

(Legislative Supplement No. 11)

LEGAL NOTICE NO. 19

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 MOTORCYCLES) REGULATIONS, 2015

1. (1) These Regulations may be cited as the National Transport and Safety Authority (Operation of Motorcycles) Regulations, 2015 and shall come into force upon publication in the Gazette.

Citation and commencement.

(2) Notwithstanding the provisions of paragraph (1), regulations 5 (b) and 9 shall come into force on the 1st January, 2016.

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

Interpretation

“Act” means the National Transport and Safety Authority Act, 2012;

“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 and includes a cooperative society registered under the Cooperative Societies Act and a society registered under the Societies Act;

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“licence” means a driving licence issued by the Authority under the Act;

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“two wheeled motorcycle” means any mechanically propelled vehicle with two wheels the weight of which unladen does not exceed eight hundred kilograms;

“three wheeled motorcycle” means any mechanically propelled vehicle with three wheels the weight of which unladen does not exceed eight hundred kilograms;

“two wheeled motorcycle Taxi” means a two wheeled motorcycle used for the purpose of carrying or ferrying of a passenger for reward or hire;

“three wheeled motorcycle Taxi” means a three wheeled motorcycle used for the purpose of carrying or ferrying of a passenger for reward or hire;

“motorcycle” means any mechanically propelled vehicle with less than four wheels the weight of which un laden does not exceed eight hundred kilograms;

“owner” means the registered owner of a motorcycle;

“ride” means to operate, manage or to be in control of a motor cycle;

“rider” means the person operating or person in control of a motorcycle”;

“Third Party Motor Vehicle Insurance” means an insurance policy by that name issued in respect to a motorcycle pursuant to the provisions of the Insurance (Motor Vehicles Third Party Risks) Act;

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“Third Party Public Service Vehicle Insurance” means an insurance policy by that name issued in respect to a motorcycle pursuant to the provisions of the Insurance (Motor Vehicles Third Party Risks) Act.

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3. These Regulations shall apply to all motorcycles operating on a public road in Kenya.

Application of the Regulations.

4. (1) No motorcycle shall be sold or transferred by any person without the following protective gear—

Protective Gear

(a) two helmets which comply with the standards established by the Kenya Bureau of Standards and which shall have the registration number indelibly printed in letters not less than three inches in height on both sides of the helmet;

(b) two reflective jackets which shall have the registration number of the motorcycle indelibly printed in letters not less than four inches in height on the back of the jacket.

(2) A person desirous of transferring a motorcycle must present physical proof of compliance with regulation 4 (1) to the Authority.

(3) No supplier, distributor or person involved in the business of selling motorcycles in Kenya shall sell, distribute or otherwise convey a motorcycle without the protective gear described in regulation 4.

(4) For Purposes of this regulation the term “reflective jacket” shall also mean a reflective vest.

5. Every owner of a two wheeled motorcycle shall—

Responsibilities of Owners.

(a) provide the rider and passenger with the protective gear stipulated in regulation 4 (1);

(b) ensure that the helmets provided under (a) are yellow if the two wheeled motorcycle is a taxi;

(c) not cause or permit any person to ride their motorcycle unless such person is the holder of a valid driving licence or a valid provisional licence endorsed in respect of that class of motorcycle;

(d) for private motorcycles, ensure that the motorcycle is at the very minimum insured against third party risks in accordance with the Insurance (Motor Vehicles Third Party Risks) Act;

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- (e) for two wheeled motorcycle taxi, ensure that motorcycle has a Third Party Public Service Vehicle Insurance;
- (f) ensure that no structural modifications to the motorcycle are undertaken that may affect the safe operation of the motorcycle;
- (g) ensure that no structural modifications to the motorcycle are undertaken that may obstruct the visibility of the rear number plates;
- (h) ensure that no modifications to the exhaust system or any other noise abatement device of a motorcycle are done so as to cause the noise emitted by the motorcycle to be above that emitted by the motorcycle as originally manufactured.

6. Every rider of a motorcycle shall—

Responsibilities of a Rider

- (a) have a valid driving license issued by the Authority;
- (b) ensure that they shall not ride or carry a person on a motor cycle without the prescribed protective gear properly fastened;
- (c) not carry more than one person at a time;
- (d) ensure that passengers are carried on a proper seat with foot rests securely fixed to the motor cycle behind the rider's seat;
- (e) ensure that a passenger sits astride the motor cycle;
- (f) ensure that the headlights of the motorcycle are on at all times when riding;
- (g) ensure that loads and passengers are not carried at the same time;
- (h) keep the protective gear in a clean, dry and generally wearable condition;
- (i) ensure that the rear number plates are visible at all times;
- (j) overtake on the right hand side and not to overtake in the same lane occupied by vehicle being overtaken;
- (k) observe traffic lights;
- (l) observe all traffic rules;
- (m) not park in undesignated areas.

7. (1) Every passenger in a motorcycle shall—

Responsibilities of a Passenger.

- (a) properly wear a helmet and reflective jacket whenever being carried on a motorcycle;
- (b) not board or be carried on a motorcycle that already has a passenger except as provided by Regulation 7 (2) (a);
- (c) not board or be carried on a motorcycle that is carrying any load;

(d) sit astride in the seat fixed behind the rider's seat.

(2) For the purposes of these Regulations--

- (a) a child who is less than thirteen years old may be carried together with an adult provided the child is seated between the rider and the adult and wears a helmet designed for children;
- (b) persons with disabilities will be exempted from the requirement to sit astride while being carried on a motorcycle.

8. (1) A motorcycle rider shall not carry a load--

Carriage of Loads

- (a) whose width projects more than fifteen centimeters beyond the outside end of the handle bars;
- (b) whose height is more than two metres from the ground;
- (c) whose weight is more than thirty kilograms for a motorcycle whose carrying capacity does not exceed fifty cc and kilograms for a motorcycle whose carrying capacity does not exceed four hundred cc;
- (d) which projects to the rear beyond the maximum overall length of the motorcycle by more than sixty centimeters. The rear extremity of the load must be plainly indicated by a conspicuous red marker during the day and by a red light at night.

(2) The rider of a motorcycle carrying loads shall ensure that no part of the load carried drags on the road.

(3) For the purpose of this regulation the term "load" excludes luggage carried by a passenger provided such luggage does not exceed ten kilograms in weight and does not project more than fifteen centimeters beyond the outside end of the handle bars.

(4) The luggage in sub-regulation (3) may be carried together with the passenger provided the luggage is properly secured between the rider and the passenger.

9 (1) Any person engaging in business of motorcycle taxis services shall be a member of a body corporate which shall have a minimum of one hundred motorcycle taxis.

Membership in a body corporate

(2) For two wheeler motorcycle taxis, the name of the group or sacco which they are members of must be indelibly printed in letters not less than four inches in height on the back of both jackets.

10 Every three wheeled motorcycle taxi shall--

- (a) be fitted with a seat belt for the rider and a seat belt per seating position for passengers;
- (b) have a covered body;
- (c) have painted on both sides and on the rear, a broken horizontal yellow band having a width of one hundred and fifty millimeters and of a consistency sufficient to enable

Requirements for operation of three wheeled motorcycle taxi

such band to be clearly visible by day at a distance of two hundred and seventy five meters.

- (d) no part of the motorcycle, whether unladen or laden, other than the driving mirror or direction indicators, shall project more than fifteen centimeters, beyond the outside wall of the outmost rear tyre;
- (e) have at the minimum a motor commercial public service vehicle insurance cover.

11. Every owner of a three wheeled motorcycle taxi shall—

Responsibility of owners

- (a) not cause or permit any person to ride their motorcycle unless such person is the holder of a valid driving licence or a valid provisional licence endorsed in respect of that class of motorcycle;
- (b) ensure that all three wheeled motorcycle taxi owned have at the minimum a Third Party Public Service Vehicle Insurance.

12. Every rider of a three wheeled motorcycle shall—

Responsibilities of a Rider

- (a) not ride a motorcycle unless that person has a valid driving licence issued by the Authority;
- (b) not ride a motor cycle without properly wearing a seat belt or carry passengers who have not properly worn their seat belts;
- (c) not carry more than passengers in excess of the seating positions provided;
- (d) ensure that the headlights of the motorcycle are on at all times when riding;
- (e) overtake on the right hand side and not to overtake in the same lane occupied by vehicle being overtaken;
- (f) observe traffic lights,
- (g) not ride or operate a motorcycle between lanes of traffic or between adjacent lines or rows of vehicles;
- (h) keep the seat belts in a clean, dry and generally wearable condition;
- (i) observe all traffic rules.

13. Every passenger in a three wheeled motorcycle shall—

Responsibilities of a Passenger

- (a) wear seatbelt whenever being carried on a motorcycle;
- (b) not board or be carried on a motorcycle that already has the maximum number of passengers allowed.

14. The Authority in consultation with the relevant county government shall designate—

Areas of operation

- (a) the areas of operation of motorcycle taxis;

(b) the hours of operation of motorcycle taxis.

15. A person who contravenes any provision of these Regulations and whose penalty is not provided for in the Traffic Act, commits an offence and is liable on conviction to a fine not exceeding twenty thousand shillings or to imprisonment for a term not exceeding six months or, both.

Offences and  
penalties  
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16. Regulation 25A of Legal Notice 173 is revoked.

Repeal.

Made on the 5th February, 2015.

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