
GENERAL NOTICE ALGEMENE KENNISGEWING

NOTICE 1112 OF 2013

DEPARTMENT OF TRANSPORT

PUBLICATION FOR COMMENTS

**CROSS BORDER ROAD TRANSPORT ACT 1998, (ACT NO. 4 OF 1998):
AMENDMENT REGULATIONS, 2013**

The Minister of Transport, intends to make amendments to the Cross Border Road Transport Act, Regulations, 1998 in the Schedule in terms of section 51 of the Cross Border Road Transport Act, 1998 (Act No. 4 of 1998).

Interested persons are invited to submit their written comments within 30 days from the date of publication in the Gazette.

Comments should be posted to the Acting Director – General Department of Transport for the attention of at:

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**CROSS-BORDER ROAD TRANSPORT ACT, 1998 (ACT 4 OF 1998):
AMENDMENT REGULATIONS, 2013**

Schedule

Definitions

1. In this Schedule, unless the context indicates otherwise, the expression “the Regulations” means the Regulations in terms of section 51 of the Act published by Government Notice No. R464 of 3 April 1998 as amended by Government Notices R.988 of 13 August 1999, R.682 of 7 July 2000, R.677 of 2 June 2003 and R.284 of 31 March 2011.

Amendment of regulation 7 of the Regulations

2. Regulation 7 of the Regulations is hereby amended—

(a) by the replacement of sub regulation (2) thereof with the following sub regulation:

“(2) An application fee is payable to the Agency—

(a) for a new application—

- (i) for a cabotage permit for a period of fourteen days or three months or one year or five years or for a fixed number of journeys, in the amount of R2000 plus R2000 for each trailer and semi-trailer;
- (ii) for a cross-border road transport permit in respect of any vehicle which is designed or modified solely or principally for the conveyance of less than 35 (thirty five) persons including the driver for the period of fourteen days or three months or one year or five years or for a fixed number of journeys authorizing the transport of passengers (excluding tourists) in the amount of R160 for each vehicle.
- (iii) for a cross-border road transport permit in respect of any vehicle which is designed or modified solely or principally for the conveyance of more than 35 (thirty five) persons including the driver for the period of fourteen days or three months or one

year or five years or for a fixed number of journeys authorizing the transport of passengers (excluding tourists) in the amount of R180 for each vehicle.

- (iv) for a cross-border road transport in respect of any vehicle which is designed or modified solely or principally for the conveyance of less than 35 (thirty five) persons including the driver for the period of fourteen days or three months or one year or five years or for a fixed number of journeys authorizing the transport of tourists in the amount of R170 for each vehicle.
- (v) for a cross-border road transport permit in respect of any vehicle which is designed or modified solely or principally for the conveyance of more than 35 (thirty five) persons including the driver for the period of fourteen days or three months or one year or five years or for a fixed number of journeys authorizing the transport of tourists in the amount of R190 for each vehicle.
- (vi) for a cross-border road transport permit in respect of any vehicle which is designed or modified solely or principally for the carriage of freight which either by itself or part of a combination of vehicles and does not maximum gross mass of 20 000 (twenty thousand) kg or less for the period of fourteen days or three months or one year or five years or for a fixed number of journeys authorizing the transport of freight (excluding cabotage) in the amount of R570 for each vehicle.
- (vii) for a cross-border road transport permit in respect of any vehicle which is designed or modified solely or principally for the carriage of freight which either by itself or part of a combination of vehicles exceeds a maximum gross mass of 20 000 (twenty thousand) kg for the period of fourteen days or three months or one year or five years or for a fixed number of journeys authorizing the transport of freight (excluding cabotage) in the amount of R760 for each vehicle.

- (b) for an application for renewal—
 - (i) of a permit referred to in paragraph (a)(i), in the amount of R2000 plus R2000 for each trailer and semi-trailer
 - (ii) of a permit referred to in paragraph (a)(ii) in the amount of R160 for each vehicle.
 - (iii) of a permit referred to in paragraph (a)(iii) in the amount of R180 for each vehicle.
 - (iv) of a permit referred to in paragraph (a)(iv) in the amount of R170 for each vehicle.
 - (v) of a permit referred to in paragraph (a)(v) in the amount of R190 for each vehicle.
 - (vi) of a permit referred to in paragraph (a)(vi) in the amount of R570 for each vehicle.
 - (vii) of a permit referred to in paragraph (a)(vii) in the amount of R760 per vehicle.
 - (c) for an application for postponement of an application for renewal of a permit, in the amount of R320 per vehicle per month;
 - (d) for an application for a duplicate permit, in the amount of R160; and
 - (e) for an application for a replacement of a vehicle or particulars pertaining to the vehicle concerned, as reflected on the permit, in the amount of R160.”
- (b) by the replacement of sub regulation (3) thereof with the following sub regulation:

“(3) After a permit, renewal of a permit, duplicate permit, or replacement of a vehicle or particulars pertaining to the vehicle concerned, as reflected on the permit, is granted, an issuing fee is payable to the Agency—

- (a) with respect to the issuing for the first time—

- (i) of a permit referred to in sub regulation (2)(a)(i)—
 - (aa) for a temporary cabotage permit for a period not exceeding of fourteen days, in the amount of R1820 plus R1820 for each trailer and semi-trailer;
 - (bb) for a cabotage permit for a period not exceeding three months, in the amount of R6000 plus R6000 for each trailer and semi-trailer;
 - (cc) for a cabotage permit for a period not exceeding one year, in the amount of R18000 plus R18000 for each trailer and semi-trailer;
- (ii) of a permit referred to in sub regulation (2)(a)(ii) in respect of any vehicle which is designed or modified solely or principally for the conveyance of less than 35 (thirty five) persons including the driver for the period of fourteen days or three months or one year or five years or for a fixed number of journeys authorising the transport of passengers (excluding tourists).
 - (aa) for a temporary cross-border road transport permit for a period not exceeding fourteen days, in the amount of R160 for each vehicle;
 - (bb) for a cross-border road transport permit for a period not exceeding three months, in the amount of R320 for each vehicle;
 - (cc) for a cross-border road transport permit for a period not exceeding a period of one year, in the amount of R1780 for each vehicle;
 - (dd) for a cross-border road transport permit for a period not exceeding a period of five years, in the amount of R4000 for each vehicle ;

- (iii) of a permit referred to in sub regulation (2)(a)(iii) in respect of any vehicle which is designed or modified solely or principally for the conveyance of more than 35 (thirty five) persons including the driver for the period of fourteen days or three months or one year or five years or for a fixed number of journeys authorizing the transport of passengers (excluding tourists);
 - (aa) for a temporary cross-border road transport permit for a period not exceeding fourteen days in the amount of R180 for each vehicle;
 - (bb) for a cross-border road transport permit for a period not exceeding three months, in the amount of R360 for each vehicle;
 - (cc) for a cross-border road transport permit for a period not exceeding one year, in the amount of R2000 for each vehicle;
 - (dd) for a cross-border road transport permit for a period not exceeding a period of five years, in the amount of R4600 for each vehicle;

- (iv) of a permit referred to in sub regulation (2)(a)(iv) in respect of any vehicle which is designed or modified solely or principally for the conveyance of less than 35 (thirty five) persons including the driver for the period of fourteen days or three months or one year or for a fixed number of journeys authorizing the transport of tourists;
 - (aa) for a temporary cross-border road transport permit for a period not exceeding fourteen days in the amount of R170 for each vehicle;
 - (bb) for a cross-border road transport permit for a period not exceeding three months in the amount of R530 for each vehicle;

- (cc) for a cross-border road transport permit for a period not exceeding one year in the amount of R1930 for each vehicle;
 - (dd) for a cross-border road transport permit for a period not exceeding five years in the amount of R4200 for each vehicle;
- (v) of a permit referred to in sub regulation (2)(a)(v) in respect of any vehicle which is designed or modified solely or principally for the conveyance of more than 35 (thirty five) persons including the driver for the period of fourteen days or three months or one year or five years or for a fixed number of journeys authorizing the transport of tourists;
- (aa) for a temporary cross-border road transport permit for a period not exceeding fourteen days in the amount of R190 for each vehicle;
 - (bb) for a cross-border road transport permit for a period not exceeding three months in the amount of R1830 for each vehicle;
 - (cc) for a cross-border road transport permit for a period not exceeding one year in the amount of R2070 for each vehicle;
 - (dd) for a cross-border road transport permit for a period not exceeding five years in the amount of R4830 for each vehicle;
- (vi) of a permit referred to in sub regulation (2)(a)(vi) in respect of any vehicle which is designed or modified solely or principally for the carriage of freight which by itself or as part of a combination of vehicles has a maximum gross mass of 20000 (twenty thousand) kg or less for the period of fourteen days or three months or one year or five

- years or for a fixed number of journeys authorizing the transport of freight (excluding cabotage) -
- (aa) for a temporary cross border road transport permit not exceeding a period of fourteen days, in the amount of R750 for each vehicle;
 - (bb) for a temporary cross border road transport permit not exceeding a period of three months, in the amount of R1420 for each vehicle;
 - (cc) for a cross border road transport permit not exceeding a period of one year, in the amount of R4290 for each vehicle;
 - (dd) for a cross border road transport permit not exceeding a period of five years in the amount of R6000 for each vehicle.
- (vii) of a permit referred to in subregulation (2)(a)(vii) in respect of any vehicle which is designed or modified solely or principally for the carriage of freight which either by itself or part of a combination of vehicles exceeds a maximum gross mass of 20 000 (twenty thousand) kg for the period of fourteen days or three months or one year or five years or for a fixed number of journeys authorizing the transport of freight (excluding cabotage)
- (aa) for a temporary cross border road transport permit not exceeding a period of fourteen days, in the amount of R1000 for each vehicle;
 - (bb) for a temporary cross border road transport permit not exceeding a period of three months, in the amount of R1900 for each vehicle;
 - (cc) for a cross border road transport permit for a period not exceeding one year, in the amount of R5720 for each vehicle;

- (dd) for a cross border road transport permit for a period not exceeding five years in the amount of R8000 for each vehicle;
- (b) with respect to the issuing of a renewal-
 - (i) for a cabotage permit referred to in sub regulation (2) (a) (i)
 - (aa) for a period of three months in the amount of R6000 plus R6000 for each trailer and semi-trailer
 - (bb) for a period of one year in the amount of R18000 plus R18000 for each trailer and semi-trailer;
 - (ii) of a permit referred to in sub regulation (2)(a) (ii) in respect of any vehicle which is designed or modified solely or principally for the conveyance of less than 35 (thirty five) persons including the driver for the period of three months or one year or five years or for a fixed number of journeys authorizing the transport of passengers (excluding tourists);
 - (aa) for a cross-border road transport permit for a period not exceeding period of one year in the amount of R1780 for each vehicle;
 - (bb) for a cross-border road transport permit for a period not exceeding a period of five years in the amount of R4000 for each vehicle;
 - (cc) for a cross-border road transport permit for a period not exceeding a period of five years an annual compliance fee of R600 for each vehicle payable annually on or before the annual anniversary;
 - (iii) of a permit referred to in sub regulation (2)(a) (iii) in respect of any vehicle which is designed or modified solely or principally for the conveyance of more than 35 (thirty five) persons including the driver for the period of three months or one year or five

years or for a fixed number of journeys authorizing the transport of passengers (excluding tourists);

- (aa) for a cross-border road transport permit for a period not exceeding one year in the amount of R2000 for each vehicle;
 - (bb) for a cross-border road transport permit for a period not exceeding five years in the amount of R4600 for each vehicle;
 - (cc) for a cross-border road transport permit for a period not exceeding a period of five years an annual compliance fee of R690 for each vehicle payable annually on or before the annual anniversary;
- (iv) of a permit referred to in sub regulation (2)(a) (iv) in respect of any vehicle which is designed or modified solely or principally for the conveyance of less than 35 (thirty five) persons including the driver for the period of three months or one year or for a fixed number of journeys authorizing the transport of tourists;
 - (aa) for a cross-border road transport permit for a period not exceeding one year in the amount of R1930 for each vehicle;
 - (bb) for a cross-border road transport permit for a period not exceeding five years in the amount of R4200 for each vehicle;
 - (cc) for a cross-border road transport permit for a period not exceeding a period of five years an annual compliance fee of R630 for each vehicle payable annually on or before the annual anniversary;
- (v) of a permit referred to in sub regulation (2)(a) (v) in respect of any vehicle which is designed or modified solely or principally for the conveyance of more than 35 (thirty five) persons including the driver for the period of three months or one year or five years for a fixed number of journeys authorizing the transport of tourists;

- (aa) for a cross-border road transport permit for a period not exceeding one year in the amount of R2070 for each vehicle;
 - (bb) for a cross-border road transport permit for a period not exceeding five years in the amount of R4830 for each vehicle;
 - (cc) for a cross-border road transport permit for a period not exceeding a period of five years an annual compliance fee of R725 for each vehicle payable annually on or before the annual anniversary;
- (vi) of a permit referred to in sub regulation (2)(a)(vi) in respect of any vehicle which is designed or modified solely or principally for the carriage of freight which either by itself or part of a combination of vehicles a maximum gross mass of 20 000 (twenty thousand) kg or less for the period of one year or five years or for a fixed number of journeys authorizing the transport of freight (excluding cabotage);
- (aa) for a cross border road transport permit not exceeding a period of one year, in the amount of R4290 for each vehicle;
 - (bb) for a cross border road transport permit not exceeding a period of five years in the amount of R6000 for each vehicle;
 - (cc) for a cross-border road transport permit for a period not exceeding a period of five years an annual compliance fee of R1030 for each vehicle payable annually on or before the annual anniversary
- (vii) of a permit referred to in sub regulation (2)(a)(vii) in respect of any vehicle which is designed or modified solely or principally for the carriage of freight which either by itself or part of a combination of vehicles exceeds a maximum gross

mass of 20 000 (twenty thousand) kg for the period of one year or five years or for a fixed number of journeys authorizing the transport of freight (excluding cabotage)

- (aa) for a cross border road transport permit not exceeding a period of one year, in the amount of R5720 for each vehicle;
 - (bb) for a cross border road transport permit not exceeding a period of five years in the amount of R8000 for each vehicle;
 - (cc) for a cross-border road transport permit for a period not exceeding a period of five years an annual compliance fee of R1370 for each vehicle payable annually on or before the annual anniversary.
- (c) with respect to the issuing of a duplicate permit, in the amount of R160; and
- (d) with respect to the issuing of a replacement of a vehicle or the particulars pertaining to the vehicle concerned, as reflected on the permit, in the amount of R160.

Title and commencement

3. These Regulations are called the Cross-Border Road Transport Act Amendment Regulations, 2013 and shall come into operation on the day of its publication in the Gazette.

EXPLANATORY MEMORANDUM

AMENDMENT TO THE CROSS-BORDER ROAD TRANSPORT REGULATIONS, 2013

PURPOSE OF REGULATIONS

The Minister of Transport acting pursuant to section 51 of the Cross-Border Road Transport Act, Act 4 of 1998, as amended ("the Act") and after consultation with the Board of the Cross-Border Road Transport Agency ("Agency"), intends to make the Regulations in the Schedule prescribing the fee structure for permits and other fees.

The purpose of the Regulations is to provide the Agency with the necessary authority to levy fees for permits in order to finance the statutory functions assigned to the Agency in terms of the Act.

These Regulations will endeavour to maintain the status quo by filling the lacuna that arose when the 2011 Cross Border Transport Amendment Regulations, which came into operation on 1 April 2011, were declared to be invalid in *Central African Services (Pty) Ltd and Deernam (Pty) Ltd v The Minister of Transport and Cross-Border Road Transport Agency* (Case No 32238/2011). An appeal against this judgment has been noted to the Supreme Court of Appeal.

FUNDING MODEL

In terms of Section 18(1) of the Act, the Agency must finance its operating and capital costs from:

- (a) *money levied in connection with-*
 - (i) *the application and issuing of any permit; or*
 - (ii) *subject to the provisions of this Act, the dissemination of any useful information, advice or research findings;*

- (b) *money collected from the imposition of fines in terms of this Act;*
- (c) *donations; and*
- (d) *money appropriated by Parliament from time to time for that purpose.”*

All of these funding alternatives were duly investigated but due, inter alia, to the burden on the national fiscus the only remaining options were to raise the necessary funds through the application and issuing of permits and the relatively insignificant amount of money collected from the imposition of fines.

RATIONALE FOR REGULATIONS

The cross-border road transport of passengers and goods is a vital input to key sectors of the economy and its performance or lack thereof has a huge impact on the efficiency and competitiveness of South Africa's economy as well as growth in the SADC region. The provision and maintenance of an efficient and safe cross-border transport infrastructure is accordingly of the utmost importance. To that end the Agency is entrusted with the task of executing critically important functions that are set out in the Act.

Prior to April 2011, the Agency failed dismally to perform most of these functions, primarily due to a lack of funds. On 31st March 2011 the former Minister of Transport, acting pursuant to the provisions of Section 51 of the Act, published regulations increasing the permit fees payable by operators pursuant to the Cross-Border Road Transport Act Amendment Regulations, 2011.

These increases, the first since 2003, were substantial and have been used by the Agency to completely turn its affairs around and as a result whereof it is currently performing most of its duties in an exemplary fashion. Many of the long outstanding services are either already being rendered or are in the process of being implemented and it is not only highly undesirable but it is also practically impossible to stop the process or to turn the wheel back at this point in time

The permit fees as per the 2011 Regulations were, pro rata, increased to a greater extent for freight- than for passenger vehicles so as to reflect two important policy considerations (the policy considerations), namely:

- a. Firstly, a differentiated sliding scale was used for tariff increases reflecting the size of vehicles and the concomitant extent of road damage. Evidence of this damage is prolific as reported in various research reports. As a matter of policy, it was therefore considered just and equitable that the permit fee structure should take this consideration into account.
- b. Secondly, a degree of cross-subsidization between passenger and freight hauliers was imposed so as to keep cost increases to passengers as low as possible, given that:
 - i. most cross-border road (as opposed to air) passengers are not financially well off and to many, even a very small increase in tariffs, would have a very detrimental effect; and
 - ii. road freight hauliers can, with relative ease, pass increases on to their customers many of whom are large corporate entities engaged in mining, agriculture, commercial and other large scale business enterprises.

The Minister and the Agency are of the view that the significant benefits as a result of a properly functioning Agency by far outweigh the amount of the increase to the permit fees, as this will assist amongst to: -

- a) ensure that the Agency maintain and increase all of its activities such as:-
 - i. illegal cross border road transport does not take place with concomitant financial loss to lawful operators;
 - ii. vehicles are not overloaded;
 - iii. the issuing of permits for the conveyance of passengers and goods are improved;
 - iv. regional counterparts are engaged so as to eradicate or mitigate impediments to the free movement of people and goods across our borders.

- b) it is able to recruitment and deploy additional Inspectors to monitor compliance by cross-border road transport carriers;