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GENERAL NOTICE

NOTICE 794 OF 2007**DEPARTMENT OF TRANSPORT****PUBLICATION FOR COMMENTS: TRANSPORT APPEAL TRIBUNAL
REGULATIONS, 2007**

The Minister of Transport has, under section 17 of the Transport Appeal Tribunal Act, 1998(Act No. 39 of 1998), made the Regulations for public comments. Interested persons are invited to submit written comments on the Regulations by not later than 30 July 2007. Submission should be posted to the Director – General Department of Transport for the attention of T.H.M Mphahlele, at:

The Department of Transport
Private Bag x193
PRETORIA
0001

E-mail address: Mphahlet@dot.gov.za
Tel:(012) 309-3481
Fax:(012) 309-3044

DEPARTMENT OF TRANSPORT

No. R.

..... June 2007

TRANSPORT APPEAL TRIBUNAL ACT, 1998

TRANSPORT APPEAL TRIBUNAL REGULATIONS, 2007

The Minister of Transport has, under section 17 of the Transport Appeal Tribunal Act, 1998 (Act No 39 of 1998), made the regulations in the Schedule.

SCHEDULE**Arrangement of regulations**

Regulation No.

1. Definitions
2. Lodging an appeal
3. Time limit for appeal and condonation
4. Appearance before the Tribunal
5. Parties to the appeal
6. Right to legal counsel
7. Notification of hearing
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ANNEXURES

Form TAT 01 – Notice of Appeal for Provincial Operating Licensing Boards' (POLB'S) and Cross-Border Transport Agency (Regulatory Committee)

Form TAT 02 –Summons

Form TAT 03 – Power of Attorney (PA)

Definitions

1. In these regulations, an expression that has been defined in the Act has a corresponding meaning, unless the context indicates otherwise-

“applicant” means any person, who is affected or aggrieved by the act, direction or decision of a board / regulatory committee for the granting, renewal, amendment or transfer of a operating license issued by that board / regulatory committee, or who submitted representations to that board / regulatory committee.

“appeal” means any appeal lodged with the Transport Appeal Tribunal established in terms of section 3 of the Transport Appeal Tribunal Act

“business day” means any day which is not a Saturday, Sunday or public holiday and only business days shall be included in the computation of any time expressed in days prescribed by these rules or fixed by any decision of the Tribunal

“chairperson” means any member of the Transport Appeal Tribunal designated by the Minister of Transport as chairperson or his/her duly authorized representative in terms of section 5(2) or section 9(3) of the Act

“decision” means a document by which the tribunal notifies any person of a direction or decision

Lodging of Appeal

2. (1) An appeal in terms of section 129 of the National Land Transport Transition Act, 2000 (Act No. 22 of 2000), against an act, direction or decision of a board, must be submitted in writing by the Appellant on form TAT 01 in the annexure to these Regulations and must include: -

- (a) the full name and current address of the appellant;
- (b) the act, direction or decision forming the subject of the appeal;
- (c) the board / regulatory committee whose act, direction or decision forms the subject of such appeal, and the date of such act, direction or decision;
- (d) the date of the meeting on which the said act was performed or the said direction was given or decision was taken by the board / regulatory committee;
- (e) the grounds of such appeal; and
- (f) the signature of such appellant or his or her duly authorized representative and

be accompanied by the fee contemplated in regulation 15(1).

- (2) (a) A party to an appeal shall be entitled to rely at any hearing only-
- (i) in the case of an appellant, those grounds stated in his/her or notice of appeal;
 - (ii) in the case of any party other than an the appellant in his/her or written reply or statement,
- and may give only such evidence as was given before the board or the Regulatory Committee.
- (b) The Tribunal may at any stage of the proceedings at its discretion and on application by the appellant or any other party therein; allow any notice, statement or reply to be amended upon such terms as it considers just.
- (3) The notice of appeal recorded on form TAT 01 must be drawn and copies thereof must be delivered by hand, registered post or faxed to the board concerned or the regulatory committee and or to any interested or affected party within 30 days from the date of communication by the letter of the act, direction or decision of a board or the regulatory committee to the appellant and / or any interested or affected party.
- (4) The original copy of the notice of appeal on form TAT 01 together with proof of delivery by hand, registered post or fax to the board concerned or the regulatory committee and or to any interested or affected party must be delivered by hand or by registered post to the secretariat of the Tribunal with proof of lodging fee payment as prescribed by regulation 15 (1).
- (5) The secretariat of the Tribunal shall on receipt of any written Notice of Appeal on form TAT 01, allocate a reference number and notify the Applicant and any interested and/ or affected parties thereto within 21 days of receipt of the Notice of Appeal.

Handling of appeal by Tribunal

3. (1) The Tribunal shall at any time after the filing of a notice of appeal in terms of regulation 2 issue a directive notice to the parties to curtail the issue that:
- (a) any answer to the notice should be served on the Tribunal within 14 days of the service of the notice on the party; and
 - (b) in default of any answer to the directive notice, the party concerned will not be heard in respect of the said issue at any hearing except with the permission of the Tribunal after furnishing reasons for the default of any answer

-
- (2) Within 14 days from the service of the directive notice contemplated in sub regulation (1), the relevant party shall serve such answer to the respondent and all interested parties to the Appeal:
- (a) stating which facts are admitted and which are denied; and
 - (b) setting out further facts on which it proposes to rely on, and shall thereafter serve such answer to the Tribunal with proof that it has been served on all the parties concerned.
- (3) The Tribunal may order any point which appears to be an issue in a case before it to be determined as a preliminary issue, and if in the opinion of the Tribunal, the determination of that point substantially disposes of the whole case, the Tribunal may treat the hearing of the preliminary issue as the hearing of the case and may make such order by way of disposing of the case as it deems fit.
- (4) The Tribunal may postpone the matter or alter the place of the hearing and notify the parties of such postponement or alteration.
- (5) (a) Any irregularity resulting from a failure to comply with any provision of these Regulations before the Tribunal has reached its decision shall not of itself render the proceedings void.
- (b) In any case contemplated in paragraph (a) the Tribunal shall, if it considers that any person may have been prejudiced, take such steps as it deems fit to cure the irregularity before reaching its decision.
- (c) Any clerical mistakes or errors in any document recording a decision of the Tribunal, or errors arising in such a document from an accidental error or omission, may be corrected by the Chairperson of the Tribunal or the duly authorized representative.

Time limit for appeal and condonation

4. (1) Notice of appeal in terms of section 129 of the National Land Transport Transition Act, 2000 or section 34 of the Cross-Border Transport Act, 1998, must be lodged in accordance with regulation 2, within 30 days from the date of communication by letter of the act, direction or decision of a board or the regulatory committee to the appellant or his/her representative.
- (2) Where an appellant fails to serve the notice of appeal on form TAT 01 within the period of time contemplated in subregulation (1), notice of appeal on form TAT 01 shall include:-
- (a) a written application to the Tribunal to condone the late filing of the notice of appeal;

- (b) supported by an affidavit setting out the reasons for the late filing together with the any further documentary evidence;
3. (1) On the day of the hearing or at any time prior to the hearing, the Tribunal shall first consider the application for condonation in terms of section 13 (a) of the Act.
- (2) Where necessary the Tribunal, may extend any time specified by the Regulations provided that the reasons for the late filing of the Notice of Appeal is supported by documentary proof.
- (4) A ruling by the Tribunal to condone the appellant's late filing of the notice of appeal, shall allow the appeal to proceed as if it was filed in accordance with the provisions of regulation 2(1) unless the Tribunal decides otherwise.

Appearance before the Tribunal

5. (1) In considering an appeal, in terms of section 129 of the National Land Transport Transition Act, 2000 or section 34 of the Cross Border Road Transport Act, 1998, the Tribunal may-
- (a) allow any person affected by the appeal or interested therein, or the duly authorized representative of any such person, to appear before the Tribunal and-
 - (i) to give evidence or make oral representations relevant to the appeal;
 - (ii) to call witnesses and lead evidence on any question relevant to the appeal; or
 - (iii) to question any person who testified at the appeal;
 - (b) summons any person, on form TAT 02 as shown Annexure, who may reasonably be able to give information of material importance concerning the subject matter of the appeal or who has in any such person's possession or custody or under any such person's control any book, document or object which may reasonably have a bearing on the subject matter of the appeal, to appear before the Tribunal;
 - (c) call upon and administer any oath to, or accept an affirmation from, any person present at the appeal who has or might have been summoned in terms of paragraph (b);
 - (d) question any person who has been called upon in terms of paragraph (c) or require any such person to produce any book, document or object in any such person's possession or custody or under any such person's control, which may reasonably have a bearing on the subject matter of the appeal.

Parties to the appeal

6. The parties to the appeal shall be the applicant, who is affected or aggrieved by the act, direction or decision of a board / regulatory committee for the granting, renewal, amendment or transfer of a operating license issued by that board / regulatory committee, or who submitted representations to that board / regulatory committee or any other person affected as the respondent or respondents.

Right to representation

7. (1) Subject to regulation (2) an appellant has the right to be represented by any person of his/her choice including a legal representative.
- (2) A legal representative contemplated in sub-regulation (1), may be an advocate or attorney, provided that the appellant submits to the Tribunal a completed form TAT 03 contained in the annexure in terms of which he/ she grants to the advocate or attorney, as case may be, a power of attorney in terms of which such advocate or attorney is duly authorized to represent him/her.
- (3) When an appellant chooses to be represented as contemplated in regulation (2) the completed form contemplated in regulation (2), must be submitted by him/her to the Tribunal together with the notice of appeal referred to in regulation 2.
- (4) The Tribunal may proceed with a sitting in the absence of representative of an appellant, if the relevant provisions in the Act relating to notification of a sitting have been complied with.

Notification of sitting

8. (1) The Tribunal must serve notice of the sitting on-
- (a) an appellant;
 - (b) the representative on record of the appellant, if applicable;
 - (c) the relevant board or the regulatory committee, as the case may be; and
 - (d) any other person affected by the appeal.
- (2) The Tribunal must notify all the parties affected by the appeal at least 14 days before the scheduled sitting and such notice must reflect-
- (a) the names of the appellant and the respondent;
 - (b) the subject matter of the appeal; and
 - (c) the date, time and venue fixed for such sitting.

Postponement of proceedings, removal of appeal from roll and withdrawal of appeal

9. (1) The Tribunal may be requested in writing for a postponement of the proceedings of the Tribunal or removal of the appeal from the roll, including the reasons for such request, and such a request must reach the Tribunal at least seven days before the scheduled date of the sitting.
- (2) The Tribunal may grant a postponement of its proceedings or remove the appeal from the roll upon good cause shown.
- (3) If the Tribunal makes a decision to postpone its proceedings or to remove the appeal from the roll, the Tribunal must give notice of such postponement or removal to all parties affected by the appeal, either telephonically, by fax or by any other means, within 3 days after its decision.
- (4) Regulation 15(2)(a) applies to an appellant who informs the Tribunal about his or her withdrawal of an appeal less than seven days before the scheduled date of the sitting.

Conduct of proceedings at sittings

10. (1) The chairperson of the Tribunal must allow the appellant to present his or her case, first, and thereafter the Tribunal must afford board, the regulatory committee or any other person affected by the appeal, as the case may be, an opportunity to present their case, and thereafter the appellant must be afforded an opportunity to respond to any information provided by representatives of the board, the Regulatory Committee or any other person affected by the appeal, as the case may be.
- (2) The chairperson of the Tribunal must allow any party to the appeal hearing to tender evidence and to call witnesses, if any, and the parties may be allowed to put questions to each at an appropriate time determined by the chairperson.
- (3) The Tribunal must upon the written request of any person whose rights have been adversely affected by its decision, provide any such person with the reasons in writing for such decision within 21 days of such request.

Hearing of appeal in the absence of either of the parties to the appeal

11. (1) Where a notice of a sitting has been served in terms of regulation 8, the Tribunal may hear an appeal in the absence of an appellant or any other party affected by the appeal if-
 - (a) the Tribunal is satisfied that the reasons provided to it by such appellant or other party are not of such a nature as to prevent his or her attendance;

(b) such appellant or other party indicates to the Tribunal that he or she does not wish to be present at the sitting of the Tribunal;

(c) such appellant or any other party fails to attend the sitting of the Tribunal without providing any reasons.

(2) Where the Tribunal proceeds with its sitting in the absence of the appellant or any other party affected by the appeal, the Tribunal may consider and determine the appeal on the strength of the information available to it at that time.

Request to reconsider or re-open the proceedings

12. Notwithstanding the single right of appeal on a particular matter to the Tribunal, it may, at its discretion, reconsider its decision or grant a request for reconsideration submitted by any party if –

- (a) the request is submitted to the Tribunal within 30 days after the parties were notified of the decision of the Tribunal; and
- (b) the request identifies an error of fact or law which relates to the appeal that materially affects any party to the appeal; or
- (c) any party to the appeal submits new evidence that may materially affect any of the parties to the appeal and was not previously obtainable.

Combined hearings

13. If the Tribunal is satisfied that in any number of appeals-

- (a) some common question of fact or law arises;
- (b) such appeals relate to an act, direction or decision taken in respect of persons who are members of the same association; or
- (c) it is practical and appropriate to proceed with the appeals under this regulation;

the Tribunal may, with the agreement of all the parties to the appeals, decide that such appeals must be heard together.

Records of proceedings

14. (1) The Tribunal must keep a record of every appeal lodged, every document related thereto and a summary of the proceedings or minutes of its sittings related thereto.

(2) The Tribunal must make a summary of its proceedings or record the minutes of its sitting by means of shorthand notes or by mechanical means.

- (3) The records contemplated in sub-regulation (1) must be kept in terms of the relevant laws governing the keeping of records and archives.

Fees

15. (1) Any person who lodges an appeal in terms of the Act must, at the time of submission of the appeal, deposit an amount in terms of regulation 18 (4) of the Road Transportation Act, No. 74 of 1977, with the Tribunal, which is currently fixed at R800-00 (Eight Hundred Rand).

- (2) Where the Tribunal-

- (a) dismisses an appeal in terms of section 12(a) of the Act, the amount specified in sub-regulation (1) will be forfeited by the appellant;
- (b) upholds an appeal in terms of section 12(b) of the Act, the full amount specified in sub-regulation 1) will be refunded to the appellant;
- (c) partially upholds an appeal in terms of section 12(c) of the Act, the amount specified in sub-regulation (1) or any part thereof, may be refunded to the appellant by the Tribunal.
- (d) vary the decision of the Board/Regulatory Committee
- (e) refer the matter to the Board / Regulatory Committee for re-considerations

- (3) Where an appeal lodged with the Tribunal in terms of section 12 of the Act is withdrawn by the appellant, the amount specified in sub-regulation (1) or any part thereof, may be refunded to the appellant by the Tribunal.

- (4) Where the chairperson of the Tribunal refuses an application for the condonation of the late filing of an appeal in terms of section 13(a) of the Act, the amount specified in sub-regulation (1) will be refunded to the appellant.

- (5) Where any act, direction or decision of a board or the Regulatory Committee against which an appeal is lodged, is set aside and remitted to the board concerned or the Regulatory Committee, as the case may be, by the Tribunal in terms of section 12(b)(ii) of the Act, the full amount specified in sub-regulation (1) will be refunded to the appellant.

- (6) Any person required in terms of section 14(1)(b) of the Act to appear before the Tribunal in order to give evidence or to produce a book, plan or other document or object must be paid the witness fees that are paid to any witness attending or summonsed to give evidence in a civil case before a magistrate's court: Provided that such witness fees are not payable to a person who is an employee of the State and is attending in the course of his or her duties.

(7) Any person who, having an interest in an appeal lodged with the Tribunal, requests the Tribunal to supply him or her with a copy of –

- (a) the relevant application;
- (b) a document which the appellant has submitted with his or appeal
- (c) representations in support of or in opposition to such appeal; or
- (d) the relevant permit and every amendment thereto;

must pay to the Tribunal an amount of R5 per file, which includes the making of a copy thereof to a maximum of 10 pages and 50c for each subsequent page.

16. FORMS

TAT 01

**TRANSPORT APPEAL TRIBUNAL
IN TERMS OF THE NLTTA AND CBRTA LEGISLATIONS**

NOTICE OF APPEAL

POLB	CBRTA

For Tribunal use only:	
Appeal Ref. No. LTIM	20
Date Rec.	
Lodging Fee	

NOTICE OF APPEAL IN TERMS OF THE NATIONAL LAND TRANSPORT TRANSITION ACT
2000 (ACT No. 22 of 2000)

(Tick the appropriate boxes and provide all information as requested and where applicable)

1. DETAILED OF APPLICANT

I am

Taxi operator	A statutory objector	Taxi association	Other (specify)	
---------------	----------------------	------------------	-----------------	--

SURNAME AND NAME	REGISTERED NAME OF CO/CC OR OTHER
Identity No.	Reg No.
Res. Address	Bus. Address
Postal add.	
Home tel	Bus tel
Cell no.	Fax No.

(if more than one party, details must be set out in an annexure clearly marked and attached hereto)

2. DETAILS OF OTHER PARTIES

I am

Taxi operator	A statutory objector	Taxi association	Other (specify)	
---------------	----------------------	------------------	-----------------	--

SURNAME AND NAME	REGISTERED NAME OF CO/CC OR OTHER
Identity No.	Reg no.
Res. Address	Bus. Address

Postal add.			
Home tel		Bus tel	
Cell no.		Fax No.	

(if more than one party, details must be set out in an annexure clearly marked and attached hereto)

3 DETAILS OF THE ORIGINAL DECISION APPEALED AGAINST

Operating License Board			
OP No.		Date of decision	Date of notice to Applicant
Municipality /Regulatory committee			
Other OLB			
Other municipalities/Regulatory Committee			
Non Concurrence	Y or N	Province:-	
Other (with details)			

4. GROUNDS OF APPEAL

4.1 It is essential for the Grounds of Appeal to be set out in full as an annexure marked and attached.

4.2 Details of all proposed applicable routes and timetables must be clearly marked clearly and annexed hereto.

4.3 A detail map of all proposed routes and the infrastructure relating thereto must be clearly marked and annexed hereto. (For example terminals, hotels, residential, business operations ,etc)

4.4 Copies of section of statutory plans must be attached if applicable.

4.5 All citation and reference to any provincial notice, regulation and any other legislation must be clearly set out.

4.6 Heads of Arguments with references must be clearly marked and annexed hereto.

4.7 Complete the summary of Appeal by answering each and every question appropriately: -

Annexure	
Y	N
Y	N
	N
Y	
Y	N
Y	N
Y	N

a) Legislation (mark with X)	TAT	NLTTA	CBTRA	OTHER SPECIFY
Applicable Sections				
				Brief details where applicable
b) OLB Procedure			Y N	

c) Objection by other parties	Y	N	
d) Objection by Municipal /Regulatory Committee	Y	N	
e) Non Concurrence & Details of Province	Y	N	
F) Other (with details)	Y	N	

5. CONDONATION

YES	NO
-----	----

(It is essential that the condonation application is set out in full with reasons and substantiations as an annexure clearly marked and attached hereto.)

Is the Appeal to the Tribunal within 30 days from date of hearing stated in (3) above.	YES	NO
How many days is the appeal outside the time required to file an Appeal		

6. DETAILS OF THE APPLICAT'S LEGAL REPRESENTATIVE OR REPRESENTATIVE

NAME Bus Add	FIRM NAME Postal Add
E MAIL Cell No	Bus Tel Fax No
Power of Attorney	UNATTACHED
Attached	

7. I need an Interpreter for the Appeal

Y	N
---	---

SPECIFY LANGUAGE

8. DECLARATION**I HEREBY CONFIRM THE CONTENT OF THE APPEAL.****SIGNED:** _____ **NAME IN PRINT:** _____**DATE:** _____ **CAPACITY:** _____**General**

1. Annexure strictly comply with the following requirements:

The Applicant must index, paginate and bind his Application together with all annexures attached thereto.

The index page or content page must include the names of parties and case reference number.

The TAT 01 Form will be marked as 1.

The grounds of Appeal would be marked A, A1, A2, .

The Routes and Timetable would be marked B, B1, B2, B3, .

The Map will be marked C, C1, C2, C3, .

The Heads of Arguments with References will be marked D, D1, D2, D3, .

All other applicable annexures will then be marked, E, F, G, etc.

The documents must then be paginated in clear, bold black ink e.g. 1,2,3,4, etc.

2. All information must be completed and where not applicable must be clearly indicated.
3. All documents must be typed and neatly bound with the exception of the annexures.
4. Your failure to comply with the provisions contained herein can result in appeal being dismissed with costs.
5. Should you require any assistance to lodge an appeal, you can contact the Department of Transport on telephone number (012) 309 3861 / 309 3975 / 309 3065

OFFICIAL USE ONLY**UPHELD****DISMISSED****REFER TO BOARD****OTHER****FEES REFUNDED****FEES FORFEITED**



transport

Department:
Transport
REPUBLIC OF SOUTH AFRICA

TAT 02

SUMMONS

Summons in terms of section 14(2) of the Transport Appeal Tribunal Act,

In the Transport Appeal Tribunal held at LTIM No..... of 200...

In the matter between

.....Appellant and.....Responded

To:

- (1)..... of
- (2)..... of
- (3)..... of

You are hereby required to appear in person before this Transport Appeal Tribunal at day of200....at(time) in the above mentioned action to give evidence(where documents are required to be produced, add:) and bring with you and then produce to the court the several books, papers or documents specified .

Dated at,.....this day of200....

.....
Signature of the Chairperson

LIST OF BOOKS, PAPERS OR DOCUMENTS TO BE PRODUCED

Date	Description	Original or Copy



TRANSPORT

Department:
Transport
REPUBLIC OF SOUTH AFRICA

TAT 03

POWER OF ATTORNEY

I, (appellant),

Identity Number.....

of (full address)

.....

..... herewith nominate

.....

..... * to act as my representative throughout the proceedings of the appeal against the act, direction or decision of the*

..... at the meeting held on theday of200.....

Any act and/or representations made by the said representative will be binding on myself.

.....
Signature of the appellant

.....
Signature of the representative

Date:

Date:

• State name of representative/ firm of attorneys or Advocate

* State name of a board or whether it is the Regulatory Committee

For official use

Date of receipt:.....

Receipt no:.....

Name of official:

Signature.....