
10. Comply with the provisions of the Act and with any other requirements imposed by provincial laws and other legislation. This includes, inter-alia, the provisions of the National Road Traffic Act (Act no.93 of 1996) and associated Regulations (Regulation 23(m) of the NLTR);
11. This operating licence does not exempt the holder from the obligation to comply with any requirement imposed by or in terms of any other law (section 63(b) of the NLTA);
12. In the case of a minibus-taxi type service, comply with the provisions of the Code of Conduct and Standard Constitution promulgated in terms of the section 7(A)(13) of the Western Cape Road Transportation Act, Amendment Law (Act no.8 of 1996);
13. Apply timeously for the renewal of the operating licence in terms of regulation 25 of the National Land Transport Regulations (Regulation 23(h) of the NLTR);



# Solution: OL Condition Review

## ● B. Important Information for the OL Holder (continued)

- This section will include information for the benefit of the OL holder and are not conditions that can trigger potential impoundment ito s87(1)
- This will include for e.g. extracts from the NRTA and NRT Regs which draws the attention of the OL Holder to the rules that s/he and/or the driver needs to comply with

## B. IMPORTANT INFORMATION FOR OPERATING LICENCE HOLDERS (For your information provisions)(Please note that these are not conditions but important information for the benefit of the operating licence holder)

As an operating licence holder, you have the following duties:

14. The authority conferred by this operating licence may not be ceded or otherwise alienated by the holder of this operating licence (see section 77 of the NLTA);
15. The motor vehicle specified in this operating licence includes any trailer attached thereto;
16. Please note that your operating licence may be withdrawn, amended or suspended for any period deemed fit by the regulatory entity, if the holder or employee of the holder has been convicted of an offence under the NLTA or under a law relating to motor vehicles or the regulation of traffic or occupational safety or labour relations, or an offence due to fraud or dishonesty.

# Solution: OL Condition Review

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- **C. Conditions Stipulated by the Planning Authority based on its ITP**

- This section will include conditions proposed by the relevant planning authority/ies
- It should be noted that any such proposed conditions must be limited to what is based on its ITP

- **C. CONDITIONS STIPULATED BY THE PLANNING AUTHORITY/AUTHORITIES BASED ON ITS INTEGRATED TRANSPORT PLAN**

- To be inserted on a case-by-case basis based on municipal directives.



# Solution: OL Condition Review

## ● D. Conditions Imposed on this Operating Licence in terms of section 57(5) of the National Land Transport Act (Act No.5 of 2009)

- This section will contain conditions imposed by the PRE into the authority granted to it by s57(5) of the NLTA
- Authorised officers who rely on these conditions to exercise his/her discretion to impound a minibus taxi may only do so if the vehicle is needed for evidence in the ensuing criminal investigation and prosecution

## D. CONDITIONS IMPOSED ON THIS OPERATING LICENCE IN TERMS OF SECTION 57(5) OF THE NATIONAL LAND TRANSPORT ACT (ACT NO.5 OF 2009)

1. The holder must comply with the authority conferred by this operating licence. Services may only be provided on the route(s), area(s), zone(s) specified in this operating licence.
  2. Except for the service(s) authorised by this operating licence, no other public transport service may be provided under the guise of this operating licence;
  3. The holder of the operating licence may not, with the intent to deceive, forge, alter, deface, damage or add to the operating licence;
  4. The operating licence is reviewable at any time.
- ❖ Please note that a person is guilty of an offence if he or she provides a public transport service contrary to the terms and conditions of an operating licence (see section 90(1)(b) of the NLTA);
  - ❖ An authorised officer who is satisfied on reasonable grounds that the vehicle is being used for a public transport service contrary to the conditions to which this operating licence is , subject, may impound the vehicle if it is needed for the ensuing criminal investigation (as evidence) or prosecutorial process (see section 87(1) of the NLTA);
  - ❖ The entity who granted the operating licence, may at any time withdraw, amend or suspend an operating licence for any period it may deem fit , if the holder or the employee of the holder has not carried out faithfully the conditions of the operating licence.

Thank You