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THE NATIONAL TRANSPORT AND SAFETY AUTHORITY ACT

(No. 33 of 2012)

THE NATIONAL TRANSPORT AND SAFETY AUTHORITY
(TRANSPORT NETWORK COMPANIES, OWNERS, DRIVERS
AND PASSENGERS) REGULATIONS, 2022

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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, 2012, the Cabinet Secretary for Transport, Infrastructure, Housing, Urban Development and Public Works makes the following Regulations—

THE NATIONAL TRANSPORT AND SAFETY AUTHORITY
(TRANSPORT NETWORK COMPANIES OWNERS, DRIVERS
AND PASSENGERS) REGULATIONS, 2022

PART I—PRELIMINARY

1. These Regulations may be cited as the National Transport and Safety Authority (Transport Network Companies, Owners, Drivers and Passengers) Regulations, 2022.

Citation.

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

Interpretation.

“transport network company” means a person, entity or company who or that connects transport network passengers with transport network drivers for transport network services exclusively through the offering, use or operation of a transport network platform but does not include a person, entity or company that provides street-hailing taxicab services, limousine or other transportation service arranged by a method other than through a transport network platform;

“transport network driver” means a person authorized by a transport network company to offer transport network services to transport network passengers through a transport network platform;

“transport network owner” means the registered owner, hirer or lessee of a transport network vehicle;

“transport network passenger” means an individual who uses a transport network platform to connect with a transport network driver who provides transport network services to the passenger using a transport network vehicle;

“transport network platform” means a digital platform or any other similar system offered, used or operated by a transport network company and used by persons for the transportation of passengers for compensation by a transport network driver;

“transport network vehicle” means a motor vehicle with a manufacturer’s seating capacity originally designed for not more than seven passengers excluding the driver, used to provide transport network services through a transport network platform, but does not include a taxicab, motorcycle or shared pool motor vehicle; and

“transport network service” means—

- (a) any time a transport network driver operating a transport network vehicle is logged onto a network for the purposes of accepting requests for transportation services for compensation from prospective passengers;

- (b) any time from the moment a transport network driver operating a transport network vehicle has accepted a ride request through a transport network, continuing while that transport network driver is *en route* to pick up a passenger to provide transport services for compensation, and ending when the passenger reaches the final destination or a trip is cancelled, whichever is later; or
- (c) any time from the moment a transport network driver operating a transport network vehicle has a passenger in a transport network vehicle, continuing while such passenger is being transported for compensation, and ending when the passenger reach the final destination.

3. The purpose of these Regulations shall be to regulate the provision of transport network services by transport network drivers through transport network platforms.

Purpose of the Regulations.

4. These Regulations shall apply—

Application of the Regulations.

- (a) to transport network companies;
- (b) to transport network owners;
- (c) to transport network drivers; and
- (d) to transport network passengers.

PART II—TRANSPORT NETWORK COMPANIES

5. A person, entity or company that wishes to offer transport network services in Kenya shall apply in the prescribed form for a transport network licence.

Transport network company to be licensed.

6. A person, entity or company shall be eligible to apply for a transport network license shall if that person, entity or company is—

Requirements for licensing.

- (a) a body corporate that is legally recognized in Kenya.;
- (b) tax compliant;
- (c) duly registered by the Data Commissioner as a data; controller or data processor, whichever the case maybe; and
- (d) have a registered office in Kenya.

7. An application under regulation 5 shall be accompanied by—

Application for transport network company license.

- (a) certified copy of the certificate of incorporation if the applicant is a company incorporated under the Companies Act, 2015;
- (b) the standard contract between the transport network company and owners of the vehicles in their fleet;
- (c) the revenue sharing agreement between the transport network company, the owner and the driver;
- (d) pricing mechanism between the transport network company and the subscribers;

- (e) a list of the vehicles in the transport network company's service fleet;
- (f) a list of the makes, models, passenger capacity and number plates of vehicles in the transport network company's service fleet;
- (g) the procedure for handling complaints from drivers, owners or passengers;
- (h) the procedure for activating and deactivating subscription service;
- (i) list of owners of the vehicles in the transport network company's service fleet;
- (j) a tax compliance certificate or equivalent issued by the Kenya Revenue Authority;
- (k) registration certificate issued by the Data Commissioner as a data controller or data processor, whichever the case maybe; and
- (l) the transport network company's deactivation policy.

8. (1) Before granting or refusing to grant a transport network company license, the Authority shall consider the following—

Processing of applications.

- (a) whether the applicant has complied with the requirements of these Regulations; and
- (b) public interest.

(2) Where the Authority is satisfied that the applicant has complied with the requirements of these Regulations, the Authority shall grant the applicant the license upon the payment of the fee prescribed in the Schedule.

(3) All applications shall be considered within fourteen days after the submission of the application.

(4) Where the Authority refuses to grant an applicant with a licence, it shall notify that applicant in writing of the refusal and specify the grounds for the refusal in the notification.

9. (1) A transport network company shall not offer transport network services unless it has entered into an agreement with—

Transport network agreements.

- (a) the owner of a motor vehicle that shall be used to offer transport network services;
- (b) a person who is licensed to drive a motor vehicle and possesses a Public Service Vehicle license; and
- (c) a person who has subscribed to the transport network service being offered by the transport network company.

(2) A transport network agreement shall contain the following—

- (a) the duties of the transport network company to the owner of the motor vehicle being used to offer transport network services;
- (b) the duties of the owner of the motor vehicle being used to offer transport network services to the transport network company;
- (c) the duties of the transport network company to a person who has subscribed to the service being offered by the company;
- (d) the duties of a transport network driver to a subscriber of the transport network service;
- (e) the procedure for subscribing to a transport network service, and activating and deactivating the service;
- (f) the period during which the agreement shall be valid; and
- (g) the commission which shall be paid by a transport network driver or a transport network owner to the transport network company, which shall not exceed eighteen per cent of the total earnings of the trip.

(3) A transport network agreement shall not include and terms or conditions designed to increase the commission payable by a transport network driver or transport network owner such that it exceeds eighteen per cent of the total earnings per trip as required under subregulation (2) (g).

10. (1) The governing law in respect of an agreement under regulation 9 shall be laws of Kenya.

Kenyan law shall apply to agreements.

(2) Any dispute relating to an agreement under regulation 9 shall be adjudicated before Kenyan courts or tribunals.

11. Each transport network company shall—

Duties of transport network companies.

- (a) ensure that all the vehicles in its fleet have a valid transport network vehicle license;
- (b) report any accident that results in any death or serious injury to the Authority within twenty-four hours after the accident;
- (c) ensure that any transport network vehicle or driver whose license is suspended or revoked by the Authority cannot access the transport network platform during the period of suspension or revocation upon communication from the Authority;
- (d) ensure that all vehicles under its transport network platform have valid insurance covers;
- (e) provide the Authority with any information or documentation requested for within 72 hours of the request being received;
- (f) ensure that appropriate action is taken following the submission of complaints within a reasonable timeframe;

- (g) ensure that the motor vehicles in its fleet have valid certificates of worthiness; and
- (h) provide a panic button with appropriate response for the drivers and passengers in the digital platform which shall be connected to a response centre which will be manned at all times.

12. (1) Subject to these Regulations, a transport network company license shall be valid for a period of one year from the date of issue.

Validity and renewal.

(2) A transport network company licence may be renewed after the expiry of one year in accordance with the procedure, with the necessary modifications, set out in regulation 6.

(3) The Authority shall, before renewing a transport network company license, conduct an audit of the transport network company and its operations to confirm compliance with these Regulations and may renew a transport network company's license if that company has complied in full with these Regulations.

13. (1) The Authority may suspend or cancel the license of a transport network company on the following grounds—

Suspension or cancellation of licences.

- (a) failure to comply with any of the terms and conditions of the transport network company license;
- (b) failure to comply with any of the provisions of these Regulations;
- (c) the suspension, revocation or expiration of the registration issued by the Data Commissioner; or
- (d) the transport network company has been declared to be insolvent.

(2) Before suspending or cancelling the license of a transport network company, the Authority shall —

- (a) notify the transport network company in writing of the intention to suspend or cancel the license and the reasons thereof;
- (b) afford the transport network company adequate opportunity to present their case against the suspension or cancellation;
- (c) give the transport network company written reasons for the decision to suspend or cancel the licence; and
- (d) notify the transport network company of the company's right of appeal.

14. (1) A transport network company shall be required to provide passengers with the following information before a trip that has been booked through a transport network platform commences—

Operations of transport network companies.

- (a) the motor vehicle's make and model to be used during the trip;

- (b) the motor vehicle's registration number;
- (c) the transport network driver's name;
- (d) the transport network driver's photo; and
- (e) the estimated fare that shall be presented in a clear and transparent manner prior to a passenger accepting a ride.

(2) A transport network company shall put in place a system to verify the identity of each passenger during enrollment on to the transport network platform.

(3) A transport network company shall provide a printed or electronic receipt to the passenger at the conclusion of every trip.

(4) The receipt provided under subregulation (3) shall include the following information—

- (a) the rates, fees or surcharges charged for the trip;
- (b) the date and time of the trip;
- (c) the location at which the passenger was picked up and location which the passenger was transported to;
- (d) the transport network driver's name;
- (e) the transport network vehicle used during the trip and its motor vehicle registration number; and
- (f) the duration and distance of the trip.

(5) A transport network company shall put in place measures to guarantee the security, protection and privacy of the transport network driver and transport network passenger.

(6) The personal information of the transport network driver and transport network passenger collected, processed or otherwise used in relation to a transport network service shall be protected, processed or otherwise used in accordance with the Data Protection Act.

(7) A transport network company shall maintain and publish for the benefit of its transport network passengers a service support system with the capability to leave messages at all times and where such messages shall be responded to within twenty-four hours by the company.

(8) A transport network company shall provide a system through which passengers can retrieve items that may have been left behind after a trip in a transport network vehicle.

(9) A transport network company shall not discriminate against passengers with special needs or disabilities including by ensuring that there are no additional charges or increased fares and wheelchairs and service animals are adequately accommodated during the provision of a transport network service.

(10) A transport network company shall configure its transport network platform to ensure that after eight hours of continuous services

in a twenty-four-hour period, the driver shall log out of the platform for at least four consecutive hours.

(11) During a trip, no other person, except a transport network driver, shall be permitted to be in the transport network vehicle without the express consent of the transport network passenger.

15. (1) A transport network company shall, before deactivating, suspending or removing a transport network vehicle owner or a transport network driver from the transport network platform—

Deactivation, suspension or revocation of transport network vehicles.

- (a) ensure that the deactivation, suspension or removal complies with the duly submitted transport network company's deactivation, suspension or removal policy;
- (b) give adequate notice to the transport network vehicle owner or transport network driver in writing of the intention to deactivate, suspend or remove the owner or driver from the transport network platform and the reasons thereof;
- (c) afford the transport network vehicle owner or transport network driver with adequate opportunity to challenge the deactivation, suspension or removal; and
- (d) give the transport network owner or transport network driver written reasons for its decision to deactivate, suspend or remove the owner or driver from the transport network platform.

(2) The transport network company shall notify the Authority of the deactivation, suspension or removal of a transport network vehicle owner or a transport network driver from the transport network platform within seven days after the deactivation, suspension or removal.

(3) The Authority shall publish on its website and in any other appropriate medium the details of transport network drivers or transport network owners who have been deactivated, suspended or removed from a transport network platform, and the reasons for the deactivation, suspension or removal.

(4) The transport network company's deactivation, suspension or removal policy shall provide for—

- (a) the conditions for the deactivation, suspension or removal of a transport network driver or transport network owner from the transport network platform;
- (b) in the case of suspension, the duration of suspension of a transport network driver or transport network owner from the transport network platform; and
- (c) the conditions and procedure for the reactivation and reinstatement of a transport network owner or transport network driver who was deactivated, suspended or removed from the transport network platform.

16. A transport network company shall ensure that an owner is not negatively affected in cases of promotional price offerings to passengers. Promotional price offerings.

17. (1) A transport network company shall maintain the following data for each transport network service offered through a network platform for a period of three years— Maintenance and retention of records.

- (a) the motor vehicle registration number used to offer the transport network service;
- (b) the name, driving license number and Public Service Vehicle registration number of the transport network driver who provided the transport network service;
- (c) the name and relevant identification details of the transport network passenger who was provided with the transport network service;
- (d) the date, time and location of pick-up and drop-off relating to the transport network service;
- (e) the method of payment made by the transport network passenger for the transport network service; and
- (f) the details relating to the pricing of transport network service.

(2) The transport network company shall provide copies of the records—

- (a) to the Authority on request and after adequate notice;
- (b) to a duly authorised police officer in relation to the investigation of an offence; or
- (c) as the transport network company may be directed by an order of a court of competent jurisdiction.

18. (1) A transport network company shall deactivate a transport network driver from the transport network platform and notify the Authority of the deactivation where the driver's conduct that raises public safety concerns including any of the following— Reporting.

- (a) criminal complaint, investigation or arrest;
- (b) allegation or complaint of sexual misconduct;
- (c) allegation or complaint of traffic accident that resulted in a fatality;
- (d) conviction of drunk driving; or
- (e) allegation or complaint of assault or battery or verbal abuse.

(2) The notification under subregulation (a) shall be made within forty-eight hours after the deactivation and shall specify—

- (a) the driver's name;
- (b) the driver's license number;

- (c) the motor vehicle registration number driven or owned by the deactivated driver; and
- (d) the reason for the driver's deactivation.

PART III—TRANSPORT NETWORK VEHICLES

19. (1) Each transport network vehicle shall, before it is used to offer transport network services—

Requirements for transport network vehicles.

- (a) have a valid vehicle insurance cover;
- (b) have a valid certificate of roadworthiness; and
- (c) not be more than sixteen years from the date of manufacture.

(2) Each transport network vehicle used to offer transport network services shall—

- (a) at all times, be maintained in such condition as to ensure its safe operation and the safety of transport network passengers; and
- (b) be equipped with a hands-free accessory for mobile devices.

(3) If the transport network vehicle's owner and transport network driver are different persons—

- (a) the transport vehicle's owner shall maintain the driver's license details for a minimum period of one year; and
- (b) enter into a written agreement with the transport network driver detailing the nature of their relationship.

PART IV—TRANSPORT NETWORK DRIVERS

20. Each transport network driver shall, before being authorized to offer transport network services—

Requirements for transport network drivers.

- (a) have a valid driving license with the relevant driver endorsement issued by the Authority; and
- (b) a valid Public Service Vehicle badge.

21. (1) Each transport network driver offering transport network services shall—

Duties of transport network drivers.

- (a) display at a conspicuous place on the transport network vehicle a sticker or an identification mark approved by the Authority;
- (b) treat transport network passengers courteously;
- (c) when playing music in a transport network vehicle, ensure that the music played does not exceed the prescribed limits in the course of the journey;
- (d) ensure that passengers are issued with tickets or receipts for fare paid;
- (e) report any accidents involving the transport network vehicle immediately to the relevant authorities;

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- (f) ensure that all innovative decorations on the transport network vehicle are not offensive;
 - (g) ensure that no innovative decorations are painted, sprayed, drawn on or affixed to any window, the front and back windscreens, lights, indicators or chevrons of the transport network vehicle;
 - (h) ensure that none of the passenger, co-driver and driver windows, the front and back windscreens, lights, indicators or chevrons of the transport network vehicle are tinted or painted, sprayed or drawn on any innovative decorations;
 - (i) ensure that innovative decorations on the transport network vehicle do not have reflective properties;
 - (j) ensure that no additional exterior and interior lighting is affixed other than those affixed by the manufacturer of the transport network vehicle;
 - (k) ensure that his or her own acts or omissions do not adversely affect the health and safety of transport network passengers, and
 - (l) comply, so far as is reasonable, with any lawful instruction that is given by the transport network company to enable compliance with these Regulations.
- (2) No transport network driver shall—
- (a) drive while having consumed any intoxicating liquor;
 - (b) drive if impaired by any legally prescribed or over-the-counter drugs or medications;
 - (c) smoke any substance or use any device that produces a smoke-like vapor while operating carrying a passenger;
 - (d) chew khat while driving;
 - (e) drive transport network passengers to their destination by any other than the shortest and most direct route, unless requested to do so by the passenger;
 - (f) drive any transport network vehicle while using a mobile communications device without a hands-free accessory;
 - (g) be physically or verbally abusive to any transport network passenger;
 - (h) use offensive gestures; or
 - (i) refuse to transport to a requested destination any transport network passenger of proper demeanor whose request for service the transport network driver has accepted on the transport network service platform.
- (3) For purposes of clarity, a transport network driver may refuse to transport a transport network passenger where—

- (a) the passenger is acting in a disorderly or threatening manner; or
 - (b) the passenger refuses to state a specific destination upon entering the vehicle.
- (4) A transport network driver may not assign, transfer to, or allow usage of the transport network service platform account by any other person, including another licensed transport network driver.
- (5) A transport network driver shall return any lost articles recovered in a transport network vehicle to the rightful owner at the transport network passenger's cost.
- (6) A transport network driver shall not pick up passengers at cabstands, or solicit rides, or respond to street-hails.
- (7) A transport network driver shall not offer or provide transport network services for more than eight continuous hours in a twenty-four-hour period.
- (8) A transport network driver shall ensure that no other person not being a transport network passenger shall be permitted to be in the transport network vehicle except with the express consent of the transport network passenger

PART V – TRANSPORT NETWORK PASSENGERS

22. A transport network passenger shall, while using a transport network service or riding in a transport network vehicle—

Duties of transport network passengers.

- (a) not willfully obstruct or impede the transport network driver of the transport network vehicle;
- (b) not use obscene or offensive language or conduct himself or herself in a riotous or disorderly manner;
- (c) not smoke or carry a lighted pipe, cigar or cigarette in the transport network vehicle;
- (d) not spit upon or from the transport network vehicle or willfully damage, soil or defile any part of the transport network vehicle;
- (e) not throw out of the transport network vehicle any bottle, liquid or litter or any other article or thing;
- (f) pay the fare for the whole journey taken; and
- (g) not willfully do or cause to be done with respect to any part of the transport network vehicle or its equipment, or any accessory thereto, anything which is calculated—
 - (i) to obstruct or interfere with the working of the transport network vehicle or to cause damage; or
 - (ii) to cause injury, discomfort, annoyance or inconvenience to any other person; or
 - (iii) enter or alight from the transport network vehicle while it is in motion.

PART VI—MISCELLANEOUS PROVISIONS

23. A person aggrieved by any decision of the Authority under these Regulations may appeal to the Appeals Board.

Appeals

24. (1) Each transport network company and transport network vehicle that was in operation before the commencement of these Regulations shall continue to operate for a period of ninety days within which they shall be required to acquire the necessary licenses provided for under these Regulations.

Transitional Provisions.

(2) A person who fails to apply for a new license under these Regulations within the prescribed period shall cease to operate the licensed activity.

25. A person who contravenes any provision of these Regulations commits an offence and shall be 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

SCHEDULE

r. 8 (2)

<i>Subject</i>	<i>Fee (Ksh.)</i>
Application and renewal fee for transport network company license	100,000 per annum

Made on the 3rd June, 2022.

JAMES W. MACHARIA,
*Cabinet Secretary for Transport, Infrastructure,
Housing, Urban Development and Public Works.*