**SUBMISSIONS ON**

 **THE KERALA METROPOLITAN TRANSPORT AUTHORITY BILL 2018**

JUNE 2019 www.cochinchamber.org

**About**

The Cochin Chamber of Commerce and Industry was established in the year 1857 by a group of nine Englishmen. Having completed 160 years of service to the region’s commerce, industry and trade the Cochin Chamber of Commerce and Industry is the oldest Chamber of Commerce in the State of Kerala and one among the oldest in the country. Ours is a heritage and legacy which is incomparable. Affiliated to the Associated Chambers of Commerce and Industry of India (ASSOCHAM), New Delhi, we are also one of its five Promoter Chambers.

The Chamber wishes to assist the public and policymakers through exclusive research papers on various socio economic topics that influences public life. Through this submission the chamber wishes to re-emphasise its commitment towards the development of Kochi and Kerala.

The present submissions have been prepared by Cochin Chamber of Commerce and Industry in response to the call for submissions on the Draft Kerala Metropolitan Transport Authority Bill,2018

Please direct all correspondence to

Secretary, The Cochin Chamber of Commerce and Industry

P.B. No. 503, Bristow Road, Willingdon Island,

Cochin, Kerala, India - 682003

**secretary@cochinchamber.org** **I** [**www.cochinchamber.org**](http://www.cochinchamber.org) **I Phone: +91 484 2668650 / 51**

**Comments on the Draft Kerala Metropolitan Transport Authority Bill, 2018**

|  |  |  |  |
| --- | --- | --- | --- |
| **S.No** | **Provision** | **Suggested amendment** | **Rationale** |
| 1 | Long title clause | Insert the word “**streamlining**” after the word “co-ordination” | The purpose of UMTA should be clearly depicted  |
| 2 | Preamble | Insert the word “**streamlining**” after the word “co-ordination” | The purpose of UMTA should be clearly depicted  |
| 3 | Enacting clause | Replace the words “sixty-ninth” with the word “**seventieth”** | The bill was presented in the assembly in 2018. The discussion will hopefully resume in 70th year of Republic i.e 2019 |
| 4 | Short title and commencementClause 1 | This Act may be called the Kerala Metropolitan Transport Authority Act, **2019** | Replacing 2018 with 2019 |
| 5 | Short title and commencementClause 1 | Add proviso after 1(2) Provided that the state Government shall appoint such date **within three months** from the date on which the Kerala Metropolitan Transport Authority Act, 2019 receives the assent of the governor. | Chennai Unified Metropolitan Transport Authority Act received governor's approval on 27th November 2010. It was finally notified only in 2019.This inordinate delay can result in chaotic administration. |
| 6 | Definition clause(b) "Aggregator" means an intermediary or market place, digital or otherwise for a passenger or a group of passenger to connect with the driver of a transport vehicle for the purpose of transportation needs of that passenger or a group of passengers. | (b) "Aggregator" means a person who is an aggregator or operator or an intermediary/market place who canvasses or solicits or facilitates passengers for travel by a taxi and who connects the passenger/intending passenger to a driver of a taxi through phone calls, internet, web-based services or GPS/GPRS based services whether or not any fare, fee, commission, brokerage or other charges are collected for providing such services. | This definition is used in Karnataka On Demand Technology Aggregators Rules,2016.This definition was accepted by the High Court of Karnataka in *Satish N vs State Of Karnataka*[*http://judgmenthck.kar.nic.in/judgmentsdsp/bitstream/123456789/139250/1/WP30917-16-10-11-2016.pdf*](http://judgmenthck.kar.nic.in/judgmentsdsp/bitstream/123456789/139250/1/WP30917-16-10-11-2016.pdf) |
| 7 | Definition clauseClause 2(d) : "Chairperson, means the Chairperson of **an** Authority appointed under sub-section (3) of section 3; | Suggested definition 2(d) "Chairperson, means the Chairperson of **the** Authority appointed under sub-section (3) of section 3; | Grammatical error |
| 8 | Clause 33(3)(a) The Chairperson, who shall be an officer or a member not below the rank of a Secretary to the State government, appointed by the State government;(b) The Secretary to the State government, Transport Department ex-officio;(c) The Secretary to the State government, Finance Department,(d) The Secretary to the State government, public Work department(e) The Managing Director, Kerala State Road Transport Corporation,(f) The Transport Commissioner, government of Kerala ex-officio;(g) The District Collector of the District which includes the Urban Mobility Area- ex-officio;(h) The Secretaries of the Municipal Corporations or Municipalities in the Urban Mobility Area - ex-officio;(i) The City Police Commissioner, conceded- ex-officio;(j) The Managing Director of the relevant Mass Rapid Transit System of the Urban Mobility Area-ex-officio;(k) Four experts from any of the fields of transport on engineering, urban transport planning, urban transport operations, corporate governance, finance or law, nominated by the State government(l) The Chief Executive Officer of the Respective Metropolitan Transport Authority. | Constitution of the KMTA Add the following as members of the transport authority* **Minister** in-charge of Transport, who shall be the Chairman, ex-officio;
* Upto two persons nominated by the Government from

among the **members of the Legislative Assembly**of Kerala * **Mayor** of the corporation which includes the Urban Mobility Area
* **Standing Committee Chairpersons** of the Municipal Corporation
* Representative from the **Railways**
* up to three representatives of reputed **chambers of commerce and industry association**s
 | The current constitution seems to be executive/ bureaucratic centric which might not result in the streamlining and coordination that the authority wants to achieve.Presence of elected representatives,relevant organisations and sectoral experts can improve the status.Presence of sectoral experts and trade organisations can aid the authority in informed decision making process.Inclusion of chamber of commerce representatives in the Transport Regulatory authority was a major recommendation of the MR Masani Committee report on Transport Reorganisation ( 1956) Available at [http://bit.ly/MasaniReport](https://books.google.co.in/books?id=h7ffoyCOVoMC&pg=PA83&lpg=PA83&dq=transport+authority+chamber+of+commerce&source=bl&ots=80s0rJtzNo&sig=ACfU3U1lxU-u3inrOPEBQCB313MrbKze3A&hl=en&sa=X&ved=2ahUKEwioidiMt9riAhWx8XMBHUUbB4E4ChDoATAJegQICRAB#v=onepage&q=transport%20authority%20chamber%20of%20commerce&f=false)(Page 83)Chamber of Commerce representatives are members in the Advisory Board appointed under The Rights of Persons with Disabilities Act,2016 |
| 9 | Clause 4No member of the Authority shall have any share or interest whether in his own name or otherwise, in any company or body corporate or an association of persons (whether incorporated or not) or a firm engaged in the business of Urban Transport or Urban Transport Ancillary Services. | In clause 4, the following clause shall be inserted. Any Member having any direct or indirect interest, whether pecuniary or otherwise, in any matter coming up for consideration at a meeting of the Authority, shall, as soon as possible after the relevant circumstances have come to his knowledge, disclose the nature of his interest at such meeting and such disclosure shall be recorded in the proceedings of the Authority, and the Member shall not take any part in any deliberation or decision of the Authority with respect to that matter. | This clause will act as a forum for self-disclosure of issues in which conflict of interest in respect of the Chairperson or any Member that may arise in the course of performance of duties by the Authority. |
| 10 | Clause 99. Meetings of the Authority. (1) The Authority shall meet at such time andplaces and shall observe such procedure in regard to the transaction of business atits meetings as may be prescribed by regulations and at least one such meetingshall be held in every three months.  | Replace 9(1) with the following clauseMeetings of the Authority. (1) The Authority shall meet at such time and places and shall observe such procedure in regard to the transaction of business at its meetings as may be prescribed by regulations and at least one such meeting shall be held every month.  | The authority shall meet as often as necessary but at least once in a month.  |
| 11 | Minutes of the meetings | Insert clause 9(8)approved minutes of authority's meeting shall be uploaded on the website within three working days. | These can ensure better transparency and visibility to the works undertaken by the Authority |
| 12 | Clause 10(4)(4) Every committee appointed under sub-section (1) or sub-section (2) shall comply with the instructions that may, from time to time, be given to it by the Authority and the Authority may at any time alter the constitution of any committee so appointed or rescind any such appointment. The Authority shall nominate any one of the members as the **Chairman** of a committee constitutedunder subsection (1) and any one expert as the **Chairman** in respect of a committee constituted under sub-section (2). | Replace the word “chairman” with the word “chairperson” | Chairperson is a gender neutral term which can be used to represent any person. |
| 13 | Clause 11Declaration of Urban Mobility Area(2) The State Government may, by notification in the Official Gazette,declare any other area specifying its territorial limits as Urban Mobility Area for the purposes of this Act | Replace Clause 11(2) with the following(2) The State Government may, by prior approval of the legislative assembly, declare any other area specifying its territorial limits as Urban Mobility Area for the purposes of this Act | The provision in its present form delegates excessive powers to the executive. Declaration of Urban Mobility area through Legislative Assembly can act a check on this practise. |
| 14 | Clause 12Duties and functions of the authority 12(1)aPreparation of Comprehensive Mobility plan, including but not limited to Urban Transport and non-motorised transportation within the Urban Mobility Aftas as detailed in section 13 of this Act, in conjunction with the arca development plan applicable for such period as the Authority deems fit and updation of such plans at regular intervals not exceeding five years to ensure integration of land use and transport planning on a regular basis, in consultationwith the **authorities** concerned; | Replace the word “authorities” with the word “stakeholders” | The preparation of Mobility plan should be participatory and should ensure the participation of all relevant stakeholders including the public. |
| 15 | Clause 12Duties and functions of the authority | Add provisions for research and innovationClause 1The Authority may—(a) promote and engage in research in relation to any of its functions, either alone or in co-operation with other persons and institutions, and(b) allocate moneys and make payments to persons and institutions in relation to such research.Clause 2Information, data and statistics. The Authority shall—(a) collect, compile, analyse and prepare information, data or statistics, including that or those gathered by ticketing systems operated by public transport operators for the purpose of exercising its functions, and(b) on a regular basis, publish information, data or statistics on—(i) numbers of persons using differing modes of transport,(ii) satisfaction levels with public passenger transport services,(iii) travel times to work, and(iv) such other matters as the Authority considers appropriate in respect of its functions.(2) The state government may request the Authority to collect, compile, prepare and publish such information, data or statistics that it may specify in writing to the Authority regarding the performance of the Authority in exercising its functions.(3) The state government shall consult the Authority, and may consult any other person he or she considers appropriate, before giving a direction under subsection (2).(4) The Authority may require a person who holds information, data or statistics relating to the functions of the Authority, to give to the Authority such information, data or statistics in such form (including electronic form) and at such reasonable times or intervals, as the Authority specifies.(5) Save as otherwise provided by law, the Authority shall ensure commercially sensitive information obtained under this section is not disclosed. | A provision for dedicated research and data dissemination is missing in this draft bill. For development and upgradation of urban transport, research studies need to be conducted regularly. This function can easily be assigned to UMTA. This would involve conducting research specific to Urban Mobility Area and studies relating to upgradation and extension of urban transport. |
| 16 | Clause 13Preparation of Comprehensive Mobility Plan | Add the following proviso after clause 2Provided that the notice soliciting comments on draft plan shall be published in at least two English and two vernacular newspapers having wide circulation in the respective Urban Mobility Area and it shall be given publicity in electronic media within such Urban Mobility Area. | Procedure for consulting public should be properly explained. |
| 17 | Clause 25Audit Report | Insert the following as clause 3The copy of the audit report sent to the state government shall be uploaded on the website of the authority within one month. | Will enhance the transparency and access to information |
| 18 | Clause 26Annual report | The copy of the annual report sent to the state government shall be uploaded on the website of the authority immediately after they are laid on the Table of the State Legislature. | Will enhance the transparency and access to information |
| 19 | Clause 36Service of summons, notice, order etc. | Consider Email, WhatsApp etc. for substituted service of summons | In *Dr. Madhav Vishwanath Dawalbhakta v. M/s. Bendale Brothers,* Bombay High Court enquired about the possibilities of the modern ways available for communication in service of summons High Court order available at <http://bit.ly/WhatsappSummons> |