

DEPARTMENT OF TRANSPORT

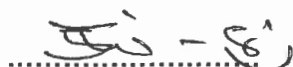
NO. 132

12 February 2021

DEPARTMENT OF COMMUNITY SAFETY AND TRANSPORT MANAGEMENT
REGULATION NOTICE**REGULATIONS IN TERMS OF SECTION 10 OF THE NATIONAL LAND TRANSPORT
ACT, 2009 (ACT NO. 5 OF 2009)**

I Sello Lehari, in my capacity as Member of the Executive Council of the North West Province responsible for Department of Community Safety and Transport Management hereby make the Regulations contained in the Schedule hereto under Section 10 of the National Land Transport, 2009 (Act No. 5 of 2009), in order to regulate Public Transport Industry matters in the Province and to deal with other matters connected therewith.

Given under my Hand at Mahikeng this 19 day of NOV....., Two thousand and Twenty.

**SELLO LEHARI MPL**

Member of the Executive Council of the North West Province
responsible for Department of Community Safety and Transport Management

SCHEDULE

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Definitions

1. In these Regulations, "the Act" means the National Land Transport, 2009 (Act No. 5 of 2009), and any word or expression to which a meaning is assigned in the Act bears the meaning so assigned to it and, unless the context otherwise indicates –

"Act" means the National Land Transport Act, 2009 (Act No. 5 of 2009);

"Department" means the North West Provincial Department responsible for community safety and transport management;

"Gazette" means the provincial Government Gazette;

"Intervention Team" means the **North West Public Transport Intervention Team** established in terms of regulation 2;

"Provincial Executive Council" means the North West Provincial Executive Council; and

"responsible Member" means the Member of Executive Council responsible for Department of community safety and transport management in the province.

Establishment of Intervention Team (section 10(1)(a) of Act)

2.(1) Where the responsible Member reasonably suspects or becomes aware of Public Transport violence that has erupted in any area within the Province, he or she may, subject to a resolution by the Provincial Executive Council, establish an intervention team to investigate such Public Transport violence.

(2) An Intervention Team contemplated in subregulation (1) is not an organ of state as contemplated in section 236 of the Constitution, 1996.

(3) An intervention team contemplated in subregulation (1) must operate within the terms of reference approved by the responsible Member.

(3) The names of the intervention team members as contemplated in subregulation (1) must be published in the Provincial Gazette for a period of 7 (Seven) days for comments by the members of public , before such intervention team can assume its responsibilities, in line with terms of reference approved by the responsible Member.

Procedure for establishment of Intervention Team

3.(1) Once a Provincial Executive Council Resolution contemplated in regulation 1(1) has been obtained by the responsible Member, the responsible Member must, by notice in the Gazette, invite for nominees to serve in the Intervention Team.

(2) The publication contemplated in subregulation (1) must include –

- (a) the area where the Public Transport violence investigation is to be conducted;
- (b) the areas of expertise of the nominees to serve in the Intervention Team ;
- (c) the terms of reference of the Intervention Team ;
- (d) the period of investigation by the Intervention Team.

(3) The invitation for nominations in terms of subregulation (1) must specify the –

- (a) nomination procedure;
- (b) requirements for nomination;
- (c) date by which a nomination must be received by the responsible Member;
- and
- (d) acceptance by nominees.

(4) The responsible Member may appoint an *ad hoc* selection committee of the departmental officials to select and recommend suitable nominees for appointment to the Intervention Team.

(5) The responsible Member must publish the names of the persons appointed to the

Intervention Team in the *Gazette*, immediately after such persons have been notified, in writing, of their appointment to the Intervention Team.

(6) The responsible Member must, within a month after the appointment of members of the Intervention Team, inform the Executive Council and the Portfolio Committee of the names of the appointed members including the term of their appointment.

Terms of reference of Intervention Team

4.(1) The responsible Member must develop the terms of reference of Intervention Team, which may include, but not limited to –

- (a) the requisite rights and privileges of members of the Intervention Team;
- (b) Roles and Responsibilities of members of the Intervention Team;
- (c) the composition of the Intervention Team;
- (d) the quorum, frequency of meetings of the Intervention Team;
- (e) the record keeping of the Intervention Team;
- (f) the composition of the Intervention Team;
- (g) the reporting Mechanism of the Intervention Team to the responsible Member;
- (g) the right of the of the Intervention Team to seek professional advice; and
- (h) the general accountability of members of the Intervention Team.

Composition of Intervention Team

5.(1) The Intervention Team must be constituted by not less than nine members and not more than 15 members to be appointed by the responsible Member.

(2) Members of the Intervention Team must be drawn within the Province of the North West.

(3) The responsible Member must convene the first meeting of the Intervention Team.

(4) The Chairperson and Deputy Chairperson of the Intervention Team must be appointed by the responsible Member amongst the appointed members at the first meeting contemplated in subregulation (3).

Term of office of Intervention Team

6.(1) The term of office is effective from the date to be determined by the responsible Member in the notice contemplated in regulation 2(3) and continues for a period of twenty-four months or may be terminated by the responsible Member.

(2) The responsible Member may, by notice in the Gazette, extend the term of office contemplated in subregulation (1), for a period not exceeding twelve months.

Powers of Intervention Team

7.(1) When investigating any incidence of the Public Transport violence as contemplated in subregulation the Intervention Team may –

- (a) conduct an inspection under this Act or any other applicable law; and
- (b) monitor and enforce compliance with this Act or an applicable law in consultation with relevant authority but not limited to the South African Police Service, PRE, Traffic Officer where necessary, subject to provisions of any other applicable law –
 - (i) question any person in respect of any matter which may be relevant to the investigation;
 - (ii) question any person whom the Intervention Team on reasonable grounds believes may have information relevant to the investigation;
 - (iii) inspect any document that a person is required to maintain in terms of this Act or any other law or that may be relevant to any related investigation;
 - (iv) copy the document referred to in paragraph (iii), or if necessary, remove the document in order to make a copy there from;
- (d) take photographs or make audio-visual recordings of anything or any person, process, action or condition related to the investigation;
- (e) with the assistance of the South African Police Service members and Traffic Officers seize and remove any object which in its opinion may constitute proof of a contravention of any provision of this Act; and
- (f) do everything that is relevant for conducting the investigation.

(2) Where the Intervention Team seizes anything relating to the investigation it must –

- (a) record it and issue a receipt for it to the owner, or person in control, of the object; and
- (b) secure same pending a decision concerning the finalization of the investigation.

Entry with warrant

8. The Intervention Team may with the assistance of the members of the South African Police Service enter any premises subject to a warrant that has been issued in accordance with any applicable law to enter or investigate any premises.

Duty to produce documents

9.(1) Any person who is in possession of any document or audio-visual material relevant to an investigation, must produce such document or audio-visual material at the request of the Chairperson of the Intervention Team.

(2) Any person who fails to comply with subregulation (1), commits an offence contemplated in paragraphs (i), (j) and (q) of section 90(1) of the Act and upon conviction, is liable to a fine or sentence contemplated in section 90(2)(b) of the Act.

Duty to answer questions and assist intervention team

10.(1) Before questioning a person in terms of this regulation, an Intervention Team member must inform that person of his or her applicable constitutional rights.

(2) A person who is questioned by the Intervention Team member in terms of this regulation must answer every question truthfully and to the best of his or her ability.

(3) An answer or explanation given to the Intervention Team member may not be used or admitted in criminal proceedings against the person who provides it, except in proceedings against that person on a charge relating to –

- (a) the administration or taking of an oath;
- (b) the making of false statements; or
- (c) the failure to answer a lawful question fully and satisfactorily.

Remuneration of members of Intervention Team

11.(1)(a) A member of the Intervention Team may be paid such remuneration or allowances as may be determined by the responsible Member in consultation with the Member of the Executive Council responsible for finance.

(b) A member of the Intervention Team who receives remuneration, allowances or other benefits by virtue of his or her post or employment in –

- (i) the national government;
- (ii) a provincial government;
- (iii) a municipality; or
- (iv) a corporation, body or institution in which the national or a provincial government has a controlling interest,

who continues to receive such remuneration, allowances or other benefits while serving as a member of the Intervention Team, may only receive remuneration and allowances referred to in paragraph (a) to the extent required to place such member in the financial

position in which he or she would have been were it not for such post or employment.

(2)(a) A member of the Intervention Team and a member of a committee of the Intervention Team may, in respect of his or her functions as a member, receive reimbursement for reasonable actual subsistence and traveling expenses necessitated by the actual attendance of a meeting of the Intervention Team or a committee of the Intervention Team.

(b) The responsible Member must determine procedures, including control measures, for the management, handling and processing of claims for subsistence and traveling expenses contemplated in paragraph (a).

Termination of membership to serve on Intervention Team

12.(1) A membership to the Intervention Team may be terminated by –

- (a) resignation;
- (b) incapacity;
- (c) misconduct;
- (d) death; or
- (e) mutual agreement.

(2) If termination contemplated in subregulation (1), the responsible Member may, after having afforded a member the opportunity to state his or her case, at any time terminate the term of office of such member if, in his or her discretion, there are good reasons for doing so.

(3) A member may resign from office in writing by giving not less than 30 days' notice to the responsible Member.

(4) The responsible Member may waive the resignation notice contemplated in subsection (4), if such waiver would not be detrimental to the efficient functioning of the Intervention Team.

(5) Whenever a vacancy occurs on the Intervention Team, the responsible Member must, subject to regulation 2, appoint a person to fill such vacancy for the unexpired portion of the period of office of the member in whose place such person is appointed.

Short title

13. These Regulations are called the North West Land Transport Regulations, 2020.