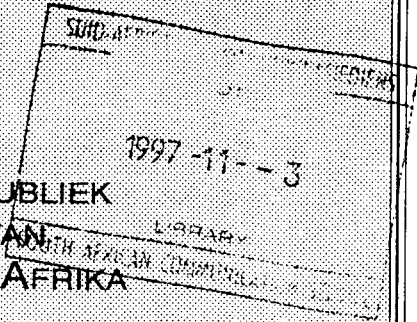


REPUBLIC  
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## GENERAL NOTICES

NOTICE 1520 OF 1997

DEPARTMENT OF TRANSPORT

### DRAFT NATIONAL ROAD TRAFFIC AMENDMENT BILL

Interested parties are invited to submit written comments on the draft National Road Traffic Amendment Bill, 1997, in the Schedule hereto, to reach the Directorate Road Traffic Legislation (for attention Mr G Botha), Private Bag XI 93, Pretoria, 0001, within 30 days of the date of publication of this notice. The purpose of the draft Bill is set out in the explanatory note.

## EXPLANATORY NOTE

1. The need was identified to, in the interest of road safety, regulate those manufacturers, builders and importers who do not necessarily manufacture, build or import motor vehicles for the purpose of selling them, The proposed draft Bill thus intends amending the definitions of “builder”, “importer” and “manufacturer” in the National Road Traffic Act, 1996 (Act No. 93 of 1996) to include **all** manufacturers, builders and **importers**.
2. The definition of “Convention” as proposed in the draft **Bill** includes a reference to the Protocol on Transport, Communications, and Meteorology of the Treaty of the Southern African Development Community, 1992. The definition of “professional driver” in the National Road Traffic Act, 1996 is proposed to be amended to provide that the classes of motor vehicles in respect of which operators are required to be registered and those in respect of which a professional driving permit must be held, be separated.
3. The draft Bill proposes the addition of the definition of “number plate” and the deletion of the definition of “registration plate”. The proposed amendment of the definitions of trailer and semi-trailer simply intends clarifying the fact that the attached axle or axles described in the definitions, form part of such trailer or semi-trailer.
4. The proposed Bill amends section 5 and 6 of the National Road Traffic Act, 1996 to include manufacturers of number plates. See also the proposed addition of the definition of “manufacturer of number plates”. The intention is that these manufacturers must register as such in order to establish control over and prevent the manufacture of illegal number plates. The intention is further that section 5 of the National Road Traffic Act, 1996, provides that the prescribed builders, importers and manufacturers be registered. Only the manufacturers, builders and importers who sell motor vehicles will need to register as such.
5. Section 32 is proposed to be amended by the draft Bill to provide that the prescribed motor vehicles may not be driven without a professional driving permit being held. In this regard see paragraph 2 in relation to the explanatory note on the proposed amendment of the definition of “professional driver”.



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

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

1. **Section 1 of the National Road Traffic Act, 1996 (hereinafter referred to as the principal Act), is amended-**

(a) by the substitution in subsection (1) for the definition of “builder” of the following definition:

“ ‘builder’ means any person who **[for the purpose of his or her business of selling motor vehicles]** manufactures or assembles motor vehicles in whole or in part from used components, or modifies motor vehicles using new or used components;”;

(b) by the substitution in subsection (1) for the definition of “Convention” of the following definition:

“ ‘Convention’ means the International Convention relative to Motor Traffic (Paris, 1926), the United Nations Convention on Road Traffic (Geneva, 1949), [or] the United Nations Convention on Road Traffic (Vienna, 1968) ~~and the Protocol on Transport, Communications, and Meteorology of the Treaty of the Southern African Development Community, 1992;~~”;

(c) by the substitution in subsection (1) for the definition of “importer” of the following definition:

“ ‘importer’ means any person who **[for the purpose of his or her business of selling motor vehicles]** imports new or used motor vehicles into the Republic;”;

(d) by the substitution in subsection (1) for the definition of “manufacturer” of the following definition:

“ ‘manufacturer’ means a person who **[for the purpose of his or her business of selling motor vehicles]** manufactures or assembles new motor vehicles;”;

(e) by the insertion in subsection (1) after the definition of “manufacturer” of the following definition :

~~“ ‘manufacturer of number plates’ means a person who, for the purpose of his or her business of selling number plates, manufactures number plates;”;~~

(f) by the substitution in subsection (1) for the definition of “MEC” of the following definition:

“‘MEC’ means a member of the Executive Council appointed in terms of section [149] ~~132~~ of the Constitution of the Republic of South Africa, [1993 (Act No. 200 of 1 993)] ~~1996 (Act No. 108 of 1996)~~, and who is responsible for road traffic matters, or any other person authorised by him or her to exercise any power or

- perform any duty or function which such MEC is empowered or obliged to exercise or perform in terms of this Act;”;
- (g) by the insertion in subsection (1) after the definition of “motor vehicle” of the following definition:  
 “ ‘number plate’ means a prescribed plate on which the licence number or motor trade number of a motor vehicle is displayed;”;
- (h) by the substitution in subsection (1) for the definition of “professional driver” of the following definition:  
 “ ‘professional driver’ means the driver of a motor vehicle **[in respect of which an operator is registered]** referred to in section 32;”;
- (i) by the substitution in subsection (1) for the definition of “province” of the following definition:  
 “ ‘province’ means a province established by section [124] 103 of the Constitution of the Republic of South Africa, [1993119f36];”;
- (j) by the deletion in subsection (1) of the definition of “registration plate”;
- (k) by the substitution in subsection (1) for the definition of “semi-trailer” of the following definition:  
 “ ‘semi-trailer’ means a trailer having no front axle and so designed that at least 15 percent of its tare is super-imposed on and borne by a vehicle drawing such trailer, and includes as an integral part thereof any attached axle or axles designed to transfer load by hydraulic or pneumatic means from such semi-trailer to such axle or axles;”;
- (l) by the substitution in subsection (1) for the definition of “trailer” of the following definition:  
 “ ‘trailer’ means a vehicle which is not self-propelled and which is designed or adapted to be drawn by a motor vehicle, and includes as an integral part thereof any attached axle or axles designed to transfer load by hydraulic or pneumatic means from such trailer to such axle or axles, but does not include a side-car attached to a motor cycle;”.

#### **Substitution of heading of Chapter III of Act 93 of 1996**

2. The following heading is substituted for the heading of Chapter III of the principal Act:

***“Registration and licensing of motor vehicles, registration of manufacturers, builders, importers and manufacturers of number plates”.***

**Substitution of section 5 of Act 93 of 1996**

3. The following section is substituted for section 5 of the principal Act:

**“Registration of manufacturers, builders, importers and manufacturers of number plates**

5. (1) ~~[Every manufacturer, builder or importer] The prescribed manufacturers, builders or importers, and every manufacturer of number plates shall apply in the prescribed manner to the MEC concerned for registration as a manufacturer, builder, [or] importer or manufacturer of number plates.~~

(2) If the MEC is satisfied that an applicant referred to in subsection (1) complies with the qualifications for competency as prescribed for the specific category in respect of which application is made, he or she shall register such applicant on the conditions and in the manner prescribed.

(3) The MEC may, in the prescribed manner, alter the conditions referred to in subsection (2).

(4) The MEC may in the prescribed manner, suspend for such period as he or she may deem fit, or cancel, the registration of a manufacturer, builder, ~~[or] importer or manufacturer of number plates.~~

(5) ~~[Every manufacturer, builder or importer] The manufacturers, builders or importers contemplated in subsection (1) shall, in the prescribed manner, register every motor vehicle manufactured, built or imported by him or her, before he or she distributes or sells such vehicle.~~

~~(6) Manufacturers, builders and importers shall not manufacture, build, modify, import, sell or distribute motor vehicles except in accordance with the prescribed conditions.”.~~

**Amendment of section 6 of Act 93 of 1996**

4. Section 6 of the principal Act is amended by the substitution for subsection (1) of the following subsection:

“(1 ) Any person who is aggrieved at the refusal of the MEC to register him or her as a manufacturer, builder, [or] importer ~~or~~ manufacturer of number plates, or at the suspension ~~or~~ cancellation of his or her registration as a manufacturer, builder, ~~[or] importer or manufacturer of number plates,~~ or at the conditions on which he or she is so registered may, within 21 days after such refusal, suspension or cancellation, or notification of the conditions on which he or she is so registered, in writing appeal to the Minister against such refusal, suspension, cancellation or conditions, and such person shall at the same time serve a copy of the appeal on the MEC.”.

**Amendment of section 32 of Act 93 of 1996**

5. Section 32 of the principal Act, 1996, is amended—

- (a) by the substitution in subsection (1) for the words preceding the proviso of the following words:

“No person shall drive a motor vehicle **[in respect of which an operator is registered] of a prescribed class on a public road** except in accordance with the conditions of a permit (to be known as a professional driving permit) issued to him or her in accordance with this Chapter and unless he or she keeps such permit with him or her in the **vehicle**.”; and

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

“(b) A public driving permit issued in terms of the Road Traffic Act, 1989 (Act No. 29 of 1989), or a road traffic law contemplated in [section 229 of the Constitution of the Republic of South Africa, 1993 (Act No. 200 of 1993)] article 7 of Schedule 6 to the Constitution of the Republic of South Africa, 1996 (Act No. 108 of 1996), shall, in accordance with the conditions thereof but subject to this Act, be deemed to be a professional driving permit for the purposes of this section for the period of validity of that public driving permit.”.

**Substitution of section 42 of Act 93 of 1996**

6. The following section is substituted for section 42 of the principal Act:

**“Certification of roadworthiness required in respect of motor vehicle**

**42. (1) No** person shall operate a motor vehicle which is not in a roadworthy condition on a public road.

(2) No person shall operate a motor vehicle on a public road unless the requirements in respect of **[roadworthiness certification] certification of roadworthiness contemplated in subsection [(3) (4) in relation to such motor vehicle** are complied with, and except in accordance with the conditions of [a roadworthy certificate] such certification of roadworthiness.

(3) No person shall operate a motor vehicle of a prescribed class on a public road unless the requirements in respect of a roadworthy certificate contemplated in subsection (4) in relation to such motor vehicle are complied with, and except in accordance with the conditions of such roadworthy certificate

[(3)1 (4) Subject to this Chapter—

**[(a) the categories of roadworthy certificates;]**

**(b)] (a)** the classes [in which motor vehicles are classified for the purposes of prescribing the requirements regarding roadworthiness and the requirements for roadworthiness certification applicable to each class of motor vehicle] of motor vehicles requiring certification of roadworthiness and the classes of motor vehicles requiring roadworthy certificates,

[(c)] (b) the period of validity of certification of roadworthiness and roadworthy certificates;

**[(d)] (c)** the examination of motor vehicles;

[(e)] (d) the issue of certification of roadworthiness and roadworthy certificates; and

[(f)] (e) any other aspect regarding certification of roadworthiness and roadworthy certificates which the Minister may deem necessary or expedient,

shall be as prescribed.

[(4)1 (5) Any document issued by a competent authority in a prescribed territory and serving a similar purpose to that of certification of roadworthiness or a roadworthy certificate shall, in accordance with the conditions thereof but subject to this Act, be deemed to be certification of roadworthiness or a roadworthy certificate for the purpose of subsection (2) or (20), as the case may be.”

#### Insertion of section 42A in Act 93 of 1996

7. The following section is inserted in the principal Act after section 42:

##### “Roadworthy certificate to be displayed on motor vehicle

**42A.** No person shall operate a motor vehicle referred to in section 42(3) on a public road unless a valid roadworthy certificate is displayed on such motor vehicle in the prescribed manner.”

#### Substitution of section 43 of Act 93 of 1996

8. The following section is substituted for section 43 of the principal Act:

##### “Application for certification of roadworthiness



43. Any person desiring to obtain **[a roadworthy certificate]** ~~certification of roadworthiness~~ shall apply in the prescribed manner to an appropriately graded testing station.”.

**Substitution of section 45 of Act 93 of 1996**

9. The following section is substituted for section 45 of the principal Act

**“Registration of operator**

**45. (1) (a)** Subject to paragraph (b), the owner of a motor vehicle of a prescribed class is the operator of such motor vehicle, and shall be registered as such **[in terms of subsection (5)1 in the prescribed manner and on the prescribed conditions upon licensing of such motor vehicle.**

(b) Notwithstanding the provisions of paragraph (a), a person who is not a manager, employee or agent of the owner of a motor vehicle referred to in subsection (1) and who enters into a written agreement providing that such motor vehicle may be operated by such person for **[a] any period, [—**

- (i) in excess of three months, is the operator of such motor vehicle, and shall be registered as such in terms of subsection (5);**
- (ii) of three months or less,]** shall be deemed to be the operator of such motor vehicle for that period for the purposes of section 49(c), (d), (e), (f) and (g).

**[(2) The owner of a motor vehicle referred to in subsection (1) shall, in the prescribed manner—**

**(a) upon the licensing of such motor vehicle in terms of Chapter II; or**

**(b) within 21 days—**

- (i) after the conclusion or amendment of an agreement contemplated in subsection (1)(b); or**
- (ii) after the vehicle became a vehicle of a class contemplated in subsection (1)(a),**

**notify the prescribed registering authority which person (hereinafter in this section referred to as the designated person) is to be registered as the operator of such motor vehicle.**

**(3)1 (2) [If] The registering authority concerned [is satisfied with the notification contemplated in subsection (2), as the case may be, it] shall in such circumstances as the MEC may determine, submit the particulars of the [designated person] operator to the MEC concerned within seven days after [receipt thereof] registration of such operator.**

**[(4)1 (3) [Unless the owner of the motor vehicle concerned, at**

the time of the notification contemplated in subsection (2), is registered as the operator **thereof**] The registering authority may issue a temporary operator card to [that owner] ~~the operator under the circumstances,~~ in the manner and on the conditions prescribed.

~~[(5)1 (4)~~ (a) The MEC shall, if satisfied that the [designated person] ~~operator card should be [registered as] ISSUED TO~~ the operator, notify the registering authority concerned accordingly.

(b) The registering authority referred to in paragraph (a) shall in the prescribed manner [register the designated person as] ~~ISSUE~~ the operator with an operator card.

(5) ~~If the MEC is not satisfied that the operator should be issued with an operator card, he or she shall notify the operator in the prescribed manner as contemplated in section 50(3)(d).~~

(6) The Minister may by regulation exempt any operator or category of operators from any provision of this Act.”.

#### Amendment of section 49 of Act 93 of 1996

10. Section 49 of the principal Act is amended by the substitution for paragraph (a) of the following paragraph:

“(a) notify ~~the registering authority concerned~~ within seven days of any change in the circumstances in relation to his or her registration as the operator of such vehicle [—  
 (i) the owner of such motor vehicle, if applicable; and  
 (ii) the registering authority concerned,]  
 and return the operator card in respect of that motor vehicle to [the] ~~that~~ registering authority **[concerned]**”.

#### Amendment of section 50 of Act 93 of 1996

11. Section 50 of the principal Act is amended by the deletion of subsection (5).

#### Amendment of section 68 of Act 93 of 1996

12. Section 68 of the principal Act is amended-

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

“(1) No person shall use or manufacture any [registration] ~~number~~ plate which does not comply with the prescribed specifications.”;

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

- “(a) falsify or counterfeit or, with intent to deceive, replace, alter, deface or mutilate or add anything to a [registration] licence number or a [registration] licence mark or a similar number or mark issued by a competent authority outside the Republic; or”; and
- (c) by the substitution in subsection (5) for the words preceding paragraph (a) of the following words:

“Where in a prosecution for a contravention of subsection (2)(b) or (3)(b) it is proved that a person was found in possession of a [registration] licence number or a [registration] licence mark or a similar number or mark or a document which has been falsified or counterfeited or replaced, altered, defaced or mutilated or to which anything has been added, it shall, in the absence of evidence to the contrary, be presumed that such person knew that—”.

#### **Substitution of heading of section 68 of Act 93 of 1996**

13. The following heading is substituted for the heading of section 68 of the principal Act:

“Unlawful acts in relation to number plates, licence number, licence mark or certain documents”.

#### **Amendment of section 75 of Act 93 of 1996**

14. Section 75 of the principal Act is amended—
- (a) by the deletion in subparagraph (iii) of paragraph (h) of subsection (1) after the semicolon of the word “and”;
- (b) by the insertion after the semicolon in subparagraph (iv) of paragraph (h) of subsection (1) of the word “and”; and
- (c) by the insertion after subparagraph (iv) of paragraph (h) of subsection (1) of the following subparagraph:

“ M ~~the training of persons performing any task in relation to the transportation of dangerous goods on public roads,~~<sup>19</sup> .

#### **Short title and commencement**

15. This Act is called the National Road Traffic Amendment Act, 1997, and comes into operation on a date fixed by the President by proclamation in the Gazette.