

No. R. 95

6 February 2009

TRANSPORT APPEAL TRIBUNAL ACT, 1998

AMENDMENT OF TRANSPORT APPEAL TRIBUNAL REGULATIONS

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

SCHEDULE**Definition**

1. In this Schedule "the Regulations" means the Transport Appeal Tribunal Regulations published in Government Notice No. R. 1151 of 7 December 2007.

Amendment of regulation 1 of the Regulations

2. Regulation 1 of the Regulations is hereby amended –
 - (a) by the deletion of the definition "business day"; and
 - (b) by the insertion of the following definition:

"day" means any day which is not a Saturday, Sunday or public holiday and shall be included in the computation of any time expressed in days prescribed by these Regulations or fixed by any decision of the Tribunal."

- (c) by the insertion of the following definition:

" designated officials" means officers in the Department of Transport whom the Director –General has designated to perform the administrative and secretarial work of the Tribunal"

Amendment of regulation 2 of the Regulations**3. Regulation 2 of the Regulations is hereby amended –**

- (a) by the substitution of sub regulation (1) of the following sub regulation:

“(1) An appeal in terms of section 12 of the National Land Transport Transition Act, 2000 (Act No. 22 of 2000) or section 34 of the Cross- Border Road Transport Act, 1998 (Act No. 4 of 1998), against an act, direction or decision of a board or regulatory committee, must be submitted in writing by the appellant on form TAT 01 in the Annexure, must be accompanied by the fee contemplated in regulation 17(1) and must include the following:

- (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 or 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 or regulatory committee including the notification date to the appellant;
- (e) the grounds of such appeal; and
- (f) the signature of such appellant or his or her duly authorised representative.”; and
- (g) be accompanied by the fee contemplated in Regulation 17(1).”

- (b) by substituting “[4]” in the numbering to make it “5 ”

- (c) by the substitution for sub regulation (5) of the following sub regulation:

"(5) The designated officials [Secretariat] of the Tribunal shall on receipt of any written Notice of Appeal on form TAT 01, allocate a reference number and notify the board or regulating committee, the Applicant and any interested or affected parties thereto within 21 days of receipt of the Notice of Appeal.

Amendment of regulation 4 of the Regulations

4. Regulation 4 of the Regulations is hereby amended –

- (a) by after "and" in Regulation 4(1)(a).

- (b) by the substitution for sub regulation (3) of the following sub regulation:

" (3) (i) The Tribunal may grant an order on any point which appears to be an issue in a case before it to be determined as a preliminary issue.

(ii) 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 grant such an order by way of disposing of the case as it deems fit."

- (c) by the substitution for sub regulation (4) of the following sub regulation:

"(4) (a) The Tribunal may–

- (i) postpone the matter;
- (ii) dismiss the matter or
- (iii) alter the place of any hearing.

- (b) If the Tribunal postpone, dismiss the matter or alter the place of any hearing as contemplated in paragraph (a), the designated officials [Secretariat] shall notify all parties of the revised arrangements in writing by not later than three days after the decision of the Tribunal.”;

by substituting Regulation 4(5) for the following sub-regulation and will read as follows:

- “(5) Any irregularity resulting from a failure to comply with any provision of these Regulations before the Tribunal has reached its decision shall not in itself render the proceedings void;”

by substituting Regulation 4(6) for the following sub-regulation and will read as follows:

- “(6) In any case contemplated in sub-regulation (5) 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;”
- “(7) Any clerical mistakes or errors in any document recording a decision of the Tribunal, or errors arising in such a document from an incidental [accident] error or omission, may be corrected by the Chairperson of the Tribunal or the authorized representative.”

Substitution for regulation 5 of the Regulations

5. The following regulation is hereby substituted for regulation 5 of the Regulations:

“Time limit for appeal and condonation

5. (1) A Notice of 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, 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 or her representative.
- (2) Where an appellant fails to serve the Notice of Appeal on form TAT 01 within the period of time contemplated in sub regulation (1), the 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; or
 - (b) an affidavit by the appellant setting out the reasons for the late filing together with any further documentary evidence.
- (3) (a) On the day of the hearing or at any time prior to the hearing, the [Tribunal] Chairperson shall first consider the application for condonation in terms of section 13(a) of the Act.
- (b) Where necessary the [Tribunal] Chairperson may extend any time specified by these Regulations provided that the reasons for the late filing of the Notice of Appeal are supported by documentary proof.
- (c) A ruling by the [Tribunal] Chairperson 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 Chairperson decides otherwise.”

Substitution for regulation 6 of the Regulations

6. The following regulation is hereby substituted for regulation 6 of the Regulations:

"Appearance before the Tribunal

6. 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 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: Provided that –

- (i) the summons served in terms of paragraph (b) shall be in the prescribed form TAT 02 in the Annexure, and a provincial inspector shall personally serve such summons on the person and such inspector shall report to the Tribunal;

(ii) any person who fail to comply with a notice in terms of sub regulation 6(b) is guilty of an offence in terms of Section 15 of the Act.

(c) call upon and administer the [prescribe]oath or accept an affirmation from any person present at the appeal who has or might have been summoned in terms of paragraph (b); and

(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.”.

Substitution for regulation 7 of the Regulations

7. The following regulation is hereby substituted for regulation 7 of the Regulations

“Parties to the Appeal

7. The parties to an appeal shall be the appellant and the respondent as defined in Regulation 1.

Amendment of regulation 8 of the Regulations

8. Regulation 8 of the Regulations is hereby amended –

(a) by the substitution for the heading of the following heading:

“Right to Representation”; and

(b) by the substitution for sub regulation (2) of the following sub regulation:

“(2) A legal representative contemplated in sub regulation (1), may be an admitted and practising Advocate or an admitted and practising Attorney provided that the Appellant or Respondent submits to the

Tribunal a completed form TAT 03 contained in the Annexure in terms of which he or 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 or her."

Amendment of regulation 9 of the Regulations

9. Regulation 9 of the Regulations is hereby amended –

(a) by the substitution for the heading of the following heading:

"Notice of Sitting"; and

(b) by the substitution for paragraph (d) of sub regulation (1) of the following paragraph:

"(d) any person affected by the appeal or who has formally joined the proceedings."; and

(c) by the substitution for sub regulation (2) of the following sub regulation:

"(2) The Tribunal must notify all the parties affected by the appeal at least 10 days before the scheduled sitting and such notice must reflect –

- (a) the names of the appellant and respondent;
- (b) the subject matter of the appeal; and
- (c) the date, time and venue for such sitting."

Substitution for regulation 10 of the Regulations

| 10. The following Regulation is hereby substituted for Regulation 10 of the Regulations

"Postponement of proceedings, removal of Appeal from roll and withdrawal of Appeal

- | (1) The Tribunal or Chairperson may be requested in writing for a postponement of the proceedings of the Tribunal or removal of the appeal from the roll, wherein reasons for such request are furnished, and such a request must reach the Tribunal at least five days before the scheduled date of the sitting.

- (2) The Tribunal or Chairperson may grant a postponement of the proceedings or remove the appeal from the roll upon good cause shown.
- (3) If the Tribunal or Chairperson makes a decision to postpone its proceedings or to remove the appeal from the roll, the Tribunal or the Chairperson, as the case may be, must give notice of such postponement or removal to all parties affected by the appeal, either telephonically, by fax or by any other means of communication, not later than three days after the Tribunal or the Chairperson has taken a decision.
- (4) The provisions of Regulation 17(2)(a) apply to an appellant who notifies the Tribunal or Chairperson about his or her request for withdrawal of an appeal less than five days before the scheduled date of the sitting."

Repeal of Regulation 13 of the Regulations

11. Regulation 13 of the Regulations is hereby repealed.

Amendment of Regulation 14 of the Regulations

"Combined hearings

14. (1) If the Tribunal is satisfied that in any number of appeals-

Substitution for regulation 15 of the Regulations

(a) The following regulation is hereby substituted for regulation 15 of the Regulations:

"Records of proceedings

- (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 mechanically.

- (3) The records contemplated in sub regulation 14 (1) must be kept in terms of the relevant laws governing the keeping of records and archives."

| Substitution for regulation 16 of the Regulations

- (a)** The following regulation is hereby substituted for regulation 16 of the Regulations:

"Decisions of the Tribunal

- (1) The Tribunal processes or procedures in respect of an appeal lodged with it, may be conveyed within 60 days from the day of completion of the hearing in writing through the post or telefax to all parties to such appeal and to the Board or regulatory committee whose act, direction or decision has been appealed against.
- (2) The Tribunal shall within 10 days of the Tribunal arriving at a decision in regard to an appeal, notify the parties to the appeal. Such notification shall be in writing, be sent by post or telefax and shall set out full particulars of the Tribunal's decision, including its decision as to whether the appeal lodging fee, or any part thereof is to be refunded to, or forfeited by the appellant.
- (3) The Tribunal must upon receiving a written request for reasons of its decision from any person whose rights have been adversely affected by its decision, provide such person with the reasons in writing for its decision within 10 days of receiving such request provided that the written request for reasons is received not later than 30 days after such person became aware of such direction, decision or action or might reasonably have been expected to have become aware thereof."

Amendment of Regulation 17 of the Regulations

- "(1) Any person who lodges an appeal in terms of the Act must, at the time of lodging such an appeal, deposit an amount in terms of section 17(1)(a) of the Act, with the Tribunal, which is currently fixed at R800-00 (Eight Hundred Rand)."

Amendment of Regulation 18 of the Regulations

“(1) (a) A referral in terms of section 30(5)(a) and (b) of the National Land Transport Transition Act 22 of 2000, against the non-response for concurrence by the concerned Province must be submitted in writing by the requesting Province on Form TAT 01 in the Annexure of these Regulations, and must comply with Regulations 2 and 4 where applicable.”

by the substitution for sub regulation (2) of the following sub regulation

“(2) With respect to referrals in terms of [S]section 30(5)(a) and (b) [of the] of the National Land Transport Transition Act 22 of 2000, provisions of Regulations 17 herein are not applicable.”

Repeal of regulation 19 of the Regulations

Regulation 19 of the Regulations is hereby repealed.

Insertion of Annexure to the Regulations

The following Annexure is hereby inserted in the Regulations after Regulation 18:

ANNEXURE**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) OR CROSS BORDER ROAD
TRANSPORT ACT 1998 (ACT NO. 04 OF 1998)**

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

1. DETAILS OF APPEALANT

I am

Taxi operator	A statutory objector	Taxi association	Other (specify)
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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 appeal ant
Municipality/Regulatory committee			
Other OLB			
Other municipalities/Regulatory Committee			
Non Concurrence			
Other (With Details)			

4. GROUNDS OF APPEAL

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

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

Annexure

Y	N
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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)

Annexure

Y	N
---	---

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

Annexure

Y	N
---	---

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

Annexure

Y	N
---	---

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

Annexure

Y	N
---	---

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

Annexure

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

Y	N
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(It is essential that the condonation application is set out in full with reasons and substations 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.	Y	N
How many days is the appeal outside the time required to file an Appeal		

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

NAME	FIRM NAME
Bus Add	Postal Add
E-MAIL	Bus Tel
Cell no.	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 complies with the following requirements:

The Appellant must index, paginate and bind his Application together with all annexure 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, and B3.

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

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

All other applicable annexure 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 annexure.
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 numbers (012) 309 3861 / 3065 / 3975 Fax (012) 309 3728/ 3486

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

APPEAL LODGING FEE PAYMENT DETAILS

Account Number- 4053620095

Bank – ABSA

Reference Number- 13033034 plus the Name of the Appellant



transport

Department:
Transport
REPUBLIC OF SOUTH AFRICA

TAT 02

SUMMONS

Summons in terms of section 14(2) of the Transport Appeal Tribunal Act, 1998 (Act No 39 of 1998)

In the Transport Appeal Tribunal held atLTIM 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 atday of.....200.....at.....(time) in the above mentioned hearing to give evidence(where documents are required to be produced, add:); and bring with you and then produce to the Tribunal 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

Failure to comply herein will invoke provisions of section 15 of the Transport Appeal Tribunal Act, No 39 of 1998



transport

Department:
Transport
REPUBLIC OF SOUTH AFRICA

TAT 03

POWER OF ATTORNEY

I / We, the undersigned

.....
(Appellant/ Respondent)

Herein represented by.....[if the Appellant is a company, close corporation, trust, or association with a constitution, a resolution of the directors, members, trustees, or committee of such body, authorizing the said person to sign the Power of Attorney on its behalf, must be attached] hereby nominate, constitute and appoint.

.....
to act on my / our behalf as our duly appointed agent and representative throughout the proceedings of the Appeal against the act, direction, or decision of the Board / Regulatory Committee of the CBRTA..... taken on the day of 200..... In Application Ref No.....

I / We, confirm that any act and/ or representations made by my / our said representative shall be binding on me / us as if I / we had acted personally in such proceedings

I/ We, furthermore authorize my / our said representative to appoint in his name, place and stead, a practicing advocates and attorneys to present me / us at any hearing of the said Appeal by the Transport Appeal Tribunal

Signature of the Appellant/Respondent

Date:

Witnesses:

1.[Signature and full names]
2.[Signature and full names]

.....
Signature] Representative

Date:

Witnesses

1.[Signature and full names]
2.[Signature and full names]

Short title and commencement

These Regulations are called the First Amendment to the Transport Appeal Tribunal Regulations, and shall come into operation upon publication in the *Gazette*.