

December 2020

## GOVERNMENT OF INDIA ISSUES MOTOR VEHICLE AGGREGATOR GUIDELINES 2020

The Ministry of Road Transport & Highways, on 26<sup>th</sup> November 2020, had amended Section 93 of the Motor Vehicles Act, 1988 as per the provisions of Section 36 of the Motor Vehicles (Amendment) Act, 2019 ("Act"). This amended section stipulates that State Governments may, while issuing Licenses to Aggregators, follow such guidelines as may be issued by the Central Government.

As per the amended Section 93 of the Motor Vehicles Act, 1988, the Ministry of Road Transport & Highways, on 27<sup>th</sup> November 2020, issued the Motor Vehicle Aggregator Guidelines, 2020 ("Guidelines") with the aim of providing State Governments/UTs a guiding framework for issuance of Licenses as well as regulating the business being conducted by Aggregators.

### ❑ Important Definitions under the Guidelines:

#### ≡ The Guidelines ascribe the following definitions to these terms:

- **"Aggregator"** refers to a digital intermediary or market place for a passenger to connect with a driver for the purpose of transportation.
- **"App"** is an electronic interface operated by the Aggregator or any third party on behalf of the Aggregator, which may be accessed either through a computer resource or a communication device.
- **"Fare"** is the total charge debited by the Aggregator to the Rider pursuant to the latter booking a ride through the Aggregator's App and completion of such ride.
- **"License"** is the license issued to an Aggregator by the State Government under Section 93 of the Act.
- **"On-Boarding"** refers to the integration of a vehicle and driver with the Aggregator and operating such vehicle with the Aggregator;
- **"Off-Boarding"** refers to the segregation of an integrated vehicle from the Aggregator.
- **"Rating"** refers to the assessment of quality of a trip availed by a Rider, on the successful completion of the trip.
- **"Refresher Training Programme"** is an annual training session for drivers integrated with the Aggregator, for a period of at least two (2) days for cumulated ten (10) hours, delivered physically or virtually. The session shall include but not be limited to the course mentioned under the Induction Training Programme.
- **"Remedial Training Programme"** is the training course required to be compulsorily undertaken by drivers having Rating below two (2) percentiles from

amongst all drivers who are placed similarly in terms of the minimum duration of engagement with the Aggregator as determined by the Aggregator.

- **"Rider"** refers to a person who books a journey through the Aggregator App for availing the transportation provided by a driver who is integrated with the Aggregator.
- **"Security Deposit"** is the amount that shall be payable by an Aggregator applying for a License furnished as bank guarantee, unless provided otherwise.
- **"Service Provider Contract"** is the agreed and executed agreement between the Aggregator and the driver specifying the contractual rights and obligations of both parties.
- **"Surge Pricing"** refers to the output of an algorithm of an Aggregator, which automatically raises the price of a trip when demand outstrips supply within a fixed geographic area.

### ❑ Applicability of the Guidelines & Eligibility of an Aggregator:

#### ≡ The Guidelines will apply to all:

- Aggregators On-Boarding transport vehicles in such area as the State Government may specify by notification in the Official Gazette;
- Motor Vehicles under the Motor Vehicles Act, 1988 i.e. four wheelers with minimum engine capacity of 25cc and e-rickshaws that may be integrated by the Aggregator.

#### ≡ The eligible Aggregators shall:

- Have a registered office in India;
- Comply with all the applicable provisions prescribed under the Act and the information Technology Act, 2000, including intermediary guidelines;
- Refrain from integrating any driver or represent himself as an Aggregator without a valid License issued by the State Government;
- Be an entity which is:
  - i. A company registered under the Companies Act 1956 or 2013; or
  - ii. A co-operative society registered under the Co-operative Societies Act, 1912 formed by an association of drivers or motor vehicle owners; or
  - iii. Such other association or a limited liability partnership under the Limited Liability Partnership Act, 2008.

### ❑ Powers of the Competent Authority & Conditions for Grant of License:

#### ≡ The Guidelines lay down that a competent authority shall:

- Grant valid License for a period of five (5) years from the date of its issuance;

Disclaimer:

or private circulation to the addressee only and not for re-circulation. Any form of reproduction, dissemination, copying, disclosure, modification, distribution and/ or publication of this Alert is strictly prohibited. This Alert is not intended to be an advertisement or solicitation. The contents of this Alert are solely meant to inform and is not a substitute for legal advice. Legal advice should be obtained based on the specific circumstances of each case, before relying on the contents of this Alert or prior to taking any decision based on the information contained in this Alert. ZEUS Law disclaims responsibility and accepts no liability for the consequences of any person acting, or refraining from acting, on such information. If you have received this Alert in error, please notify us immediately by telephone.

Copyright © 2015 ZEUS Law. All rights reserved. Replication or redistribution of content, including by caching, framing or similar means, is expressly prohibited without the prior written consent of ZEUS Law.

- Renew License after examining the Aggregator's records of previous compliance/suspensions;
- Upload and update the list of Licenses issued on the state transport portal of the state government;
- Reject such application which does not comply with conditions after giving an opportunity of being heard to the applicant;
- Transfer a License issued under these Guidelines on a joint application being made by the transferor and transferee;
- Issue a duplicate License after collecting prescribed fee incase original License is lost or destroyed.

❑ **Conditions of Grant of License for Aggregator:**

≡ **Applicant entity aiming to secure a License shall:**

- Arrange a driving test facility with a simulator to test the driving ability of the concerned driver with respect to the vehicle to be On-Boarded or outsource such tests to an authorized third party;
- Ensure that drivers who have been integrated with the Aggregator prior to the implementation of these Guidelines undergo the Induction Training Programme as well;
- Commence its business operations within six (6) months from the grant of License, in the absence of which the License shall be cancelled;
- Comply with guidelines issued by Health Ministry / World Health Organization / or any concerned authority for precautionary steps like sanitization of motor vehicles and appropriate social distancing etc.;
- Conduct Induction Training Programme which is a compulsory (5) five-day training programme for cumulated thirty (30) hours to train drivers on:
  - i. Using the Aggregator App;
  - ii. Provisions under the Motor Vehicles Act, 1988 and Rules thereunder;
  - iii. Road safety and first responder training for six (6) hours out of the total thirty (30) hours mentioned above;
  - iv. Motor vehicle maintenance, maintenance of health and hygiene, fuel efficient driving, familiarization with the routes;
  - v. Terms and conditions of the contract between the driver and the aggregator;
  - vi. Gender sensitization and safety of women and girl child.

≡ **Prior to On-Boarding of drivers, Aggregators shall ensure that every driver:**

- Holds a valid proof of identity - EIC card / Aadhaar card / PAN card and driving license & applicable badge to drive the relevant vehicle;
- Has minimum driving experience of two (2) years in absence of which the driver shall undertake fifteen (15) days driver training facilitated by the Aggregator before On-Boarding in addition to the Induction Training Programme;
- Holds KYC compliant bank account or Jan-Dhan account under the Pradhan Mantri Jan-Dhan Yojana, in accordance with the Reserve Bank of India norms.
- Undergoes a complete medical examination, including eye check-up, at the Aggregator's expense.
- Completes his police verification with a written record of such verification prior to fifteen (15) days of On-Boarding;
- Executes valid Service Provider Contract in English and a language understood by the driver;
- Shall not have been convicted within the past three (3) years for:
  - i. Driving under the influence of drugs or alcohol; or
  - ii. Any cognizable offence under the Code of Criminal Procedure, 1973 or the Indian Penal Code, 1860.

≡ **During operations, Aggregators shall ensure that every driver:**

- Has health insurance for not less than INR Five Lakhs with base year 2020-21 having increase of 5% each year;
- Has term insurance for not less than INR Ten Lakhs with base year 2020-21 having increase of 5% each year;
- Attends Refresher Training Programme once a year whose record shall be documented and preserved for at least one (1) year.
- Can operate with multiple Aggregators, provided each of them comply with the requirements and driver training programmes;
- Takes a mandatory break of ten (10) hours subsequent to a login extending twelve (12) hours in a calendar day;
- Removes>Returns all equipment, ID cards or brand stickers belonging to the Aggregator on termination or end of Service Provider Contract;
- Rates his Riders and gets rated by the Rider based on respective experience of the ride;
- Required to take Remedial Training Programme, completes the same;

*Disclaimer:*

for private circulation to the addressee only and not for re-circulation. Any form of reproduction, dissemination, copying, disclosure, modification, distribution and/ or publication of this Alert is strictly prohibited. This Alert is not intended to be an advertisement or solicitation. The contents of this Alert are solely meant to inform and is not a substitute for legal advice. Legal advice should be obtained based on the specific circumstances of each case, before relying on the contents of this Alert or prior to taking any decision based on the information contained in this Alert. ZEUS Law disclaims responsibility and accepts no liability for the consequences of any person acting, or refraining from acting, on such information. If you have received this Alert in error, please notify us immediately by telephone.

Copyright © 2015 ZEUS Law. All rights reserved. Replication or redistribution of content, including by caching, framing or similar means, is expressly prohibited without the prior written consent of ZEUS Law.

December 2020

- Undertaking the Remedial Training Programme is Off-Boarded until course completion;
  - Maintains updated copies of the following records pertaining to the drivers of vehicles, regularly on the portal of SARATHI –
    - i. Photograph of the driver;
    - ii. Driving license;
    - iii. Proof of present residential address;
    - iv. RBI compliant KYC bank account;
    - v. EIC card or Aadhaar card or PAN card;
    - vi. Contact details and addresses of two members from the driver's family.
- ≡ **For integration, Aggregators shall ensure that its every vehicle has:**
- Valid registration, permit and fitness certificate;
  - Requisite registration mark displayed in English and the figures in Arabic numerals displayed in such form and manner as specified;
  - Valid third-party insurance, Pollution Under Control (PUC) Certificate, a fire-extinguisher;
  - Emission norms compliant with BS IV or above for motor cabs and BS III or above for other vehicles;
  - Engines/systems as per city specific fuel norms;
  - Updated payment of taxes and pending e-challans prior to integration;
  - AIS 140 Certified Vehicle Tracking and Monitoring System with panic buttons which shall be connected to the control room of the Aggregator;
  - Disabled child lock mechanism and enabled manual override for central locking systems;
  - 'TAXI' roof sign visible from the front and rear on LMV, in compliance with Automotive Industry Standards (AIS);
  - Vehicle permit and copy of the driver's driving license displayed clearly to its passengers.
- ≡ **Aggregators shall ensure that its App:**
- Complies with all applicable laws;
  - Remains accessible in English and Hindi, for the Rider along with one official language of the state where the official language is not Hindi or such other language needed by the Driver;
  - Gets certified for safety by a recognized cyber security firm;
- Stores data generated on a server in India for a minimum of 3 and maximum of 24 months from the date such data is generated;
  - Ensures that the identity of the driver undertaking a trip is same as the one enlisted with the Aggregator;
  - Includes a feature enabling the Rider to share the live location and status of his/her ride after the ride booked through the App has commenced;
  - Contains a clear picture of each driver integrated with the Aggregator;
  - Maintains transparency in its operations, including but not limited to:
    - i. Functioning of the App algorithm;
    - ii. Proportion of fare - payable to the driver or incentives given to the drivers;
    - iii. Charges received from the driver and such other information as may be notified by the State Government;
  - Allows access to details of the following for a period of three (3) months from the date of a trip:
    - i. Daily trips operated by each vehicle;
    - ii. Details of passengers commuting in each vehicle;
    - iii. Origin and destination of each journey and the fare collected;
- ≡ **To ensure safety, Aggregator shall also be required to:**
- Provide notice of the zero-tolerance policy on its website;
  - List procedure to report a complaint about a driver if passenger suspects that the driver is under the influence of drugs or alcohol during the ride;
  - Establish a control room with 24x7 operations;
  - Ensure vehicles maintain uninterrupted contact with the control room;
  - Co-operate with investigating authorities for incidents affecting Rider's safety, caused due to action or inaction of the driver on an assigned trip;
  - Ensure appropriate functioning of the GPS installed in the vehicle and provide efficient resolution for any issues in its functioning;
  - Ensure safety of women employees and drivers by introducing mechanisms in compliance with the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013;
  - Provide for ride-pooling and allow female passengers to avail ride-pooling with the option to pool only with other female passengers;
  - Maintain and examine updated copies of the following records pertaining to the driver's vehicle regularly:
    - i. Certificate of Registration;
    - ii. Certificate of Fitness;

*Disclaimer:*

for private circulation to the addressee only and not for re-circulation. Any form of reproduction, dissemination, copying, disclosure, modification, distribution and/ or publication of this Alert is strictly prohibited. This Alert is not intended to be an advertisement or solicitation. The contents of this Alert are solely meant to inform and is not a substitute for legal advice. Legal advice should be obtained based on the specific circumstances of each case, before relying on the contents of this Alert or prior to taking any decision based on the information contained in this Alert. ZEUS Law disclaims all responsibility and accepts no liability for the consequences of any person acting, or refraining from acting, on such information. If you have received this Alert in error, please notify us immediately by telephone.

Copyright © 2015 ZEUS Law. All rights reserved. Replication or redistribution of content, including by caching, framing or similar means, is expressly prohibited without the prior written consent of ZEUS Law.

- iii. Permit of vehicle;
- iv. Chassis and engine number;
- v. Commercial insurance policy covering third party risks;
- vi. Pollution Under Control Certificate;
- vii. Clearance of pending e-challans within a period of two (2) months from issuance of e-challans.

□ **Regulation of Fares & Cancellation of Rides:**

≡ **The Guidelines lay down the following key points:**

- Base fare chargeable to Riders will be the city taxi fare indexed by Wholesale Price Index (WPI) for the current year.
- The minimum chargeable fare is that for three (3) kms to compensate for dead mileage and distance travelled / fuel utilized for picking up the customers.
- Fare shall be charged only from the point of boarding to the point of alighting.
- In cities which do not have a base taxi fare stipulated, Rs.25/30 will be the base fare.
- Aggregators are permitted to charge 50% lower than base fare and the maximum surge pricing is capped at 1.5 times the base fare.
- The share of fare that Aggregator can receive is capped at 20% and driver will receive at least 80% of the fare.
- Fare regulation shall not be applicable for motor cabs exceeding four (4) meters of length / engine capacity of 1500cc and electric vehicles.
- If a booking is cancelled by a driver without a valid reason, 10% of fare up to INR 100 will be imposed.
- If the Rider cancels the booking, similar penalty is imposed which would be shared between the Aggregator and driver in ratio of 20:80.

□ **Suspension & Cancellation of License of the Aggregator:**

≡ **The License of the Aggregator shall stand suspended on occurrence of:**

- Systemic failure by the Aggregator to ensure safety of the Rider and/or the driver as determined by an analysis of quarterly Ratings;
- Breach of contractual obligations towards the drivers or any other requirements of the Guidelines;
- Deaths or severe injuries caused to Riders and/or drivers due to violation of safety standards by the Aggregator;

- Violation of contractual obligations affecting driver welfare and livelihood;
- Repetitive instances of financial inconsistencies with regard to:
  - i. Fares charged to Riders;
  - ii. Unjustified imposition of Surge pricing;
- iii. Non-compliance with the proportionate division of fares between the drivers and the Aggregator;
- iv. Unsubstantiated imposition of charges on the drivers.

≡ **The Guidelines lay down that the Competent Authority shall:**

- Take action on any complaint made to it or take suo moto cognizance;
- Suspend the License for a period of minimum ten (10) days and maximum of six (6) months at a time;
- Provide the Aggregator an opportunity of being heard within fifteen (15) days of the complaint;
- Issue fine in place of suspension order where it is deemed right to do so, and such fine will be decided by the respective states;
- Grant the Aggregator temporary permission to continue operations for a minimum of two (2) months and maximum six (6) months ("Probationary Period") while still withholding the Aggregator's License;
- Examine operations of the Aggregator after completion of Probationary Period to ensure rectification of the issues leading to suspension;
- Issue a NOC to the Aggregator and return the License on being satisfied by rectifications made, after which Aggregator may resume operations.

≡ **Guidelines allow for cancellation of Aggregator's License by:**

- Issue of show-cause notice;
- Providing an opportunity to be heard to the Aggregator within two (2) days of issue of show-cause notice.

≡ **Show-cause notices shall be issued, if the Aggregator:**

- Receives more than three (3) suspensions within single financial year;
- Fails to receive its License and NOC pursuant to re-examination of the suspension order;
- Commits a gross offence as determined by concerned State Government.

≡ **On cancellation of Aggregator's License, Aggregator shall:**

- Immediately stop all operations under the License;
- Forfeit the security provided by way of bank guarantee in full;

Disclaimer:

For private circulation to the addressee only and not for re-circulation. Any form of reproduction, dissemination, copying, disclosure, modification, distribution and/ or publication of this Alert is strictly prohibited. This Alert is not intended to be an advertisement or solicitation. The contents of this Alert are solely meant to inform and is not a substitute for legal advice. Legal advice should be obtained based on the specific circumstances of each case, before relying on the contents of this Alert or prior to taking any decision based on the information contained in this Alert. ZEUS Law disclaims all responsibility and accepts no liability for the consequences of any person acting, or refraining from acting, on such information. If you have received this Alert in error, please notify us immediately by telephone.

Copyright © 2015 ZEUS Law. All rights reserved. Replication or redistribution of content, including by caching, framing or similar means, is expressly prohibited without the prior written consent of ZEUS Law.

- Be allowed to appeal against any order passed by the Competent Authority may, within thirty (30) days of receipt of the order.

□ **Powers & Responsibilities of the State Government:**

≡ **The Guidelines empower the State Government to:**

- Call for information and documents from the Aggregator needed to ensure compliance by serving prior written notice;
- Investigate about the drivers who have been Off-boarded at more than one (1) instance;
- Conduct search and investigation of the Aggregator's premises;
- Provide access to the portals of Ministry of Road Transport & Highways, to enable the Aggregator to update the details of vehicles and drivers;
- Facilitate operations of electric vehicles and vehicles running on Ethanol or Methanol which are exempt from the certain permit requirements.

□ **Fees & Security Deposit:**

≡ **Guidelines prescribe following Fees for Aggregator applying for:**

- Grant of License – INR Five Lakhs;
- Renewal of License/ Issue of Duplicate License/ Change of Address of Licensee – INR Two Thousand and Five Hundred.

≡ **Guidelines prescribe following Security Deposit for Aggregator operating:**

- Up to hundred (100) buses or thousand (1,000) motor vehicles – INR One Lakh;
- Up to thousand (1,000) buses or ten thousand (10,000) motor vehicles – INR Two Lakhs and Fifty Thousand;
- More than thousand (1,000) buses or ten thousand (10,000) motor vehicles – INR Five Lakhs.

\*\*\*\*

*Disclaimer:*

for private circulation to the addressee only and not for re-circulation. Any form of reproduction, dissemination, copying, disclosure, modification, distribution and/ or publication of this Alert is strictly prohibited. This Alert is not intended to be an advertisement or solicitation. The contents of this alert are solely meant to inform and is not a substitute for legal advice. Legal advice should be obtained based on the specific circumstances of each case, before relying on the contents of this Alert or prior to taking any decision based on the information contained in this Alert. ZEUS Law disclaims all responsibility and accepts no liability for the consequences of any person acting, or refraining from acting, on such information. If you have received this Alert in error, please notify us immediately by telephone.

Copyright © 2015 ZEUS Law. All rights reserved. Replication or redistribution of content, including by caching, framing or similar means, is expressly prohibited without the prior written consent of ZEUS Law.