

**THE PROVINCE OF
GAUTENG**



**DIE PROVINSIE VAN
GAUTENG**

Provincial Gazette Provinsiale Koerant

EXTRAORDINARY • BUITENGEWOON

Selling price • Verkoopprys: **R2.50**
Other countries • Buitelands: **R3.25**

Vol. 24

PRETORIA
23 MARCH 2018
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No. 82

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PROVINCIAL NOTICES • PROVINSIALE KENNISGEWINGS

PROVINCIAL NOTICE 295 OF 2018**GAUTENG DEPARTMENT OF ROADS AND TRANSPORT****PUBLICATION FOR COMMENTS: GAUTENG TRANSPORT AUTHORITY BILL, 2018**

The Member of the Executive Council responsible for Roads and Transport hereby publishes the Gauteng Transport Authority Bill, 2018 for public comment.

The Bill seeks to provide for the establishment, organisation, regulation, functions and control of a Gauteng Transport Authority as a provincial public entity; to coordinate and rationalise the planning, integration, enforcement, exercise of powers, contracting authorities and funding of public transport operations, functions and activities in Gauteng; to provide for the management of the Authority; to provide for the appointment, terms of office, conditions of service and functions of the Board; to provide for the funding of the Authority.

Members of the public are invited to submit written comments within 30 calendar days of the date of the publication of this notice, on the Gauteng Transport Authority Bill, 2018 set hereunder to the following contacts:

By Email : gdrtpubliccomments@gauteng.gov.za

By Post : Gauteng Department of Roads and Transport
Private Bag X83
Marshalltown
2107

Hand Delivery : Gauteng Department of Roads and Transport
45 Commissioner Street
Johannesburg
2000

Comments received after the closing date will not be considered.

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CHAPTER 1

DEFINITIONS AND OBJECTIVE

DEFINITIONS AND OBJECTIVES

1. Definitions

"Authority"	means the Gauteng Transport Authority established by section 3 of this Act;
"Board"	means the board appointed in terms of section 8 of this Act;
"Chief Executive Officer"	means a person appointed in terms of section 22 of this Act;
"Contracting authority"	shall have the meaning ascribed to it in terms of the NLTA, as applicable to the Province;
District Municipality	shall have the meaning ascribed to it in terms of section 1 of the Municipal Structures Act 117 of 1998;
"Department"	means the Department of Roads and Transports in the Province
"Financial Year"	means the period referred to in section 31(1)
"House of Traditional Leaders"	means the National House of Traditional Leaders established in terms of section 2 of the National House of Traditional Leaders Act 22, 2009;
"Integrated Development Plan" or "IDP"	means the municipality's integrated development plan adopted in terms of chapter 5 of the Systems Act;
"Integrated Public Transport Network Plan" or "IPTNP"	means a system in a particular area that integrates public transport services between modes, with through ticketing and other appropriate mechanisms to provide users of the system with the optimal solutions to be able to travel from their origins to destinations in a seamless manner;
"Integrated Transport Plans" or "ITP"	means the integrated transport plans contemplated in section 36 of the NLTA;
"MEC"	means the Member of the Executive Council of the province responsible for public transport matters
"Member"	means a member of the Board and the term "Membership" shall have a corresponding meaning;
"Minister"	means the minister of transport in the Republic of South Africa

“Metropolitan Municipalities”	shall have the meaning ascribed to it in terms of section 1 of the Municipal Structures Act 117 of 1998;
"MMC"	means member of mayoral committee responsible for transport in each participating municipality;
“National Treasury”	means the national treasury established in terms of section 5(1) of the PFMA;
"NLTA"	means the National Land Transport Act 5 of 2009 as amended;
“Parliament”	means the parliament of the Republic of South Africa, established in terms of chapter 4 of the Constitution, 1998
"Participating Municipality"	means all participating municipalities within the Province;
"PLTF"	means the Provincial Land Transport Framework developed by Province in terms of the NLTA;
"Province"	means the province of Gauteng contemplated as such in chapter 6 section 103 (1)(c) of the Constitution, 1998;
“Provincial Legislature”	means legislature in respect of the Province as contemplated in chapter 6 of the Constitution, 1999;
“Provincial Treasury”	means the national treasury established in terms of section 5(1) of the PFMA;
"Public Finance Management Act" or "PFMA"	means the Public Finance Management Act 1 of 1999;
“SALGA”	means the South African Local Government Association recognised in terms of section 2(1)(a) of The Organised Local Government Act No. 52 of 1997;
"this Act"	includes regulations made thereunder;
"Treasury Regulation"	means the Treasury Regulations for departments, trading entities, constitutional institutions and public entities published in terms of the PFMA.

2. Objectives of Act

The objectives of this Act is to establish and empower the Authority, as a public transport planning and coordinating body to:-

- 2(1) be established as a juristic person and listed as a provincial public entity in terms of Schedule 3 of the PFMA;

- 2(2) improve the planning, coordination, optimisation, rationalisation and facilitation of public transport functions, authorities, systems and resources within the Province;
- 2(3) facilitate co-operation, co-governance and of public transport by the various stakeholders responsible for public transport in the Province;
- 2(4) improve and optimise the planning, structuring and implementation of contracts norms and standards for public transport services in the Province;
- 2(5) give effect to national policy and provincial policy;
- 2(6) to facilitate, coordinate and rationalise the funding of the various public transport initiatives and activities in the province; and
- 2(7) consolidate transport functions.

CHAPTER 2

ESTABLISHMENT OF TRANSPORT AUTHORITY

3. Establishment

3(1) The Authority is hereby established as a provincial public entity, as contemplated in Schedule 3 of the Public Finance Management Act.

3(2) The Authority shall have the powers conferred upon it in terms of section 6 and will perform the functions specified in section 5.

4. Application of Public Finance Management Act

4(1) The Authority is a provincial public entity as defined in section 1 of the PFMA and its regulations applicable to provincial public entities.

4(2) For the purposes of the PFMA:

(a) the board of the Authority is the accounting authority as contemplated in section 49 (2) (a) of the PFMA;

(b) the MEC is the executive authority as contemplated by section 53 of the PFMA.

5. Roles and Functions of Authority

5(1) The main function of the Authority, within the framework of existing legislation, is to be responsible for and is hereby given the power to perform all strategic planning relating to public transport and transport infrastructure (excluding rail public transport and infrastructure) within the Province, as well as planning, coordination, optimisation, rationalisation and facilitation of public transport functions, authorities, systems and resources within the Province, so as to ensure that the Province's goal and policy objectives concerning public transport and infrastructure are achieved.

5(2) Without derogating from or limiting the generality of objectives of the Act as set out in section 2 and the main function of the Authority as set out in section 5(1), the Authority is in addition to the main function competent to:

(a) co-ordinate planning within the Province insofar as it relates to or impacts on land transport and transport infrastructure, which shall include without limitation:

(i) assisting Province with the development of provincial and municipal planning in terms of applicable legislation, including in relation to development of the PLTF and IPTNP;

(ii) assisting Province with the review of the planning done by municipalities (including without limitation in relation to the

- ITPs, IDPs, IPTNPs, town planning schemes, township establishment approvals and approval of land use rights) within the Province which relates to or impacts upon land transport and as required by applicable legislation to be approved or commented upon by the Province;
- (iii) providing support to the municipalities if requested with regard to their own planning initiatives and/or competencies insofar as they relate or may impact on public transport;
 - (iv) provide advisory services to other authorities or entities that are responsible for granting permits or permissions relating to public transport services;
 - (v) assisting with managing public participation process and stakeholder engagements on matters relating to integrated transport planning within the Province
 - (vi) co-operate and co-ordinate with other organs of state with transport planning responsibilities that impact on transport and land use planning;
 - (vii) consider and comment on the land transport policy contemplated in the NLTA;
 - (viii) produce an annual report on the state of transport affairs in the province, in the prescribed manner, containing the prescribed information, subject to any regulations made by the Minister in terms of section 8 of the NLTA; and
 - (ix) development of a pool of scarce skills to be used with regard to supporting transport planning, implementation and management.
- (b) develop or assist with development of integrated planning across the boundaries of the municipalities in the Province, which will include without limitation:
- (i) co-ordination between municipalities and setting of norms and standards relating to public transport services, infrastructure facilities and amenities at modal transfer nodes;
 - (ii) optimisation of use of public transport services, routes, ticketing, fares and modal transfers within the Province;
 - (iii) carry out traffic demand modelling in relation to transport services and uses of various modes of transport within the Province and updating data in relation thereto, including in relation to specific municipalities and making such information available to municipalities;

- (iv) manage and provide common information relating to various public transport services provided in the Province, which shall include without limitation, information about the various services provided, timetables, ticketing and fares;
 - (v) develop and maintain transport information technology systems and collate from participating municipalities all information, in the form prescribed, required in terms of the NLTA;
 - (vi) initiate, implement and manage common branding strategy for public transport in the Province;
 - (vii) initiate, implement and manage communication and marketing in relation to public transport in the Province; and
 - (viii) generally provide for publicity in connection with transport services;
- (c) develop and manage and/or assist with development and management of public transport contracts norms and standards, which shall include:
- (i) developing standard contracts recommended for bus operations or for subsidised bus services or taxi operations within Gauteng;
 - (ii) set minimum norms and standards for public transport modes or common public transport branding;
 - (iii) develop contracts and project management capacity for public transport capital and/or operating projects;
 - (iv) manage subsidised contracts and/or other contracts for road based public transport services for the Province;
 - (v) assist other Contracting Authorities in the management of their road based public transport services operated in Gauteng, including their subsidised contracts.
- (d) act as an enforcement agent, on behalf of other authorities in relation to public transport, which shall include without limitation:
- (i) concluding service level or other agreements with other law enforcement agencies in relation to enforcement of laws relating to public transport and roads within their areas of jurisdiction;
 - (ii) create law enforcement capability for public transport for enforcement of laws relating to public transport and roads in Gauteng;

- (iii) establish and operate special public transport courts, including the required staffing thereof;
 - (iv) coordinate with other law enforcement authorities in relation to public transport and roads policing and enforcements; and
 - (v) promote security and efficiency in public transport;
- (e) raising funding for public transport services, which shall include without limitation:
 - (i) undertake financial planning and management in respect of transport for the Province
 - (ii) assist with financial planning and management in respect of transport services for municipalities;
 - (iii) handle the public transport subsidies other funds that fall within the ambit of Province and to prioritise their spend in the Province and municipalities;
 - (iv) assume the responsibility over any other transport subsidies within the ambit of other transport authorities in the Province, when requested to do so by such authorities or by agreement with such authorities;
 - (v) assist the Department and MEC as a point of contact with National Treasury on capital and operating public transport projects in the Province;
 - (vi) assist any other municipality or other authorities, in the Province in their liaison with National Treasury over their capital and operating transport projects in the Province;
 - (vii) manage funds intended for public transport projects in the Province including on behalf of other authorities other than the Province;
 - (viii) manage funds in relation to contracts concluded by Province and other Contracting Authorities at their request in relation to public transport in the Province.
- (f) generally to provide the necessary administrative support to Province and municipalities at their request in relation to public transport and infrastructure, which shall include without limitation:
 - (i) advise the MEC or municipalities on any matter relating to a particular public transport service or infrastructure or generally, including in relation to planning thereof;

- (ii) undertake or conduct any research, investigations or enquiries or collect any information in connection with public transport service or infrastructure;
- (iii) recommend to the MEC the introduction of legislation or Provincial policy with regard to public transport service or infrastructure;
- (iv) recommend to the municipality the introduction of legislation or municipal's policy by-laws with regard to public transport service or infrastructure;
- (v) to advise the MEC, on request, on questions with regard to public transport service or infrastructure which may arise from the Provincial legislature or parliament or any other source;
- (vi) liaise and exchange information, knowledge and expertise with the official bodies or authorities entrusted with control over public transport service or infrastructure in national government, other provinces and/or other international bodies or governments;

6. Powers of the Authority

- 6(1) Without derogating from its powers generally to perform acts, the Authority may do all that is necessary or expedient to perform its functions and/or achieve the objects of this Act, including to:
- (a) purchase, hire or otherwise acquire hold, sell exchange or let or otherwise deal with assets belonging to the Authority, subject to compliance with legal requirements as applicable;
 - (b) ensure that the Authority is sufficiently insured against any risk, loss or damage connected with the exercise of its powers or performance of its functions or duties;
 - (c) ensure that the Authority is adequately staffed and properly managed in respect of its employees and assets;
 - (d) to appoint any private person, institution or body, in order to perform any work on behalf of the Authority in pursuance of the functions of the Authority in terms of this Act;
 - (e) exercise any power or perform any other function conferred or imposed on it by or in terms of this Act or any other act;
 - (f) do anything else which is reasonably ancillary to any of its objects in terms of section 2, its functions in terms of section 5 and its powers in terms of this section 6; and
 - (g) do anything else as requested by the MMCs for the Participating Municipalities and agreed to by the Board, which is reasonably

connected to or ancillary to any of its objects in terms of section 2, its functions in terms of section 5 and its powers in terms of this section.

CHAPTER 3

GOVERNANCE OF THE AUTHORITY

7. Management of the Authority

- 7(1) The Board shall be responsible for managing the business and affairs of the Authority.
- 7(2) The Board performs the functions of the Authority by virtue of decisions and resolutions taken under sections 13 and 15.
- 7(3) The Members are part-time, except for the Chief Executive Officer who is a fulltime employee.
- 7(4) The carrying out of duties and the exercise of powers of the Authority is not affected merely because of a vacancy in the membership of the Board.

8. Appointment of the Board

- 8(1) The Board shall consist of maximum of 13 Members appointed by the MEC, which shall be constituted as follows:
- (a) the Chief Executive Officer who is a member by virtue of that office;
 - (b) 5 (five) Members appointed from the nominations by the Participating Municipalities as follows -
 - (i) 3 (three) Members from nominees of the Metropolitan Municipalities in the Province;
 - (ii) 2 (two) Members from nominees of the District Municipalities;
 - (c) 1 (one) Member nominated by the MEC;
 - (d) 6 (six) Members appointed by virtue of their expertise, which must collectively include the following ones:
 - (i) financial;
 - (ii) risk management;
 - (iii) transport planning;
 - (iv) transport engineering, which shall include one or more of the following – transport infrastructure development, road based and rail transport operations, transport economics, intelligent transport systems and non-motorised transport;
 - (v) economic development;
 - (vi) legal and compliance; and

(vii) human resources.

8(2) The MEC may determine the criteria or procedure for appointing members, provided that in the case of appointment of nominees pursuant to section 8(1)(b), the MEC shall –

- (a) appoint from the nominees from the Metropolitan Municipalities in terms of section 8(1)(b)(i), one Member per Metropolitan Municipality; and
- (b) appoint from the nominees from the District Municipalities in terms of section 8(1)(b)(ii), one Member per District Municipality.

8(3) The MEC shall designate:

- (a) a member as Chairperson; and
- (b) another member as Deputy-Chairperson, to act as chairperson of the Board when the Chairperson is unable to perform those duties.

8(4) Before appointing the members, the MEC must:

- (a) invite the Metropolitan Municipalities to each provide the MEC with a number of nominees as specified by the MEC for purposes of the MEC's appointment in terms of section 8(1)(b);
- (b) invite the [Service Councils] to each provide the MEC with a number of nominees as specified by the MEC for purposes of the MEC's appointment in terms of section 8(1)(c);
- (c) invite, through the media and by notice in the Provincial Gazette, nominations for appointment of Members for purposes of the MEC's appointment in terms of sections 8(1)(e).

9. **Disqualification for appointment or Membership**

9(1) A person may not be appointed a Member if that person –

- (a) is not a citizen of the Republic;
- (b) is not a resident in the Province;
- (c) is a member of Parliament, a Provincial Legislature, a Municipal Council or a House of Traditional Leaders established in terms of the Constitution;
- (d) is an unrehabilitated insolvent;
- (e) is of unsound mind, as declared by a competent court;
- (f) has at any time been convicted of an offence involving dishonesty;
- (g) has at any time been removed from an office of trust on account of misconduct; and

- (h) has previously been removed from the Board for a breach of any provision of this Act.

9(2) A Member must vacate office if that Member becomes subject to a disqualification contemplated in section 9(1).

10. Termination of Membership

10(1) The MEC may terminate the appointment of a Member –

- (a) for misconduct, incapacity or incompetence;
- (b) for failing to comply with section 19(1);
- (c) if the Member fails to attend three consecutive meeting of the Board without a valid explanation; or
- (d) on good cause shown.

10(2) If the performance of the Board has been unsatisfactory or ineffective, the MEC may, after giving the Board an opportunity to be heard, dissolve the Board.

11. Responsibilities of the Board

11(1) The Board must:

- (a) ensure that the responsibilities of the Authority are performed and that the objectives of the Authority are achieved;
- (b) exercise the fiduciary duties and responsibilities of an accounting authority in accordance with the PFMA in respect of the Authority ; and
- (c) function in a transparent and open manner.

11(2) The Board may do all that is necessary or expedient to carry out its responsibilities including:

- (a) instituting, conducting and defending civil proceedings in any matters relating to its functions;
- (b) performing legal acts, including acts in association with any other person or organ of state; and
- (c) approve the entering into contracts relating to financial support with financial institutions or any other institutions with objectives similar to those of the Authority.

12. Advisors to the Board

12(1) The Board is supported by the following five advisors nominated by their

respective organizations and appointed by the MEC –

- (a) one official of the Department;
- (b) one official of the Provincial Treasury;
- (c) one official of the Department of Transport in the national sphere of government;
- (d) one official from National Treasury; and
- (e) one official from SALGA

12(2) The functions of the advisers are to advise the Board with reference to the interests, views and policies of their respective organization.

12(3) The advisers –

- (a) are not Board members and are not entitled to vote at Board meetings;
- (b) are entitled to attend and speak at Board meetings;
- (c) may be appointed by the Board to serve on its committees.

13. Meetings of the Board

13(1) The Board must hold at least four meetings per year;

13(2) The Chairperson –

- (a) may convene a special meeting of the Board; and
- (b) must convene a special meeting within 14 days of receiving a written request to do so, signed by at least one third of the members of the Board.

13(3) The request referred to in section 13(2)(b) must clearly state the reason for the request and only those matters may be discussed at the special meeting.

13(4) The MEC may request a meeting with the Board at any time, should the need arise.

13(5) If the chairperson and deputy-chairperson are not present, the Members present must appoint another Member to preside at the meeting.

13(6) At a meeting, the required quorum shall be the majority of the Members.

13(7) A decision of the majority of the Members present at any quorate meeting constitutes a decision of the Board and in the event of an equality of votes, the chairperson shall have a casting vote in addition to a deliberative vote.

13(8) A decision taken by a majority of Members present at a quorate meeting, or an act performed in terms of such a decision, is not invalid merely by reason of –

- (a) any irregularity in the appointment of a Member;
- (b) a vacancy on the Board;
- (c) the fact that any person not entitled to be a Member participated at a meeting at the time the decision was taken; or
- (d) the fact that the Member participated in the meeting in breach of section 19 (1).

14. **Conduct of meetings**

14(1) The Board may determine rules of procedure for conducting its business at meetings.

14(2) Minutes of proceedings of every meeting of the Board must be –

- (a) recorded and kept in a manner that cannot be altered and tampered with; and
- (b) submitted to the next meeting of the Board for consideration and, if adopted, must be signed by the chairperson.

14(3) The Board may –

- (a) permit Members to participate in a particular meeting by telephone, closed-circuit television, and a Member who participates in this manner is regarded as being present at the meeting; and
- (b) invite a person to attend a meeting for the purpose of advising or informing the Board on any matter.

15. **Resolution without meeting**

15(1) The Board may adopt a resolution without a meeting if at least a majority of the Members indicate their support for the resolution in accordance with a procedure previously established by the Board.

15(2) A resolution in terms of subsection (1) –

- (a) has the same status as if it was adopted at a meeting; and
- (b) must be regarded as having been adopted on a day determined in accordance with the procedure contemplated in subsection (1).

16. **Committees of the Board**

16(1) The Board –

- (a) may establish committees to assist it in discharging its functions;
- (b) must establish:

- (i) an audit committee and such other committees as required by the PFMA and other applicable legislation; and
 - (ii) a social and ethics committee,
- 16(2) A committee may be established as a permanent committee or an *ad hoc* committee.
- 16(3) A committee must –
 - (a) consist of at least three Members and such other persons, as the Board may appoint;
 - (b) must be chaired by a Member appointed by the Board, who may not be the Chief Executive Officer.
- 16(4) Committees will not have executive powers unless –
 - (a) the Board delegates any of its powers to the committee; or
 - (b) the PFMA requires that the committee exercise such powers.
- 16(5) The Board must determine for each committee –
 - (a) its functions and duties;
 - (b) the procedures for its meetings;
 - (c) the frequency of meetings, provided that standing committees must meet at least twice in each calendar year.
- 16(6) Committee members who are not Board members may be remunerated on the basis determined by the MEC in consultation with the MEC for Provincial Treasury.

17. Board Charter

- 17(1) The Board must, not later than 60 days after its appointment, formulate a charter for the Board which must at least, subject to this Act -
 - (a) outline the roles and responsibilities of the Board, its committees and individual members;
 - (b) outline the purpose and vision of the Board in terms of the Act;
 - (c) confirm the Board's responsibility to –
 - (i) adopt the strategic objectives and plans as defined in the Service Level Agreement;
 - (ii) monitor operational performance and management;
 - (iii) develop policy on risk management and internal controls; and

- (iv) determine responsibility for marketing and communication strategies.
 - (d) contain a code of conduct for Board and staff members;
 - (e) identify functions intended to be delegated to management under section 18.
 - (f) provide a framework for appointing senior staff for the Authority;
 - (g) deal with any other matter that may be prescribed.
- 17(2) The Charter must be submitted to the MEC before it is finalized in order to allow the MEC to comment on its contents. The Board shall prior to submitting the Charter to the MEC, first submit it to the Participating Municipalities for their consideration and comments. The Board shall when submitting the Charter to the MEC provide the MEC with the comments from the Participating Municipalities and the Board's assessment and views regarding the comments made by the Participating Municipalities.
- 17(3) The Board must summarise the Charter in the annual report and review it at least every year.

18. Delegations of the Board's responsibilities

- 18(1) The Board may, subject to the provisions of this section 18, delegate its responsibilities, functions or duties to any member or any committee of the Board or the Chief Executive Officer, except the power to appoint committees or committee members under section 16;
- 18(2) A delegation under subsection (1) must be in writing and –
- (a) may be subject to any conditions or restrictions determined by the Board;
 - (b) does not prevent the exercise of that responsibility by the Board; and
 - (c) may be withdrawn or amended by the Board,
- 18(3) Anything done in the exercise or performance of a responsibility, function or duty delegated by the Board, is deemed to have been done by the Board.

19. Board member's conflicts of interest

- 19(1) A Member –
- (a) must make a full disclosure to the Board of any conflict of interest including any potential conflict;
 - (b) may not vote, attend or participate in any proceedings in relation to any matter before the Board in respect of which that member has a conflict of interest; and

- (c) must comply with any decision as to whether such member is entitled to participate in any particular proceedings of the Board.
 - 19(2) For the purposes of this section 19, a Member has a conflict of interest if –
 - (a) the Member, or a family member, partner or business associate of the Member, or has a financial or other interest in a business that is involved with the Authority or any of its projects; or
 - (b) the Member has any other interest that may preclude, or may reasonably be perceived as precluding, the Member from performing the functions of a Member of the Board in a fair, unbiased and proper manner.
 - 19(3) Any disclosure in terms of subsection (1) (a) and any decision of the Board in terms of subsection (1)(c), must be recorded in the minutes of the Board.
- 20. Term of office of members of the Board**
- 20(1) A Member-
 - (a) may hold office for a period of 3 (three) years;
 - (b) serves on the terms and conditions determined by the MEC and specified in the letter of appointment of the Member; and
 - (c) may resign by giving written notice to the MEC or such notice as is stipulated in the letter of appointment.
 - 20(2) If a member's appointment is terminated or a member resigns, the MEC may appoint a person to fill the vacancy for the unexpired portion of the period for which the member was appointed or for such a period as the MEC may determine subject to the provisions of sections 8(1) and 8(4).
 - 20(3) Subject to sections 9, any person whose term of office as a member has expired is eligible for reappointment provided that such member may not serve for more than two terms consecutively.
 - 20(4) The MEC, acting in consultation with the MEC for Provincial Treasury, must determine the remuneration and allowances of members within the National Treasury prescripts on the remuneration of the board.
 - 20(5) The Chief Executive Officer and any member in the service of the State may not receive additional remuneration or allowances for serving on the Board but may be reimbursed for expenses incurred in the performance of their functions in terms of this Act.

CHAPTER 4**CHIEF EXECUTIVE OFFICER AND PERSONNEL****21. Appointment of the Chief Executive Officer**

- 21(1) The MEC, after consulting the Board, must appoint a Chief Executive Officer.
- 21(2) The Chief Executive Officer must be –
- (a) a fit and proper person who possesses knowledge, qualifications and experience not limited to but including one or more of the areas referred to in section 8(1)(e); and
 - (b) a citizen of the Republic and resident in the Province.
- 21(3) The Chief Executive Officer holds office –
- (a) for a period not exceeding 3 years, and is eligible for reappointment; and
 - (b) on such terms and conditions as the MEC, after consulting the Board, may determine.
- 21(4) The Chief Executive Officer may not engage in any employment outside the functions of the office without prior approval of the Board.
- 21(5) The Chief Executive Officer may resign by notice in writing to the Board as prescribed in the contract of employment referred to in section 22(1).
- 21(6) On ceasing to hold office for any reason, the Chief Executive Officer ceases to be a member of the Board or any other body on which he or she represented the Authority.

22. Employment contract and performance agreement

- 22(1) The Board and the Chief Executive Officer must conclude a written contract of employment for the Chief Executive Officer.
- 22(2) The Board and the Chief Executive Officer must conclude a performance agreement for the Chief Executive Officer –
- (a) within a reasonable time after the appointment of the Chief Executive Officer; and
 - (b) thereafter, annually within one month of the commencement of each financial year.
- 22(3) The performance agreement must include –
- (a) measurable performance objectives and targets that must be met, and the time frames within which those performance objectives and targets must be met;

- (b) standards and procedures for evaluating performance and intervals for evaluation; and
- (c) the consequences of substandard performance.

23. Disqualification from holding office of Chief Executive Officer and termination of office

- 23(1) No person may be appointed as Chief Executive Officer if that person is disqualified from being a Member in terms of section 9(1).
- 23(2) The Chief Executive Officer must vacate office if he or she becomes disqualified in terms of section 23(1).
- 23(3) The MEC, after giving the Chief Executive Officer an opportunity to be heard and after consulting the Board, may terminate the appointment of the Chief Executive Officer if, in the opinion of the MEC, sufficient reasons exist to do so.

24. Responsibilities of Chief Executive Officer

- 24(1) The Chief Executive Officer is –
- (a) an employee of the Authority;
 - (b) responsible for running the Authority on a day-to-day basis; and
 - (c) accountable to the Board.
- 24(2) The Chief Executive Officer may, subject to the Board's powers in term of section 11(2) do all that is necessary or expedient to carry out his or her responsibilities in terms of this Act.

25. Delegation by Chief Executive Officer

- 25(1) The Chief Executive Officer may delegate any responsibility or the performance of any duty conferred or imposed upon the Chief Executive Officer by this Act or delegated to the Chief Executive Officer by the Board to –
- (a) any other person with appropriate knowledge and experience who is under the control of the Chief Executive Officer; or
 - (b) any other person, after consultation with the Board.
- 25(2) A delegation under subsection (1) must be in writing and –
- (a) may be subject to any conditions or restrictions determined by the Chief Executive Officer;
 - (b) does not prevent the exercise of that responsibility by the Chief Executive Officer; and
 - (c) may be withdrawn or amended by the Chief Executive Officer.

26. Chief Executive Officer's disclosure of interest and conflict of interests

- 26(1) The Chief Executive Officer must disclose to the Board any direct or indirect interest, including a potential interest, which he or she or an immediate family member, business partner, associate or previous employer has in any business that may benefit from the Authority or any of its projects.
- 26(2) The Chief Executive Officer must refer to the Board any matter in respect of which the Chief Executive Officer is required to make a decision or take action and where a conflict of interest or potential conflict of interest as contemplated in subsection (1) exists.
- 26(3) The Board must determine the appropriate decision or action in respect of any matter referred to it in terms of subsection (2), and must inform the Chief Executive Officer of its determination in writing.
- 26(4) The Chief Executive Officer must comply with the determination of the Board, contemplated in subsection (3).
- 26(5) A failure by the Chief Executive Officer to disclose any interest contemplated in subsection (1) or any contravention of subsection (2) or (4), constitutes a sufficient reason to terminate the Chief Executive Officer's employment in terms of section 23(3).

27. **Appointment of personnel**

- 27(1) The Chief Executive Officer, with the concurrence of the Board –
 - (a) may appoint employees with appropriate expertise to assist the Authority in carrying out its functions; and
 - (b) arrange with the national or provincial government or any other body for the services of –
 - (i) employees of the national or provincial government or the other body to be seconded to the Authority; or
 - (ii) employees of Authority to be seconded to national or provincial government;
 - (c) Persons seconded to the Authority perform their duties subject to the control and direction of the Chief Executive Officer.
 - (d) The Board, in consultation with the MEC, must determine the remuneration, allowances, benefits, and other terms and conditions of appointment of members of staff.
- 27(2) The Authority may contract for the services of persons, other than employees, to perform any specific act or function.

CHAPTER 5**FINANCES AND ACCOUNTABILITY****28. Assets of the Authority**

- 28(1) The Authority is funded primarily by money appropriated from the Provincial Revenue Fund.
- 28(2) For this purpose, the MEC responsible for finance may, out of money appropriated by the Provincial Legislature for the purpose, grant money to the Authority on terms and conditions which that MEC may determine in writing.
- 28(3) The assets of the Authority include –
- (a) assets transferred to it by or under this Act;
 - (b) the money appropriated by the national Parliament or the Provincial Legislature for the purpose of funding the Authority;
 - (c) amounts payable to it under any law or instrument thereunder;
 - (d) reserves resulting from the operations of the Authority;
 - (e) assets acquired or proceeds realised by it in the course of its operations; and
 - (f) money received by grant or donation from local and foreign aid agencies;
 - (g) interests on investments; and
 - (h) money from any source approved by the MEC

29. Transfer of provincial assets and liabilities to the Authority

- 29(1) Subject to the PFMA, the MEC may transfer assets of the Province to the Authority to enable it to fulfil its functions.
- 29(2) Where immediately before a transfer under subsection (1) –
- (a) the Province had a right arising from a debt, liability or obligation of another person in favour of the Province in respect of the asset transferred; or
 - (b) the Province had a debt, liability or obligation of the Province that existed in respect of an asset so transferred

the right, debt, liability or obligation is transferred from the Province to the Authority with such assets the on the date of such transfer, if the MEC stipulates in writing that it is to be so transferred

29(3) Where immovable property or a real right therein owned by the Province is transferred to the Authority, the MEC must describe the property by notice in the Provincial Gazette, which will be transferred to the Authority on the date specified in the notice, which may not be earlier than the date of publication of the notice.

30. Bank account

30(1) The Authority must open and maintain one or more accounts with a bank registered in terms of the Banks Act, 1990 (Act No. 94 of 1990), in which must be deposited all money received by the Authority and from which payments for the Authority or on its behalf must be made.

31. Financial Year

31(1) The financial year of the Authority is the period from 1 April each year to 31 March of the following year, both days included.

32. Strategic plan

32(1) Each year the Authority must prepare and submit to the MEC a strategic plan for its administration covering the following financial year and the two financial years thereafter, or any other period prescribed under the PFMA.

32(2) The strategic plan must comply with any requirements prescribed under the PFMA and must include –

- (a) the objectives and outcomes of the Authority in terms of this Act and the Service Level Agreement: and
- (b) the policies, strategies and measures that will be used to achieve the objectives and desired outcomes of the Authority;
- (c) targets, performance measures and indicators for monitoring and evaluating the Authority's performance in delivering the desired outcomes and objectives;
- (d) a financial plan that describes the financial objectives and targets of the Authority;
- (e) the overall financial strategies for the Authority and a forecast of its revenue and expenditure, including capital expenditure;
- (f) financial performance indicators and a financial monitoring, evaluation and audit strategy;
- (g) a risk management plan, including risk relating to concession agreements, and a fraud prevention plan;
- (h) strategies for socio-economic development and BBBEE; and
- (i) human resources plan;

- 32(3) Unless otherwise agreed with the MEC, the strategic plan must be submitted to the MEC not later than 6 months before the start of each financial year. The Board shall prior to submitting the Strategic Plan to the MEC, first submit it to the Participating Municipalities for their consideration and comments. The Board shall when submitting the Charter to the MEC provide the MEC with the comments from the Participating Municipalities and the Board's assessment and views regarding the comments made by the Participating Municipalities.
- 32(4) The Board must consider any comments or proposals suggestions made by the MEC, and must implement any changes or additions requested by the MEC.
- 32(5) Despite subsection (3), the strategic plan for the Authority's first financial year must be submitted to the MEC not later than 60 days after the date on which the Authority becomes operative.

33. **Budget**

- 33(1) The Authority must comply with the PFMA and the Treasury Regulations in relation to the budget.

34. **Monthly and quarterly reports**

- 34(1) The Authority must comply with the PFMA and the Treasury Regulations with regard to the monthly and other reporting requirements.
- 34(2) in addition, the Authority must prepare a quarterly report not later than 30 days after the end of each quarter –
- (a) detailing the Authority's actual revenue and expenditure for that quarter;
 - (b) including a projection of expected revenue and expenditure for the remainder of the financial year;
 - (c) including a reconciliation of actual revenue and expenditure with the projected finances of the Authority from the previous report;
 - (d) if applicable, explaining in detail any variances and the measures taken to ensure that expenditure remains within budget; and
 - (e) other relevant matters, including a report on the performance of the Authority in achieving the objectives of the Act.
- 34(3) The Board must submit the quarterly report to the MEC not later than 30 days after the end of the quarter in question.
- 34(4) The Board shall when submitting the quarterly report to the MEC also share it with the Participating Municipalities for their information.

35. **Annual report**

- 35(1) For each financial year, the Authority must prepare an annual report that –

- (a) articulates the vision and objectives of the Authority;
 - (b) reports on the business of the Authority for that year and its performance against predetermined targets;
 - (c) contains a summary report of the financial activities of the Authority, audited financial statements, the external auditor's report and a report of the audit committee detailing internal controls and evaluating the financial statements;
 - (d) describes the structure and nature of the Board, with details of the Members and meetings of the Board and committees;
 - (e) includes an evaluation of the Board;
 - (f) describes key achievements in the harmonisation and integration of public transport and contributions towards the objectives in terms of this Act; and
 - (g) indicates the manner, and extent to which any other aspect of the strategic plan has been implemented.
- 35(2) Within five months of the end of the financial year, the Authority must submit the annual report, as approved by the Board, to the MEC and the MEC must cause the annual report to be tabled in the Provincial Legislature.
- 35(3) The Board shall when submitting the annual report to the MEC also share it with the Participating Municipalities for their information

36. Accounting and Financial Statements

- 36(1) The Authority shall keep such accounting and related records as are necessary and required to comply with the PFMA and Treasury Regulation.
- 36(2) The Authority shall draw up financial statements in respect of each financial year in a form compliant with the PFMA, Treasury Regulation and the requirements of the Board.
- 36(3) The financial statements of the Authority must be audited annually by the Auditor-General. The financial statements must be submitted to the Provincial Treasury and Auditor-General within five months of the financial year end.
- 36(4) The Provincial Treasury may direct that the audited financial statements of the Authority must be incorporated in the financial statements of the Department.

37. Auditing

- 37(1) The Audit Committee contemplated in section 77 of the PFMA must implement financial and risk management systems and internal control.

CHAPTER 6

GENERAL PROVISIONS

38. Liquidation and judicial management

38(1) Despite any other law, the Authority may not be placed under judicial management or liquidation except if authorised by an Act of the Provincial Legislature adopted specifically for that purpose.

39. Regulations

39(1) The MEC may promulgate regulations concerning any matter that the MEC deems necessary and expedient in order to achieve the objectives of this Act.

40. Transitional Provisions

40(1) Despite other laws, the MEC may, during the time between the date on which this Act comes into operation and the date the Authority is fully established, which date the MEC must determine, take such steps or authorise such things to be done as may be reasonably necessary to promote the transfer of functions performed by the Province to the Authority, and to promote the management of the Authority.

40(2) Despite other laws, during the period mentioned in subsection (1), the MEC must approve the first strategic plan contemplated in section 32(5).

41. Application for exemption from taxes

41(1) The MEC as executive authority of the Authority as contemplated in section 53 of the PFMA may, on advice of the Board and if the need arises, apply to the relevant authority under any applicable law for exemption from the payment of any taxes, levies, duties, or surcharges imposed or levied under the applicable law.

42. Limitation of Liability

42(1) The Province, the Agency and their officials, employees or agents, and any other person acting on their behalf, shall not be liable for any loss or damage suffered by any person (including Participating Municipalities and any municipality in Gauteng) as a result of the exercise of any power or the performance of any duty in terms of this Act in good faith, or the failure to exercise any such power or to perform any such duty in good faith.

42(2) The limitation of liability provided for in section 42 does not include any fraudulent or unlawful acts, prohibited by any law.

43. Short title and commencement

43(1) This Act is called the Gauteng Transport Authority Act, [2018] and comes into operation on a date fixed by the Premier by proclamation in the Provincial Gazette.

43(2) Different provisions of this Act may be brought into operation on different dates.

Printed by the Government Printer, Bosman Street, Private Bag X85, Pretoria, 0001,
for the **Gauteng Provincial Administration**, Johannesburg.

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