

# KwaDukuza Public Transport Forum Guide and best practice in transporting workers

July 2024



Endorsed by:



## Background to the Guide

This guide to legislation that governs staff transport is issued by the KwaDukuza Public Transport Forum, which consists of representatives of the South African Police Services, KDM Traffic Department, the KZN Department of Transport, and the Dolphin Coast Taxi Association.

The guide aims to provide clarity on the legal framework applicable to the transport of workers, and encourages practices that will contribute to the health and safety of our employees, and increase the productivity of businesses.

The guide will be of specific benefit to individuals or entities that operate public transport, businesses who transport or provide transport for their staff members, and/or "lift club" operators.

The following legislation is relevant to the practice of transporting workers, and also includes clarity on vehicles used for such transport.

## National Road Traffic Act 93, 1996 (NRTA)

The NRTA provides regulations on the transportation of people on public roads, including requirements for vehicle safety, driver qualifications, and passenger capacity.

Businesses must adhere to these regulations to ensure the safety and well-being of their staff during transportation. Requirements include appropriate vehicle maintenance, qualified drivers, seatbelts, and compliance with work-hour regulations to prevent fatigue-related incidents.

Under the provision of the NRTA, vehicles used to transport passengers or goods for remuneration are typically subject to different regulations and permits compared to private vehicles. For example, if an employer provides transportation for its staff using a vehicle that falls under the category of "goods vehicle" or "public transport vehicle," specific rules may apply.

- Regulation 250 of the NRTA, effective from 11 May 2017, bans the transport of paying passengers on or in the goods compartment of a goods vehicle under any circumstances.
  
- Regulation 247 of the NRTA stipulates the circumstances under which persons may be carried on goods vehicle.
  - Non-paying passengers are allowed to be carried in a goods vehicle.
  - However, passengers are not allowed to be conveyed in the goods compartment of a goods vehicle together with any tools or goods, except if it is their personal effects, unless that portion in which such persons are being conveyed is separated by means of a partition, from the portion in which such goods are being conveyed.
  - The part of the vehicle carrying the workers must be enclosed with material strong enough to prevent a person from falling off the vehicle, to a height of at least 350mm above the surface on which the passengers sit; or at least 900mm above the surface on which the people stand.
  - Ideally, no person being transported should be standing on the body of the vehicle, but there is no specific ban on this.

- Regulation 233 of the NRTA makes provision for the number of persons that may be carried on motor vehicle in relation to seating capacity.
  - Up to 9 persons (including the driver) may be transported in a motor vehicle, and up to 16 persons (including the driver) in a minibus.
  - Despite the detail of this regulation, the seating capacity referred to is stated on the vehicles license disk.
  - There is no stated limitation on the number of passengers that can be transported in the cabin of a vehicle. It is suggested that safe transportation practices and the vehicles Gross Vehicle Mass (GVM) or Weight (GCM), i.e. the maximum weight of a vehicle when fully loaded as specified by the manufacturer, be used as guidelines.
- The definition of a goods vehicle: “goods vehicle” means a motor vehicle, other than a motor cycle, motor tricycle, motor quadrucycle, motor car, minibus, or bus, designed or adapted for the conveyance of goods on a public road and includes a truck-tractor, adaptor dolly, converter dolly and breakdown vehicle.

- The NRTA enforcement authorities are KDM Community Safety, KZN RTI and the SAPS. Enforcement relates to:
  - Regulation 247(a) NRTA 93/1996: Conveyed persons unsafely in a goods compartment of vehicle. Goods compartment: passengers conveyed unsafely – seated (height of enclosure at least 350mm and made of material of sufficient strength).
  - Regulation 247(b) NRTA 93/1996: Conveyed persons unsafely in a goods compartment of vehicle. Goods compartment: passengers conveyed unsafely – standing (height of enclosure at least 900mm and made of material of sufficient strength).
  - Regulation 247 NRTA 93/1996: Conveyed persons and goods/tools in goods compartment whilst not separated. Goods compartment: passengers and goods carried together.



- General guidelines for owners and managers of businesses:
  - Ensure that safe speeds are maintained when transporting employees.
  - Passengers are seated or stand securely before driving.
  - No worker’s body should lean over the side and rear of a motor vehicle.
  - No equipment, materials, or tools are transported with workers.
  - The vehicle must be roadworthy and have a valid license, e.g. all lights in working order, brakes are effective etc.
  - The driver must be in possession of a valid driver’s license and (PDRP) where applicable when driving on a public road as contained in the National Road Traffic Act of 1996. On private roads it is not necessary, but it is recommended to have a license in place as an additional form of competency requirements.
  - No school-going children may be transported in the back of a bakkie/truck.

The greatest responsibility rests with management to ensure that the vehicle and driver are competent and safe.

Furthermore, the correct policies and processes should be discussed with those being transported to make everyone aware of the safety rules and possible hazards. It is suggested that training and information be given beforehand.

## Occupational Health and Safety Act (OHSA)

The OHSA governs the health and safety of employees in South Africa. It includes regulations related to the transportation of employees, ensuring their safety while traveling to and from work.

## The Basic Conditions of Employment Act (BCEA)

This Act covers various aspects of employment, including working hours, leave, and employee transport. Section 17(2)(b) envisages that an employer must ensure that transportation is available between the workplace and the employee's place of residence on each occasion where that employee must work beyond 18h00 or where his/her shift falls predominantly during the hours after 18h00 and before 06h00.

## The Compensation for Occupational Injuries and Diseases Act (COIDA)

This Act establishes a compensation system for employees who sustain injuries or contract diseases in the course of their employment, which may include injuries occurring during transportation. Section 22(5), of the COIDA addresses this matter. The subsection stipulates that "the conveyance of an employee free of charge to or from his place of employment for the purposes of his employment by means of a vehicle driven by the employer himself or one of his employees and specially provided by his employer for the purpose of such conveyance, shall be deemed to take place in the course of such employee's employment".

Employers need to ensure that they are registered in accordance with the COIDA.

## National Land Transport Act 5 of 2009 (NLTA)

The Road Accident Fund provide cover in the form of indemnity insurance to persons who cause a road accident, as well as personal injury and death insurance to victims of motor vehicle accidents, and their families.

National Land Transport Act 5 of 2009 (NLTA)

The NLTA regulates and monitors the transportation of public passengers for reward.

The NLTA states that an operating license or permit is not required for the following services:

- o courtesy services when the operator operates less than the prescribed number of vehicles;
- o lift clubs (even if lift club members contribute financially to cover costs);
- o farmers carrying their own workers in vehicles of which they are the sole owners;
- o municipalities carrying their own workers in vehicles owned by them;
- o ambulances carrying patients to places where they will receive medical attention; and
- o the conveyance by a person who carries on any industry, trade, or business of the person's own employees from a place where they perform work to another place where they are to perform work by means of a vehicle of which the person is the owner.

