

THE NATIONAL TRANSPORT AND SAFETY AUTHORITY (OPERATION OF COMMERCIAL SERVICE VEHICLES) REGULATIONS, 2018

Citation.

1. These Regulations may be cited as the National Transport and Safety Authority Operation of Commercial Service Vehicles) Regulations, 2018.

Interpretation.

2. In these Regulations, unless the context otherwise requires

"Act" means the National Transport and Safety Authority Act, 2012;

"Appeals Board" means the Transport Licensing Appeal Board established under section 39 of the Act;

"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;

"Carrier" means the corporate body or person with operational responsibility over the commercial service vehicle on a day to day basis either as the registered owner of the vehicle or pursuant to the terms of a contract or franchise agreement with the registered owner of the vehicle

"Commercial service vehicle license" means a means a licence issued by the Authority under the Act for the operation of a commercial service vehicle;

"Commercial Service Vehicle" 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;

"Heavy Commercial Vehicles" has the meaning assigned to it under the Traffic Act;

"off-duty time" means any period other than on-duty time.

"on-duty time" means driving time.

"owner" means the registered owner of the commercial service vehicle;

"retro-reflective marking material" means a surface or a device from which, when directionally illuminated, a relatively large portion of the incident radiation is retro-reflected;

"Third Party Motor Vehicle Insurance" means an insurance policy by that name issued in respect to a public service vehicle pursuant to the provisions of the Third Party Motor Vehicle Insurance Act;

"urban area" has the meaning assigned to it under the Urban Areas and Cities Act, 2011.

Application of the Regulations

3. These Regulations shall apply to all commercial service vehicles whose tare weight is above three thousand forty eight kilograms operating on a public road in Kenya.

Safety Responsibility.

4(1) A person who owns a vehicle or a carrier that operates a commercial vehicle must not permit a driver to drive the vehicle if:-

- a) the vehicle does not comply with any provision of these regulations;
- b) the driver does not take any action that these regulations requires the driver to take.
- c) the cargo transported by the vehicle is not contained, covered, immobilized or secured in accordance with this regulation; or
- d) the driver is not licensed to drive a commercial vehicle.

(2) A driver must not drive a vehicle if:-

- a) the vehicle does not comply with this regulations;
- b) the driver does not take any action that this regulations requires the driver to take.
- c) the cargo transported by the vehicle is not contained, covered, immobilized or secured in accordance with this regulation; or
- d) the driver is not licensed to drive a commercial vehicle.

(3) A motor vehicle dealer, seller or assembler shall not sell or offer to sell a commercial service vehicle that has not being fitted with an approved speed limiter.

Commercial Service Vehicle to be Licensed.

5. (1) A carrier or owner shall not operate or permit another person to operate a commercial vehicle without a valid license issued by the Authority.

(2) A commercial vehicle license shall be valid for one year and shall be renewed annually

(3) All commercial vehicles shall be fitted with a speed limiter conforming to the Kenyan Standard KS 2295 or approved by the Authority.

Documents to be submitted with the application.

6. (1) A carrier or owner applying for a commercial vehicle licence shall submit an application in the form specified in the Second Schedule accompanied with the prescribed fee contained in the First schedule and the following documents:-

(a) certificate of registration as a company under the Companies Act if the applicant is a company, or a cooperative society under the Cooperative Societies Act if the applicant is a society or national identification card if the applicant is an individual;

(b) the certificate of ownership or other evidence of ownership in the name of the owner of the vehicle or a contract or franchise agreement between the applicant and the carrier or intended carrier of the vehicle;

(c) a valid certificate of roadworthiness issued by the Authority of each vehicle in respect to which an application is being made;

(d) valid insurance cover.

(e) evidence showing that all the commercial service vehicles have been fitted with the prescribed speed limiter.

(f) evidence of installation of a fleet management system accredited by the Authority for heavy commercial vehicles.

(2) The Authority may —

(a) refuse to issue a commercial service vehicle licence to an applicant who fails to comply with any of the minimum conditions stipulated in sub-regulation (1); or

(b) at its discretion issue a licence conditional on the requirement that the applicant demonstrates compliance within a stipulated period failing which the licence shall be withdrawn upon the expiry of the stipulated period.

(3) all applications for a license shall be responded to within 14 days of submission to the Authority.

Cargo securement generally.

7. Any cargo transported by a commercial vehicle must be contained, covered, immobilized or secured so that it cannot leak from, spill from, blow off, fall from, fall through or otherwise be dislodged from the vehicle;

Cargo securement — certain cargo

8(1) Any portion of a load of

(a) sand, gravel, crushed stone, ore or salt, or any mixture of them or whole stones;

(b) waste; or

(c) shredded scrap metal;

that is carried by a vehicle on a public road and not enclosed by the vehicle or a load container must be covered with a covering that meets the following requirements:-

(2) The covering must

(a) be made of tarpaulin, canvas, wire mesh, netting or another material capable of containing the load within the vehicle or load container; and

(b) be secured to the vehicle or load container in such a manner that it cannot separate from the vehicle or load container.

Retro-reflective markings for commercial vehicles and their trailers.

9. (1) A commercial vehicle shall be required to have retro-reflective contour markings that conform to the standard KS 1820: 2005, that identify as close as possible the entire length and width of the motor vehicle when viewed from the front, side and/or rear as illustrated in the Third Schedule.

(2) The minimum width of the retro-reflective contour markings should be two inches.

Markings on commercial vehicles and trailers.

10 (1) A carrier or owner of every commercial vehicles or trailer shall cause to be painted or otherwise marked in the English language in a conspicuous position on the right or offside of every such vehicle, in letters not less than one inch in height which shall all times be kept clearly legible:-

- (a) the name and address of the owner of the vehicle.
- (b) the registered tare weight of the vehicle; and
- (c) the maximum weight the vehicle is authorized to carry

(2) No vehicle shall carry any cargo that exceeds the prescribed maximum weight that the vehicle is authorized to carry.

Fire extinguishers and first aid outfits.

11. (1) Every commercial vehicle shall carry an efficient fire extinguisher, which shall be maintained in perfect order and shall be carried in such a position as to be readily available for use at any time.

(2) Every commercial vehicle shall carry a first aid outfit sufficient to deal with any reasonable emergency and shall be available for inspection at any time by an inspector or police officer.

Parking

12. (1) No carrier or owner shall request, require or allow a driver to park and no driver shall park on undesignated parking areas including but not limited to road sides, road reserves, road ways, bridges, tunnels.

(2) Where designated parking areas are not available, the carrier, owner and/or driver shall ensure that the vehicle is parked atleast five metres from the edge of the road or road sides so as not to block pedestrian ways or obstruct the view of other road users or affect the safe operation of the road.

Daily Driving and on-duty time.

13. (1) No carrier shall request, require or allow a driver to drive and no driver shall drive after the driver has accumulated 8 hours of driving time in any period of 24 hours or has driven for a total of 300 kilometres in a period of 24 hours whichever is achieved first.

(2) All vehicles travelling for more than a total distance of 500 kilometres shall be required to have 2 drivers.

Mandatory rest time

14. Every carrier shall require or ensure and every driver shall be required to take a minimum mandatory of at least one hour rest for each period spent driving continuously for four hours.

Driver's daily log sheet.

15. (1) A heavy commercial vehicle driver shall prepare a daily log sheet each day that accounts for his on duty and off duty time in the format contained in the Third Schedule.

(2) A carrier or owner shall not allow their commercial vehicle to be driven if the driver has not filled a daily log sheet for the preceding day;

(3) A driver shall not keep more than one daily log sheet in respect of any day and driver shall not enter inaccurate information.

(4) A driver shall keep in the vehicle logs sheets for the preceding 7 days.

(5) At any time an authorized officer from the Authority or the Police may stop and inspect the daily log sheets and supporting documents of the commercial vehicles for the preceding 7 days.

(6) An authorized officer from the Authority or a police officer above the rank of superintendent Police may order the detention of the driver or the vehicle when:-

- a. A driver refuses to produce their daily log sheet;
- b. A driver has not completed more than one daily log sheet;
- c. There is evidence that a driver has entered false information;

Safety Audits.

16.(1) The Authority may conduct safety audits on any carrier, owner and commercial vehicle driver.

(2)The safety audits shall include:-

- (a) an examination of the qualification of the driver of the commercial vehicle;
- (b) an examination of the duty status of the driver of the commercial vehicle; and
- (c)an examination of the maintenance records of the commercial vehicle.

Record and Reporting requirements

17.(1) Every carrier or owner shall keep a record of the following, either in electronic or written form :-

- (a) A maintenance record for each of the commercial service vehicles for a minimum period of one year.
- (b) Inspection reports for each of the vehicles.
- (c) a monthly record of the daily logs for each of their drivers for a period of one year.

(2) Every carrier shall submit to the Authority the following:-

(a) In the event of any accidents involving their vehicles that result in a fatality, a report of the accident shall be submitted to the Authority within 24 hours. The report shall include the probable cause of the accident and remedial action intended to be taken and should be in the format contained in the Fourth Schedule.

(b) On the 5th day of each quarter beginning 1st January, the list of authorized drivers in their employment and a copy of the monthly daily logs of each driver.

Power of the Authority to tow stalled vehicles.

18. (1) The carrier or driver of a commercial vehicle shall-

- (a) in case of a break-down or stalling of the commercial vehicle , ensure that the commercial vehicle is removed from the road as soon as possible; and

(b) in case of a break-down or stalling of a heavy commercial vehicle and where specialized equipment is required to move the vehicle, ensure that the vehicle is moved from the road within twenty four hours of the incident.

(2)The driver of a commercial vehicle shall, in case of a breakdown, immediately place on the road not less than fifty metres from the commercial vehicle, two red reflecting triangles of such construction and dimensions as may be prescribed, one ahead of the vehicle and one behind it so that each reflecting triangle is clearly visible to drivers of vehicles approaching the commercial vehicle from ahead or behind as the case maybe.

(3) Subject to subregulation (1), the Authority may tow or remove a commercial vehicle that has stalled or broken down on a road or arrange for a third party to tow or remove such a vehicle at the carrier's cost if in the opinion of the Authority such vehicle poses a risk to the safety of other road users.

(4) The cost referred to in subregulation (3) shall be recoverable as a civil debt:

Provided that the Authority shall ensure that any person engaged to tow or remove stalled commercial vehicles on the road shall charge a standard fee that is reasonable and based on the distance travelled from the place where the commercial vehicle broke down or stalled to the place directed for delivery by the Authority.

(5) The Authority may prescribe the fees to be charged for the purposes of this regulation.

Power of the Authority to suspend or revoke commercial vehicle service license.

19(1)The Authority may suspend or revoke a commercial vehicle service license where the carrier :-

- (a) fails to keep any of the records required to be kept in accordance with the provisions of these Regulations;
- (b) fails to submit the records required to be submitted under these regulations to the Authority;
- (c) fails a safety audit under regulation 14;
- (d) permits an unqualified driver to drive a commercial vehicle;
- (e) provides false information to the Authority;
- (f) fails or refuses to settle any towing charges imposed by the Authority;
- (g) fails to equip the vehicle with two red reflecting triangles of the approved construction and dimensions; or
- (h) fails to properly secure cargo as required under these Regulations.

(2)The Authority before suspending or revoking a license under this Regulation must give the license holder a reasonable opportunity to present his case.

Power of the Authority to suspend a driver's commercial license.

20.(1)The Authority may suspend or revoke a driver's commercial vehicle service license where the driver :-

- (a) fails to keep any of the records required to be kept by the driver under these Regulations.

(b) fails a safety audit.

(c) provides false information to the Authority;

(d) is found driving a commercial service vehicle while he or she has any alcohol in his or her blood.

(e) allows the vehicle to be driven by an unqualified or unauthorised person.

(f) fails to in case of a breakdown place on the road not less than fifty metres from the vehicle two red reflecting triangles of such construction and dimensions as may be prescribed, one ahead of the vehicle and one behind it so that each is clearly visible to drivers of vehicles approaching from ahead or behind, as the case may be.

(g) is found to be involved in the siphoning of fuel from vehicle.

(2) The Authority before suspending or revoking a license under this Regulation must give the license holder a reasonable opportunity to present his case.

Power of the Authority to order inspection.

(21) The Authority may order the inspection of any commercial vehicles to establish the road worthiness of a vehicle.

Insurance.

22. A carrier or owner shall take out at the minimum a third party insurance cover for each commercial service vehicles.

Appeals

23. A person aggrieved by the decision of the Authority taken under these Regulations may within fourteen days of receiving the decision appeal to the Appeals Board.

Offences and penalties.

24. A person who operates or drives a commercial service vehicle in breach of any provision of these regulations 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.

Dated the _____, 2018.

JAMES MACHARIA,
Cabinet Secretary for Transport and infrastructure.

FIRST SCEHDULE.

FEE SCHEDULE.

Application and renewal fee for a commercial license (per vehicle).....Kshs 1,000.

Replacement of damaged or lost license.....Kshs 500.

SECOND SCHEDULE



APPLICATION FOR COMMERCIAL SERVICE LICENSE.

FOR OFFICIAL USE

Application Number

A. APPLICANT'S INFORMATION

Name of Registered Owner : _____ Address :- _____

E-mail address _____ Mobile No _____

B. TYPE OF VEHICLE.

Tick the type of vehicle .

Commercial Vehicle

Heavy Commercial Vehicle (vehicle whose tare weight exceeds six thousand seven hundred and twenty pounds).

C. DOCUMENTATION REQUIRED. (Applicant MUST provide copies of the listed documents).

	DOCUMENT REQUIRED.	TICK IF PROVIDED	FOR OFFICIAL USE
1	certificate of registration as a company under the Companies Act if the applicant is a company, or a cooperative society under the Cooperative Societies Act if the applicant is a society or national identification card if the applicant is an individual;		
2	the certificate of ownership or other evidence of ownership in the name of the owner of the vehicle or a contract or franchise agreement between the applicant and the carrier or intended carrier of the vehicle;		

3	a valid certificate of roadworthiness issued by the Authority of each vehicle in respect to which an application is being made;		
4	valid insurance cover.		
5	evidence showing that all the commercial service vehicles have been fitted with the prescribed speed limiter.		
6	evidence of installation of a fleet management system accredited by the Authority for heavy commercial vehicles only.		

D. DECLARATION.

I declare that I have read all the answers I have given to the questions in this application and that the answers given by me are complete, true and correct in every detail.

I understand that if I have stated anything that is false or misleading, the license granted to me as a result of this application will be absolutely void and have no legal effect whatsoever.

I understand that I may be prosecuted for giving or stating facts or misleading information or documents.

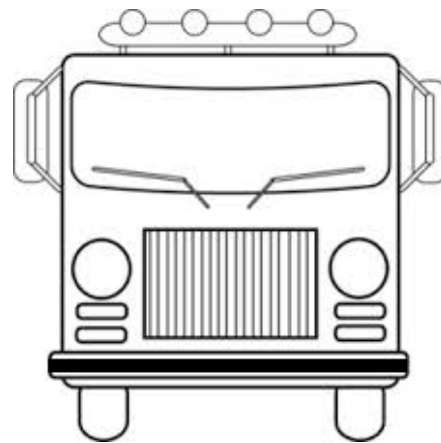
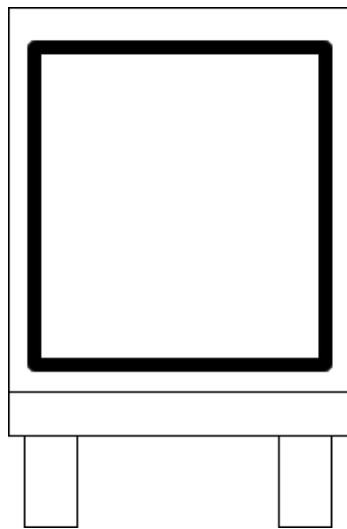
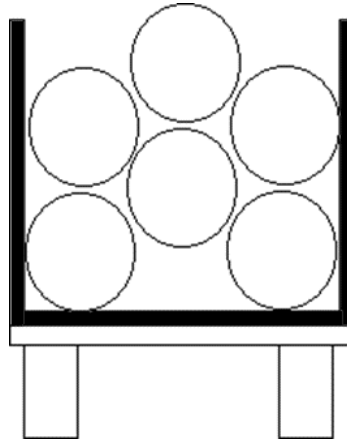
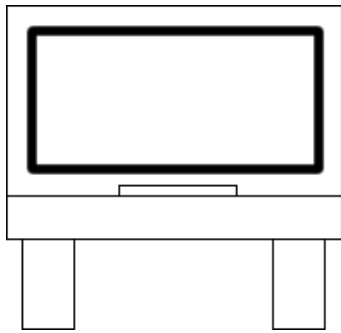
I also declare that I have read and understood the general duties and responsibilities of a transport operator and hereby agree to be bound by them.

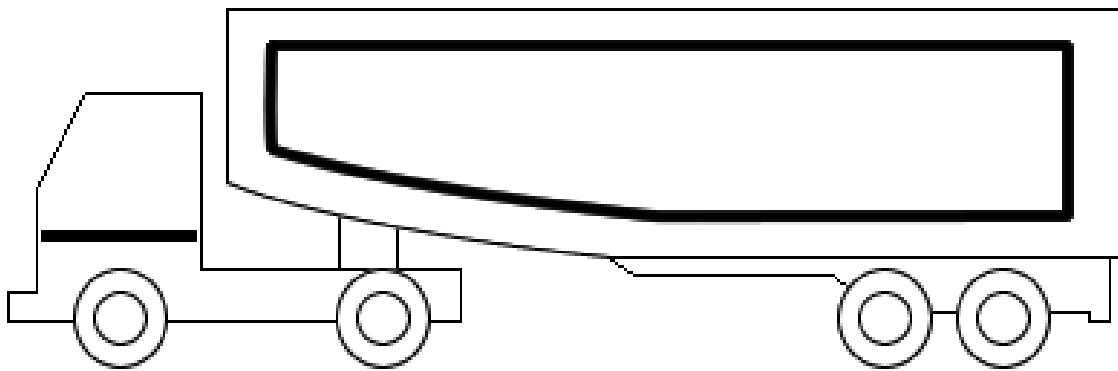
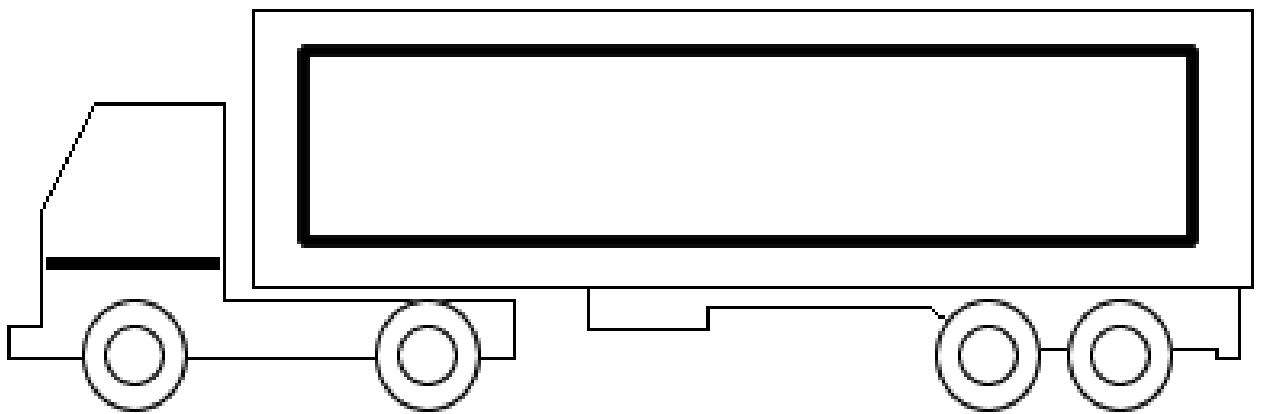
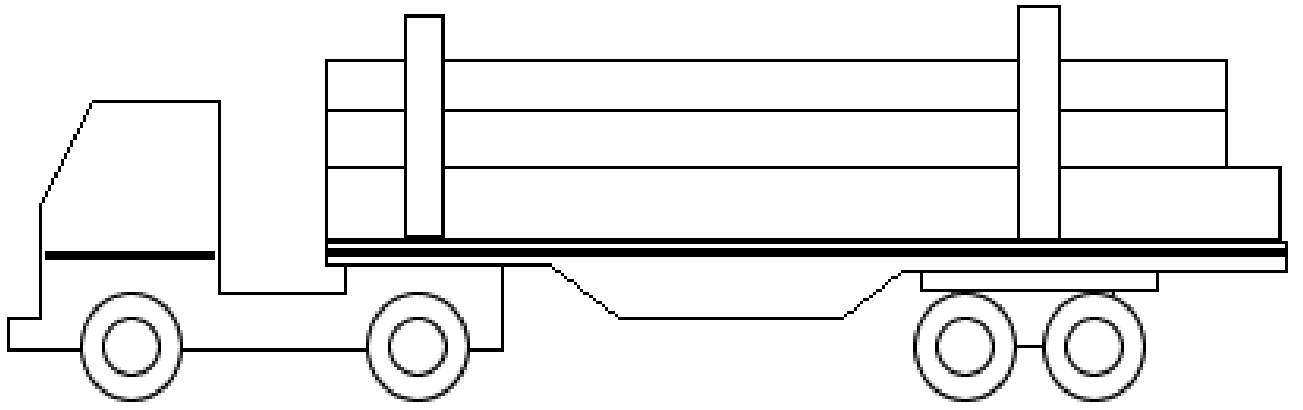
Applicants' signature

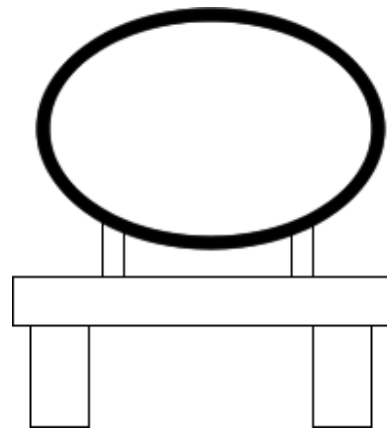
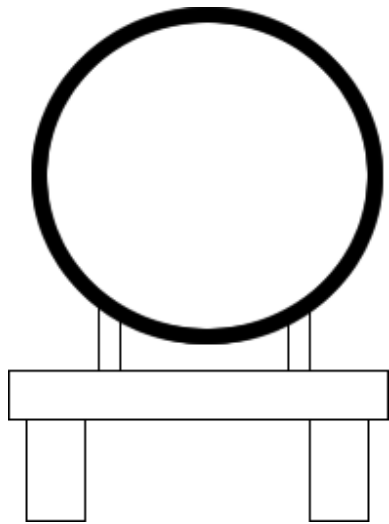
Date _____

THIRD SCHEDULE.

RETRO-REFLECTIVE MARKING FOR COMMERCIAL VEHICLES AND THEIR TRAILERS.







THIRD SCHEDULE

DAILY LOG

DATE	START OF DRIVING TIME	END OF DRIVING TIME	REST PERIODS TAKEN (TIME)	LOCATION OF VEHICLE AT START OF JOURNEY AND MILEAGE READING	LOCATION OF VEHICLE AT END OF JOURNEY AND MILEAGE READING

Driver's name Signature.....

Vehicle Registration No

FOURTH SCHEDULE.

ACCIDENT REPORT FORM.

Name of Registered Owner of Commercial Vehicle:- _____

Date and location of accident: _____

Registration number of vehicles involved in accident:- _____

License Number of commercial vehicle:- _____

Driver Name and Driving license No of driver of Commercial Vehicle:- _____

Number of confirmed fatalities: _____

Circumstances about the accident/ probable cause :- _____

