

**NOTICE 1544 OF 2008****DEPARTMENT OF TRANSPORT****PUBLICATION FOR COMMENTS: TRANSPORT LAW ENFORCEMENT AND  
RELATED MATTERS GENERAL AMENDMENT BILL, 2009**

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The above-mentioned Amendment Bill is hereby published for public comments. Interested persons are invited to submit written comments by not later than 25<sup>th</sup> January 2009. Submission should be posted to the Director – General Department of Transport for the attention of T.H.M Mphahlele at:

**Mphahlet@dot.gov.za**  
Fax No. (012) 309 3044

**The Department of Transport**  
**Private Bag x193**  
**PRETORIA**  
**0001**

*Draft Bill – 14 November 2008*

## TRANSPORT LAW ENFORCEMENT AND RELATED MATTERS GENERAL AMENDMENT BILL, 2009

### GENERAL EXPLANATORY NOTE:

[            ] Words in bold type in square brackets indicate omissions from existing enactments.

\_\_\_\_\_ Words underlined with a solid line indicate insertions in existing enactments.

### BILL

To amend the South African National Roads Agency and National Roads Act, 1998 to provide more effectively for law enforcement relating to collection of tolls; to amend the Administrative Adjudication of Road Traffic Offences Act, 1998 to include in its ambit offences relating to operating licences and cross-border permits for public transport services and offences relating to non-payment of tolls on national roads; to amend the National Road Traffic Act, 1996 to add a presumption to facilitate the collection of tolls; to amend the Road Traffic Management Corporation Act, 1999 to empower the Road Traffic Management Corporation to enter into law enforcement agreements with the South African National Roads Agency; to amend the Cross-Border Road Transport Act, 1998 to empower the Cross-Border Road Transport Agency to collect toll on behalf of that Agency; and to provide for incidental matters.

BE IT ENACTED by the Parliament of the Republic of South Africa as follows:—

#### Amendment of section 1 of Act 7 of 1998

1. Section 1 of the South African National Roads Agency Limited and National Roads Act, 1998 (Act No. 7 of 1998) is hereby amended—

(a) by the substitution for the definition of “municipality” of the following definition:

**“municipality”** means a municipality contemplated in Chapter 7 of the Constitution or any other applicable law, and includes a metropolitan municipality, district municipality and local municipality as defined in the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998);

[—

(a) **until the legislation envisaged in section 155(2) of the Constitution**

takes effect, means any local government body vested with municipal legislative and executive jurisdiction (whether on an exclusive or shared basis) in respect of a particular areas in terms of the Local Government Transition Act, 1993 (Act 209 of 1993), in compliance with section 155(1) of the Constitution;

(b) as from the date when that legislation takes effect, means any municipality as contemplated in that legislation;]

(b) by the insertion of the following definition after the definition of "national road":

"owner" in relation to a motor vehicle means the owner thereof as defined in the National Road Traffic Act, 1996 (Act No. 93 of 1996);"

### **Amendment of section 27 of Act 7 of 1998**

2. Section 27 of the South African National Roads Agency Limited and National Roads Act, 1998 (Act No. 7 of 1998) is hereby amended—

(a) by the substitution of the following paragraph for paragraph (b) of subsection (1) with the following paragraph:

"(b) for the driving or use of any vehicle on a toll road, may levy and collect a toll, the amount of which has been determined and made known in terms of subsection (3), which will be payable—

- (i) at a toll plaza by the person so driving or using the vehicle; or
- (ii) at any other place;

in the prescribed manner in cash or electronically or by another prescribed method and subject to the conditions that the Agency may determine and so make known;"

(b) by the substitution of the following subsection for subsection (5):

"(5) (a) Any person driving, using or operating any vehicle on a toll road is liable for tolls levied in terms of subsection (1)(b) and must pay such tolls in the prescribed manner and must register as a toll road user in terms of this Act in the prescribed manner and provide the prescribed details.

(b) Such liability arises when the person enters the toll road and the toll is payable—

- (i) at a toll plaza or other place for the payment of toll referred to in subsection (1)(b); or
- (ii) in such other manner as may be prescribed.

(c) No person may use a toll road at a time when he or she owes toll or any other amount in terms of this Act, where such amount is due and payable and has not been paid.

(d) Any person liable for toll who—

- (i) fails or refuses to pay the required amount of toll at a payment point at a toll plaza on a toll road where toll is payable; or
- (ii) fails to pay in the prescribed manner or at the prescribed place any toll that is due under paragraph (a) or any surcharge, fee, fine or penalty due in terms of a regulation made under section

58(1)(dA) or any other law or in terms of any arrangement made in terms of this Act; or

(iii) fails to register as required by such regulations; or

(iv) contravenes paragraph (c) of this subsection;

is guilty of an offence and punishable on conviction with imprisonment for a period not longer than six months or a fine, or with both the term of imprisonment and the fine, and is liable in addition to pay to the Agency a civil fine of the prescribed amount, which may be increased annually on the prescribed date."

(c) by the substitution of the following subsection for subsection (6):

"(6) Any national road or portion of a national road (including any bridge or tunnel thereon) which—

(a) under section 9 of the previous Act had been declared a toll road for the purposes of that Act and which immediately before the incorporation date exists and is operated as such under the previous Act; or

(b) is identified by the Minister by notice in the *Government Gazette*, specifying the prescribed particulars, as a road which is deemed to have been a toll road as at the incorporation date;

will be regarded and treated for all purposes as if it had been declared a toll road under subsection (1) of this section."

(d) by the addition of the following subsections:

"(7) Where a road, portion of a road, bridge or tunnel has been declared a toll road under subsection (1), or is regarded as such in terms of subsection (6), the Minister may, despite the other provisions of this Act, authorise the Agency in writing to add new toll plazas, or change the position of existing toll plazas, despite the fact that such plazas or their position was not shown as required by subsection (4)(a)(i) or by the equivalent provisions of the previous Act, provided that the Agency—

(a) must give notice, generally, of the proposed new plaza or change in position of the existing plaza or plazas in the manner contemplated in paragraph (a) of subsection (4); and

(b) must request the Premier and every municipality in whose area of jurisdiction the plaza or plazas will be situated the opportunity to comment on the proposed new toll plaza or change in position of the existing toll plaza in the manner contemplated in paragraph (b) of subsection (4);

and the provisions of paragraphs (c) and (d) of subsection (4) will apply with the necessary changes and the Minister must be satisfied that the Agency has considered any comments and representations received before granting such authorisation.

(8) Where the Minister declares an existing road or part thereof as a national road under section 40, which prior to the date of such declaration had been declared as a toll road in terms of provincial legislation, such road or portion will be regarded and treated for all purposes as if it had been declared a toll road under subsection (1) of this section."

### Amendment of section 54 of Act 7 of 1998

3. Section 54 of the South African National Roads Agency Limited and National Roads Act, 1998 (Act No. 7 of 1998) is hereby amended—

(a) by the substitution of the following subsection for subsection (2) thereof:

“(2) Such an authorised employee may be declared as [will have the powers of arrest and detention conferred on] a peace officer in terms of section 334 [Chapter 5] of the Criminal Procedure Act, 1977 (Act No. 51 of 1977) [, with regard to any person who, on a national road or the property mentioned in subsection (1), has committed any offence referred to in that subsection in the presence of the authorised employee or who is suspected by the authorised employee, on reasonable grounds, to have committed such an offence].”

(b) by the insertion of the following subsections after subsection (2):

“(2A) The Agency may appoint such an authorised employee as—  
 (a) a law enforcement officer, who has all of the powers of—  
 (i) a traffic officer listed in section 31 of the National Road Traffic Act, 1996 (Act No. 93 of 1996) if he or she is in possession of a diploma referred to in regulation 1B of the National Road Traffic Regulations, 2000 promulgated under that Act;  
 (ii) an inspector contemplated in section 123 of the National Land Transport Transition Act, 2000 (Act No. 22 of 2000); and  
 (iii) a national road transport inspector contemplated in section 37 of the Cross-Border Road Transport Act, 1998 (Act No. 4 of 1998); or  
 (b) a toll road officer, who must have completed a training course as approved by the Chief Executive Office.

(2B) In addition to the powers mentioned elsewhere in this Act, such an authorised employee may—

(a) question the driver of a vehicle as to whether required tolls have been paid, or as to whether that driver or the operator of that vehicle has registered if so required by regulations made under section 58;  
 (b) require from the driver to furnish his or her full name and residential address and documentary proof thereof, as well as the name and address of the owner or operator of the vehicle;  
 (c) direct the driver of a vehicle to produce or show a tag or other document or equipment as prescribed, or any permit, operating licence or other document required to be in or on the vehicle by law;  
 (d) confiscate or seize any such tag, document or equipment that is suspected to be unauthorised; and  
 (e) question any person in relation to any such tag, document or equipment.

(2C) Such an authorised employee must—

(a) issue a notice, as prescribed, if any tag, document or equipment has been confiscated or seized under subsection (2B); and  
 (b) deliver such tag, document or equipment which has been confiscated

or seized under that subsection to a police officer to be dealt with in terms of the Criminal Procedure Act, 1977 (Act No. 51 of 1977), or to such other person as prescribed in the prescribed manner.

(2D) A person questioned or required to give information in terms of powers conferred by subsection (2A) or (2B) is entitled to the same privileges as a person testifying in a court of law."

(c) by the addition of the following paragraph in subsection (3):

"(c) the Road Traffic Management Corporation established by section 3 of the Road Traffic Management Corporation Act, 1999 (Act No. 20 of 1999), in terms of which that Corporation is authorised, and undertakes, to perform the law enforcement functions mentioned in subsections (1) and (2) on any national road through employees of that Corporation designated or appointed by it for that purpose."

(d) by the addition of the following subsections:

"(4) An agreement contemplated in subsection (3) may include provision for the Agency to compensate the province or municipality concerned, or the Road Traffic Management Corporation, for exercising such law enforcement functions, and the Agency may pay such compensation in terms of the relevant agreement.

(5) A traffic officer as defined in section 1 of the National Road Traffic Act, 1996 (Act No. 93 of 1996), a national road transport inspector as defined in section 1 of the Cross-Border Road Transport Act, 1998 (Act No. 4 of 1998), and an inspector as defined in section 1 of the National Land Transport Transition Act, 2000 (Act No. 22 of 200), shall all have the following powers in addition to powers conferred on them by other laws:

(a) to question the driver of a vehicle as to whether required tolls have been paid, or as to whether that driver or the operator of that vehicle has registered if so required by regulations made under section 58;

(b) to direct the driver of a vehicle to produce or show a tag or other document or equipment as prescribed;

(c) to confiscate or seize a tag, document or equipment required by this Act that is suspected to be unauthorised;

(d) to question any person in relation to any such tag, document or equipment.

(6) Such an officer or inspector must—

(a) issue a notice, as prescribed, if any tag, document or equipment has been confiscated under subsection (5); and

(b) deliver such tag, document or equipment which has been impounded under that subsection to a police officer to be dealt with in terms of the Criminal Procedure Act, 1977 (Act No. 51 of 1977) or to the Agency in the prescribed manner, as provided in the relevant regulations.

(7) A person questioned or required to give information under subsection (5) is entitled to the same privileges as a person testifying in a court of law.

(8) Where such an authorised employee or a traffic officer or inspector contemplated in subsection (5) reasonably suspects that there are

outstanding tolls or other surcharges, fees, fines or penalties payable in respect of this Act in respect of any vehicle, or that the person responsible to pay toll in respect of the vehicle is not registered as required by section 27(5)(a) and relevant regulations, he or she may prohibit or prevent the use of that vehicle on any toll road until—

- (a) all outstanding tolls and other amounts payable in terms of this Act in respect of the vehicle have been paid; or
- (b) that person has signed an admission of guilt and acknowledgement of debt in respect thereof or has made other acceptable arrangements to pay those tolls and amounts as prescribed; or
- (c) if the person disputes such tolls or amounts, the authorised employee, officer or inspector has issued to the person a notice contemplated in section 56 of the Criminal Procedure Act, 1977 (Act No. 51 of 1977), or an infringement notice contemplated in section 17 of the Administrative Adjudication of Road Traffic Offences Act, 1998 (Act No. 46 of 1998); and
- (d) such person has been registered as required by this Act.”

#### **Amendment of section 58 of Act 7 of 1998**

4. Section 58 of the South African National Roads Agency Limited and National Roads Act, 1998 (Act No. 7 of 1998) is hereby amended by the insertion of the following paragraphs in subsection (1) after paragraph (d):

- “(dA) providing for the pre-payment of toll, or payment of toll on account or in instalments and the registration of persons liable to pay toll including, but not limited to,—
  - (i) the method and procedures for paying toll on account, in instalments or otherwise, and providing for interest to be charged on overdue amounts;
  - (ii) the fact that failure to pay toll in the prescribed manner or time or failure to register in the prescribed manner or time will constitute an offence;
  - (iii) the information to be supplied by persons liable to pay toll;
  - (iv) matters necessary to facilitate the incorporation of offences under this Act into the enforcement system created by the Administrative Adjudication of Road Traffic Offences Act, 1998 (Act No. 46 of 1998);
  - (v) exempting certain categories of road users from having to register, or having to do so in respect of certain vehicles or categories of vehicles; and
  - (vi) providing that such registration may be delayed in certain areas or in respect of certain toll roads, or in respect of categories of road users, vehicles or categories of vehicles;
- (dB) providing specifications for the use of tolling equipment, the identification of vehicles on toll roads by means of such equipment and the maintenance and verification of such equipment;
- (dC) providing that the Chief Executive Officer, if authorised by the Board of Directors of the Agency in writing, may issue directions, conditions or requirements relating to the regulations made under paragraphs (dA)

and (dB) and that a person failing to comply with such a direction, condition or requirement will be guilty of an offence and liable on conviction to a fine or term of imprisonment not exceeding that prescribed in the regulations, but such term of imprisonment may not exceed one month;"

### **Insertion of sections 59A and 59B in Act 7 of 1998**

5. The following sections are hereby inserted after section 59 of the South African National Roads Agency Limited and National Roads Act, 1998 (Act No. 7 of 1998) Act:

#### **59A Presumptions**

(1) Where in any prosecution in terms of this Act relating to the driving, operation or use of a vehicle on a toll road or the payment of toll it is necessary to prove who was the driver or operator of such vehicle, or the user of the road in question or of such vehicle, it shall be presumed, in the absence of evidence to the contrary, that such vehicle was driven or operated by the owner thereof.

(2) For the purposes of subsection (1) it shall be presumed, in the absence of evidence to the contrary, that, where the owner of the vehicle concerned is a corporate body, such vehicle was driven, operated or used as contemplated in that subsection, or used as contemplated in that subsection, by a director or servant of the corporate body in the exercise of his or her powers or in the carrying out of his or her duties as such director or servant or in furthering or endeavouring to further the interests of the corporate body.

(3) Where in any prosecution for an alleged contravention of any provision of this Act, evidence to prove such contravention is tendered of any electronic information as ascertained by means of an electronic vehicle identification system or other device, or electronic components of such a system or device, such information shall be deemed to be correct in the absence of evidence to the contrary.

(4) Where in any prosecution in terms of this Act it is alleged that an offence was committed on a toll road, the road concerned shall, in absence of evidence to the contrary, be presumed to be a toll road, and it shall also be presumed that such toll road was properly proclaimed in terms of this Act or the National Roads Act, 1971 (Act No. 57 of 1971), as the case may be.

#### **59B Service of documents**

(1) Any document required to be served on a person in terms of this Act, must be served on that person personally or sent by registered post to his or her last known address as provided in subsection (3).

(2) A document served on the driver or person obviously in control of a motor vehicle at any place is regarded as proper service on the person liable to pay toll in respect of that vehicle in terms of section 27(5)(a).

(3) A document sent by registered post in terms of subsection (1) is regarded as having been served on the person to whom it is addressed on the tenth day after the date which is stamped on the receipt issued by the post

office which accepted the document for registration, unless evidence to the contrary is adduced, which may be in the form of an affidavit.

(4) The address referred to in subsection (1) shall be the address of the person liable to pay toll —

(a) supplied by that person upon their registration in terms of regulations made under section 58; or

(b) where such address has not been supplied or is suspected to be incorrect or not to be current, the person's last address recorded on the National Traffic Information System as contemplated in the National Road Traffic Act, 1996 (Act No. 93 of 1996); or

(c) such other address as may be prescribed."

#### **Amendment of section 60 of Act 7 of 1998**

6. Section 60 of the South African National Roads Agency Limited and National Roads Act, 1998 (Act No. 7 of 1998) is hereby amended—

(a) by substituting the following for the heading thereof:

**"Amendment, exclusion and repeal of laws"**

(b) by the addition of the following subsection:

"(3) Despite the provisions of the National Credit Act, 2005 (Act No. 34 of 2005), those provisions are not applicable to the levying and collecting of toll in terms of this Act."

#### **Amendment of long title of Act 46 of 1998**

7. The following is hereby substituted for the long title of the Administrative Adjudication of Road Traffic Offences Act, 1998 (Act No. 46 of 1998):

"To promote road traffic and transport quality by providing for a scheme to discourage road traffic and transport contraventions, to facilitate the adjudication of road traffic and transport infringements, to support the prosecution of offences in terms of the national and provincial laws relating to road traffic and transport, and implement a points demerit system; to provide for the establishment of an agency to administer the scheme; to provide for the establishment of a board to represent the agency; and to provide for matters connected therewith."

#### **Amendment of section 1 of Act 46 of 1998**

8. Section 1 of the Administrative Adjudication of Road Traffic Offences Act, 1998 (Act No. 46 of 1998) is hereby amended—

(a) by the substitution of the following for the introductory portion thereof:

"In this Act, unless the context otherwise indicates, any word or expression to which a meaning has been assigned by the National

Road Traffic Act, 1996 (Act No. 93 of 1996) has the same meaning in this Act, and—

- (b) by the insertion in the definition of “authorised officer” of the following paragraph after paragraph (b):

“(bA) an employee of the South African National Roads Agency Limited contemplated in section 54(1) of the South African National Roads Agency Limited and National Roads Act, 1998 (Act No. 7 of 1998);”

- (c) by the insertion of the following definitions after the definition of “courtesy letter”:

“**Cross-Border Agency**” means the Cross-Border Road Transport Agency established by section 4 of the Cross-Border Road Transport Act, 1998 (Act No. 4 of 1998);”

“**cross-border permit**” means a permit as defined in the Cross-Border Road Transport Act, 1998 (Act No. 4 of 1998);

“**cross-border road transport**” means cross-border road transport as defined in section 1 of the Cross-Border Road Transport Act, 1998 (Act No. 4 of 1998);”

- (d) by the substitution of the following definition for the definition of “issuing authority”:

“**issuing authority**” means—

- (a) a municipality [local authority] contemplated in Chapter 7 of the Constitution of the Republic of South Africa, 1996 [(**Act 108 of 1996**), the **Local Government Transition Act, 1993 (Act 209 of 1993)**,] or any other applicable law;
- (b) a provincial administration;
- (c) the Road Traffic Management Corporation, established by section 3 of the Road Traffic Management Corporation Act, 1999 (Act No. 20 of 1999);
- (d) the South African National Roads Agency Limited established by section 2 of the South African National Roads Agency Limited and National Roads Act, 1998 (Act No. 7 of 1998);
- (e) the Cross-Border Agency;
- (f) the South African Police Service, and
- (g) any other authority, administration or agency designated by the Minister by notice in the *Government Gazette*,

in so far as such authority, [or] administration or Agency is responsible for [road traffic] matters relating to road traffic, public transport, cross-border road transport or toll roads in its area of jurisdiction;”

- (e) by the insertion of the following definitions after the definition of “offence”:

“operating licence” means an operating licence or permit as defined in the National Land Transport Transition Act, 2000 (Act No. 22 of 2000);

“operating licensing board” means a public transport licensing board contemplated in section 30 of the National Land Transport Transition Act, 2000 (Act No. 22 of 2000);”

- (f) by the insertion of the following definitions after the definition of “representations officer”:

“toll” means a toll levied under section 27 of the South African National Roads Agency Limited and National Roads Act, 1998 (Act No. 7 of 1998) and includes all surcharges, fees, fines and penalties payable under that Act;”

“toll road” means a toll road as defined in section 1 of the South African National Roads Agency Limited and National Roads Act, 1998 (Act No. 7 of 1998);”

#### **Amendment of section 2 of Act 46 of 1998**

9. Section 2 of the Administrative Adjudication of Road Traffic Offences Act, 1998 (Act No. 46 of 1998) is hereby amended by—

- (a) the substitution of the following paragraph for paragraph (a) thereof:

“(a) to encourage compliance with the national and provincial laws and municipal by-laws relating to road traffic, public transport, cross-border road transport and toll roads and to promote road traffic safety;”

- (b) the substitution of the following paragraph for paragraph (e) thereof:

“(e) to penalise drivers and operators who are guilty of infringements or offences through the imposition of demerit points leading to the suspension **[and]** or cancellation of driving licences, professional driving permits, operating licences, cross-border permits or operator cards;”

#### **Insertion of section 3A in Act 46 of 1998**

10. The following section is hereby inserted after section 2 of the Administrative Adjudication of Road Traffic Offences Act, 1998 (Act No. 46 of 1998) Act:

#### **2A            Scope of Act**

This Act applies to offences created by the following Acts:

- (a) The National Road Traffic Act, 1996 (Act No. 93 of 1996);
- (b) any provincial Act dealing with road traffic, public transport or toll roads;
- (c) the Cross-Border Road Transport Act, 1998 (Act No. 4 of 1998);
- (d) the South African National Roads Agency Limited and National Roads Act, 1998 (Act No. 7 of 1998);
- (e) the National Land Transport Transition Act, 2000 (Act No. 22 of 2000), and
- (f) any other Act designated by the Minister by notice in the *Government Gazette*.”

#### **Amendment of section 4 of Act 46 of 1998**

11. Section 4 of the Administrative Adjudication of Road Traffic Offences Act, 1998 (Act No. 46 of 1998) is hereby amended by the substitution of the following paragraphs for paragraph (a) and (b) of subsection (1) thereof:

- “(a) to administer a procedure to discourage the contravention of road traffic and transport laws to support the adjudication of infringements as set out in subsection (2);
- (b) to enforce penalties imposed against persons contravening road traffic and transport laws as set out in subsection (3);”

#### **Amendment of section 7 of Act 46 of 1998**

12. Section 7 of the Administrative Adjudication of Road Traffic Offences Act, 1998 (Act No. 46 of 1998) is hereby amended by—

- (a) the substitution of the following paragraph for paragraph (b) of subsection (1) thereof:
  - “(b) to monitor the success achieved by the agency in promoting compliance with road traffic and transport laws;”
- (b) the substitution of the following paragraph for paragraph (d) of subsection (1) thereof:
  - “(d) to advise the Minister regarding amendments to this Act or any other **[road traffic]** legislation in order to improve the effectiveness of the agency;”

#### **Amendment of section 17 of Act 46 of 1998**

13. Section 17 of the Administrative Adjudication of Road Traffic Offences Act, 1998 (Act No. 46 of 1998) is hereby amended by the substitution of the following paragraph for paragraph (d) of subsection (3) thereof:

- “(d) provide the infringer with a printout of the demerit points incurred by him or her to date, together with an indication of the number **[amount]** of points left before his or her driving licence, professional driving permit, operating licence, cross-border permit or operator card is suspended in terms of section 25 or cancelled in terms of section 27;”

**Amendment of section 18 of Act 46 of 1998**

14. Section 18 of the Administrative Adjudication of Road Traffic Offences Act, 1998 (Act No. 46 of 1998) is hereby amended by the substitution of the following paragraph for paragraph (d) of subsection (8) thereof:

- “(d) provide the infringer with a printout of the demerit points incurred to date, together with an indication of the number of points left before his or her driving licence, professional driving permit, operating licence, cross-border permit or operator card is suspended in terms of section 25 or cancelled in terms of section 27;”

**Amendment of section 19 of Act 46 of 1998**

15. Section 19 of the Administrative Adjudication of Road Traffic Offences Act, 1998 (Act No. 46 of 1998) is hereby amended by the substitution of the following paragraph for paragraph (d) of subsection (3) thereof:

- “(d) provide the infringer with a printout of the demerit points incurred by him or her to date, together with an indication of the number of points left before his or her driving licence, professional driving permit, operating licence, cross-border permit or operator card is suspended in terms of section 25 or cancelled in terms of section 27;”

**Amendment of section 19B of Act 46 of 1998**

16. Section 19B of the Administrative Adjudication of Road Traffic Offences Act, 1998 (Act No. 46 of 1998) is hereby amended by the addition of the following subsection:

- “(3) Whenever a penalty is payable in terms of this Act for an infringement relating to the failure to pay outstanding tolls, the infringer shall not be regarded as having paid the penalty in full until all outstanding tolls have also been paid.”

**Amendment of section 20 of Act 46 of 1998**

17. Section 20 of the Administrative Adjudication of Road Traffic Offences Act, 1998 (Act No. 46 of 1998) is hereby amended—

- (a) by the substitution of the following paragraph for paragraph (d) of subsection (1) thereof:
- “(d) provide the infringer with a printout of the demerit points incurred by him or her to date, together with an indication of the number of points left before his or her driving licence, professional driving permit, operating licence, cross-border permit or operator card is suspended in terms of section 25 or cancelled in terms of section 27;”

- (b) by the substitution of the following subsection for subsection (5) thereof:

“(5) Subject to subsection (6), no—

- (a) driving licence;
- (b) professional driving permit; [or]
- (c) licence disc;
- (d) operating licence;
- (e) cross-border permit; or
- (f) operator card,

may be issued to an infringer or in respect of a motor vehicle registered in the name of an infringer, if an enforcement order has been issued in respect of such infringer, until such enforcement order has been complied with or has been revoked.”

- (c) by the substitution of the following paragraph for paragraph (b) of subsection (10) thereof:

“(b) the infringer must be informed about it in the prescribed manner and his or her driving licence, professional driving permit, operating licence, cross-border permit or operator [operator’s] card must be returned or the endorsement of a driving licence that is contained in an identity document must be cancelled, unless he or she has been disqualified otherwise.”

#### **Amendment of section 21 of Act 46 of 1998**

18. Section 21 of the Administrative Adjudication of Road Traffic Offences Act, 1998 (Act No. 46 of 1998) is hereby by the substitution of the following paragraph for paragraph (b) of subsection (1) thereof:

“(b) to seize the driving licence, [or] professional driving permit, operating licence or cross-border permit of the infringer;”

#### **Amendment of section 25 of Act 46 of 1998**

19. Section 25 of the Administrative Adjudication of Road Traffic Offences Act, 1998 (Act No. 46 of 1998) is hereby amended—

- (a) by the substitution of the following paragraph for paragraph (a) of subsection (3) thereof:

“(a) must immediately hand in any driving licence card, [or] professional driving permit, operating licence or cross-border permit in the prescribed manner to the issuing authority contemplated in section 26(2) in the case of a driving licence card or professional driving permit, or to the relevant operating licensing board in the case of an operating licence or to the Cross-Border Agency in the case of a cross-border permit, for

retention by such issuing authority, board or Agency during the disqualification period, produce any driving licence contained in an identity document, operating licence or cross-border permit to such issuing authority, board or Agency for endorsement as suspended or must remove the prescribed operator card and deal therewith in the prescribed manner; and

(b) may not apply for a driving licence, professional driving permit, operating licence, cross-border permit or operator card during the disqualification period.”

(b) by the substitution of the following subsection for subsection (5) thereof:

“(5) Upon expiry of his or her disqualification period, a person referred to in subsection (3) may apply in the prescribed manner to the issuing authority, operating licensing board or Cross-Border Agency as the case may be, to return his or her driving licence card, [or] professional driving permit, operating licence or cross-border permit, or to reissue an operator card.”

#### **Substitution of section 27 of Act 46 of 1998**

20. The following section is hereby substituted for section 27 of the Administrative Adjudication of Road Traffic Offences Act, 1998 (Act No. 46 of 1998):

#### **“27. Cancellation of driving licence, professional driving permit, operating licence, cross-border permit and operator card**

(1)(a) A person who incurs demerit points resulting in a disqualification in terms of section 25 to drive or operate a motor vehicle for a third time, must immediately hand in his or her driving licence card, professional driving permit, operating licence, cross-border permit or operator card in the prescribed manner to the issuing authority, operating licensing board or Cross-Border Agency, as the case may be, or must submit any driving licence contained in his or her identity document to such issuing authority.

(b) A person who fails to comply with the provisions of paragraph (a) is guilty of an offence and liable on conviction to a fine or imprisonment for a period not exceeding one year or to both a fine and such imprisonment.

(2) The [An] issuing authority, operating licensing board or Cross-Border Agency must, upon receipt of a driving licence card, professional driving permit, [or] operator card, operating licence or cross-border permit, as the case may be, take the necessary steps to destroy such licence, permit or card, and must submit any driving licence contained in an identity document to be endorsed as cancelled.

(3) Upon expiry of his or her disqualification period, a person contemplated in subsection (1) may reapply for and be issued with a driving licence, professional driving permit, [or] operator card, operating licence or cross-border permit in terms of the applicable [road traffic] laws.”

**Amendment of section 29 of Act 46 of 1998**

21. Section 29 of the Administrative Adjudication of Road Traffic Offences Act, 1998 (Act No. 46 of 1998) is hereby amended by the addition of the following paragraph to subsection (1) thereof:

"(e) prescribe that outstanding tolls will be payable together with the relevant penalty, and be collected with such penalty."

**Amendment of section 32 of Act 46 of 1998**

22. Section 32 of the Administrative Adjudication of Road Traffic Offences Act, 1998 (Act No. 46 of 1998) is hereby amended by changing the full stop at the end of subsection (1) to a colon, and the addition of the following proviso at the end of that subsection:

"Provided that any outstanding tolls collected must be paid to the South African National Roads Agency Limited."

**Amendment of section 36 of Act 46 of 1998**

23. Section 36 of the Administrative Adjudication of Road Traffic Offences Act, 1998 (Act No. 46 of 1998) is hereby amended by the substitution of the following subsection for subsection (1) thereof:

"(1) This Act is called the Administrative Adjudication of Road Traffic and Transport Offences Act, 1998, and comes into operation on a date determined by the President by proclamation in the *Government Gazette*."

**Amendment of section 1 of Act 93, 1996**

24. Section 1 of the National Road Traffic Act, 1996 (Act No. 93 of 1996) is hereby amended by the insertion of the following definition after the definition of "title holder":

"toll road" means a toll road as defined in section 1 of the South African National Roads Agency Limited and National Roads Act, 1998 (Act No. 7 of 1998);"

**Amendment of section 69 of Act 93 of 1996**

25. Section 69 of the National Road Traffic Act, 1996 (Act No. 93 of 1996) is hereby amended by the insertion of the following subsection after subsection (3):

"(4) Where in any prosecution in terms of this Act it is alleged that an offence was committed on a toll road, the road concerned shall, in absence of evidence to the contrary, be presumed to be a toll road, and it shall also be presumed that such toll road was properly proclaimed in terms of the South African National Roads Agency Limited and National Roads Act, 1998 or the National Roads Act, 1971 (Act No. 57 of 1971), as the case may be."

**Amendment of section 31 of Act 20 of 1999**

26. Section 31 of the Road Traffic Management Corporation Act, 1999 (Act No. 20 of 1999) is hereby amended by the addition of the following subsection:

"(3) The Chief Executive Officer may enter into an agreement with the South African National Roads Agency Limited established in terms of section 2 of the South African National Roads Agency and National Roads Act, 1998 (Act No. 7 of 1998) in terms of which the Corporation is authorised, and undertakes, to perform law enforcement functions contemplated in section 54 of that Act on any national road through employees of the Corporation designated or appointed by it for that purpose in agreement with that Agency, and such an agreement may include provision for that Agency to compensate the Corporation for exercising such functions."

**Amendment of section 4 of Act 4 of 1998**

27. Section 4 of the Cross-Border Road Transport Act, 1998 (Act No. 4 of 1998) is hereby amended by the addition of the following subsection:

"(4) The Agency may levy and collect toll on behalf of the South African National Roads Agency Limited in terms of an agreement between itself and the lastmentioned Agency concluded under section 28 of the South African National Roads Agency and National Roads Act, 1998 (Act No. 7 of 1998)."

**Short title and commencement**

28. (1) This Act is called the Transport Law Enforcement and Related Matters Amendment Act, 2008, and comes into operation on a date fixed by the President by proclamation in the *Gazette*.

(2) The President may fix different dates in respect of different provisions of this Act and in respect of different areas of the country.