

Please note that most Acts are published in English and another South African official language. Currently we only have capacity to publish the English versions. This means that this document will only contain even numbered pages as the other language is printed on uneven numbered pages.



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THE PRESIDENCY

No. 716 26 September 2013

It is hereby notified that the President has assented to the following Act, which is hereby published for general information:–

Act No. 3 of 2013: Transport Laws and Related Matters Amendment Act, 2013



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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.

(English text signed by the President)
(Assented to 21 September 2013)

ACT

To amend the Cross-Border Road Transport Act, 1998, to empower the Cross-Border Road Transport Agency to collect toll on behalf of the South African National Roads Agency Limited; and to amend The South African National Roads Agency Limited and National Roads Act, 1998, to insert a definition; to further provide for the differentiation in respect of the amount of toll that may be levied; to provide that the regulations made by the Minister must be published by notice in the *Gazette*; to provide for the Minister to make regulations relating to specified toll-related matters; to provide for the Minister to publish draft regulations in the *Gazette* calling for public comment; to provide for certain presumptions relating to the driving, operation and use of vehicles on a toll road and the use of electronic evidence to prove an alleged contravention of the South African National Roads Agency Limited and National Roads Act; to exclude the levying and collection of toll from the ambit of the National Credit Act, 2005; to amend the Contents of the Act; and to provide for matters connected therewith.

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

Amendment of section 4 of Act 4 of 1998

1. Section 4 of the Cross-Border Road Transport Act, 1998, is hereby amended by the addition of the following subsection:

“(4) The Agency may collect toll on behalf of the South African National Roads Agency Limited in terms of an agreement, between the Agency and the South African National Roads Agency Limited, concluded under section 28(1)(a) of the South African National Roads Agency Limited and National Roads Act, 1998 (Act No. 7 of 1998).”

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Amendment of section 1 of Act 7 of 1998

2. Section 1 of The South African National Roads Agency Limited and National Roads Act, 1998, is hereby amended by the insertion after the definition of “national road” of the following definition:

- “**owner**”, in relation to a vehicle, has the meaning ascribed to it in section 1 of the—
(a) National Road Traffic Act, 1996 (Act No. 93 of 1996); and
(b) Cross-Border Road Transport Act, 1998 (Act No. 4 of 1998);”.

Amendment of section 27 of Act 7 of 1998

3. Section 27 of The South African National Roads Agency Limited and National Roads Act, 1998, is hereby amended—

- (a) by the addition in subsection (3)(b) of the following subparagraphs:
“(v) the means by which the passage of a vehicle beneath or through a toll plaza is identified and the liability to pay toll is recorded; and
(vi) the means of payment, including pre-payment of toll liability;”.

- (b) by the insertion in subsection (4) of the following paragraphs after paragraph (b):

“(bA) the Agency, in co-operation with the municipality contemplated in subsection (4)(b)(ii) and the province in which the proposed toll road is situated, has performed a socio-economic and traffic impact assessment pertaining to the proposed toll road which must be submitted to the Minister and made available to the province and every municipality contemplated in subsection (4)(b);

(bB) a notice of the publication of the report contemplated in paragraph (bA) is published in the *Gazette*, indicating the availability of such report;”;

- (c) by the substitution in subsection (4) for paragraph (c) of the following paragraph:

“(c) the Agency, in applying for the Minister’s approval for the declaration, has forwarded its proposals in that regard to the Minister together with a report on the comments and representations that have been received (if any). In that report the Agency must indicate—

- (i) the outcome of the assessment contemplated in paragraph (bA);
(ii) the extent to which any of the matters raised in those comments and representations have been accommodated [in those proposals]; and
(iii) the steps proposed to mitigate against the impact or likely impact on alternative roads with regard to maintenance and traffic management that may result from the declaration contemplated in subsection (1); and”.

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, is hereby amended—

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

“(1) The Minister, after consultation with the Agency and by notice in the *Gazette*, may make regulations that are not inconsistent with this Act—”;

- (b) by the insertion in subsection (1) of the following paragraphs after paragraph (d):

“(dA) providing for the terms and conditions applicable to the payment of toll and for the establishment of a system that permits the registration of persons liable to pay toll;

(dB) providing specifications for—

- (i) any tolling equipment, electrical, electronic or mechanical device or a combination thereof used for the identification of vehicles on toll roads in order to record the liability to pay toll; and

- (ii) the installation, maintenance and verification of the device and tolling equipment contemplated in subparagraph (i);
- (dC) providing for—
 - (i) the manner in which the liability to pay toll will be recorded, including the time and the manner in which such toll must be paid; 5
 - (ii) the payment of toll in cash, electronically or by other method, which is subject to but not dependent on any conditions that the Agency may determine under section 27(1)(b); 10
 - (iii) the offences and penalties applicable to the owner or user or driver of a vehicle in the event of the non-payment of toll;
 - (iv) the method of notifying the owner, driver or the user of the vehicle of his or her liability to pay toll; and
 - (v) the manner of recovering outstanding payment of toll; and”; 15
- (c) by the insertion after subsection (1) of the following subsections:
 - “(1A) The regulations contemplated in subsection (1)(dA) to (dC) may provide for the issuing of directions, conditions or requirements for matters connected therewith.
 - (1B) Before the Minister makes any regulation contemplated in subsection (1), the Minister must submit a draft of the proposed regulation to Parliament for comment.”; and 20
- (d) by the addition of the following subsection:
 - “(4) Before the Minister makes any regulation, he or she must publish a draft of the proposed regulation in the *Gazette* together with a notice calling on interested persons to comment in writing within a period specified in the notice, which may not be less than four weeks from the date of publication of the notice, any objections or representations which they would like to make with the Director-General for submission to the Minister.”. 25 30

Insertion of section 59A in Act 7 of 1998

5. The following section is hereby inserted in The South African National Roads Agency Limited and National Roads Act, 1998, after section 59:

“Presumptions

- 59A.** (1) In the absence of evidence to the contrary, where it is necessary to prove who was driving, operating or using the vehicle at the time when the liability to pay toll was incurred, it shall be deemed that such vehicle was driven, operated or used by the owner of the vehicle— 35
- (a) in respect of 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; or 40
 - (b) in any legal proceedings instituted by the Agency for the recovery of outstanding toll monies.
- (2) For the purposes of subsection (1) and in the absence of evidence to the contrary, where the owner of the vehicle concerned is a juristic person, it shall be deemed that such vehicle was driven, operated or used as contemplated in that subsection by an employee of the owner of the vehicle in the course and scope of its business. 45
- (3) In a prosecution for an alleged contravention of this Act where electronic evidence is produced and if the machine producing the electronic evidence has been checked for correct working and reading by a person trained in the operation thereof, such electronic evidence upon its production shall, in the absence of evidence to the contrary, be presumed to be accurate and may be used to prove the alleged contravention. 50

(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.”

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, is hereby amended— 5

(a) by the substitution for the heading of the following heading:

“**Amendment, exclusion and repeal of laws**”; and

(b) by the addition of the following subsection:

“(3) Despite the provisions of the National Credit Act, 2005 (Act No. 34 of 2005), the provisions of that Act are not applicable to the levying and collecting of toll in terms of this Act.” 10

Amendment of Contents of Act 7 of 1998

7. The Contents of Act after the long title of The South African National Roads Agency Limited and National Roads Act, 1998, is hereby amended by the insertion after “59. Limitation on legal proceedings against Agency” of the following: 15

“59A. Presumptions”.

Short title and commencement

8. This Act is called the Transport Laws and Related Matters Amendment Act, 2013, and comes into operation on a date determined by the President by proclamation in the *Gazette*. 20