

REPUBLIC OF SOUTH AFRICA

NATIONAL ROAD TRAFFIC AMENDMENT BILL

(As amended by the Portfolio Committee on Transport (National Assembly))
(The English text is the official text of the Bill)

(MINISTER OF TRANSPORT)

[B 39B—2008]

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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.

BILL

To amend the National Road Traffic Act, 1996, so as to insert certain definitions and to amend others; to prohibit the unauthorised use of an authorised officer's infrastructure number; to provide for visible display of nametags by traffic officers; to prohibit the impersonation of traffic officers and the wearing of a traffic officer's uniform without official written permission; to create new offences; to empower the Minister to prescribe training procedures and qualifications of persons appointed as national inspectors at driving licence testing centres and testing stations; to make new provision regarding the process by which driving licences are issued; to recognise documents relating to roadworthiness issued in a prescribed territory; to empower the Minister to prescribe the manner and form of accident reporting; to provide for circumstances when emergency vehicles may ignore road traffic signs and speed limits; to provide for liability of managers, agents and employees; to empower the MEC to set fees; to delete obsolete provisions; and to provide for matters connected therewith.

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

Amendment of section 1 of Act 93 of 1996, as amended by section 1 of Act 8 of 1998 and section 1 of Act 21 of 1999

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

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

“ ‘**authorised officer**’ means an inspector of licences, an examiner of vehicles, an examiner for driving licences, a traffic warden or a traffic officer, and also any other person declared by the Minister by regulation to be an authorised officer[, **from time to time**];”;

(b) by the insertion after the definition of “certification of roadworthiness” of the following definition:

“ ‘**chief executive officer**’ means the chief executive officer of the Corporation appointed in terms of section 15 of the Road Traffic Management Corporation Act, 1999 (Act No. 20 of 1999);”;

(c) by the insertion after the definition of “gross vehicle mass” of the following definition:

- “**‘haulage tractor’** means a motor vehicle, designed or adapted mainly for drawing other vehicles, and with a gross combination mass exceeding 24 000 kg, but does not include a truck-tractor or tractor;”;
- (d) by the substitution for the definition of “owner” of the following definition:
- “**‘owner’**, in relation to a vehicle, means—
- (a) the person who has the right to the use and enjoyment of a vehicle in terms of the common law or a contractual agreement with the title holder of such vehicle;
- (b) any person referred to in paragraph (a), for any period during which such person has failed to return that vehicle to the title holder in accordance with the contractual agreement referred to in paragraph (a); or
- (c) a motor dealer who is in possession of a vehicle for the purpose of sale,
- and who is **[registered]** licensed as such or obliged to be licensed in accordance with the regulations made under section 4, and “owned” or any like word has a corresponding meaning;”;
- (e) by the insertion after the definition of “rescue vehicle” of the following definitions:
- “**‘reserve traffic officer’** means a person who complies with the requirements of section 3D and is registered as a traffic officer in terms of section 3C or any person who is a peace officer in terms of section 334 of the Criminal Procedure Act, 1977 (Act No. 51 of 1977), and has been appointed as a reserve traffic officer by the chief executive officer or the MEC, as the case may be, on a temporary basis for a specific period;”
- ‘reserve traffic warden’** means a person who has been declared a peace officer by the Minister of Justice in terms of section 334 of the Criminal Procedure Act, 1977 (Act No. 51 of 1977), and has been appointed as a reserve traffic warden by the chief executive officer or the MEC, as the case may be, on a temporary basis for a specific period;”;
- (f) by the substitution for the definition of “tractor” of the following definition:
- “**‘tractor’** means a motor vehicle designed or adapted mainly for drawing other vehicles and **[not to carry any load thereon]** with a gross combination mass not exceeding 24 000 kg, but does not include a truck-tractor;”;
- (g) by the insertion after the definition of “traffic officer” of the following definition:
- “**‘traffic warden’** means a person who has been declared by the Minister of Justice to be a peace officer in terms of section 334 of the Criminal Procedure Act, 1977 (Act No. 51 of 1977), and has been appointed as a traffic warden by the chief executive officer, the MEC or another competent authority to appoint a traffic warden, as the case may be;”;
- and
- (h) by the substitution for the definition of “truck-tractor” of the following definition:
- “**‘truck-tractor’** means a motor vehicle designed or adapted—
- (a) for drawing other vehicles; and
- (b) not to carry any load other than that imposed by a semi-trailer or by ballast,
- but does not include a tractor or a haulage tractor;”.

Amendment of section 3A of Act 93 of 1996, as inserted by section 2 of Act 21 of 1999

2. Section 3A of the principal Act is hereby amended—

- (a) by the substitution for subsection (3) of the following subsection:
- “(3) (a) No person shall be appointed under subsection (1) as an authorised officer unless he or she has been graded and registered in the prescribed manner **[: Provided that any]**.
- (b) Any person who is not so graded and registered may be appointed once on probation as an authorised officer for a period not exceeding 12 months or for **[the]** such further period **[approved by]** as the MEC **[on the understanding that it is]** may approve.

(c) It must be a condition of appointment that [such] the person appointed on probation must during [that] such probation period [complies] comply with the competency and registration requirements prescribed for the specific [appointment] category of appointment.

(d) A person appointed under paragraph (b) may not use an authorised officer's infrastructure number to certify a vehicle tested by such person."; and 5

(b) by the addition of the following subsection:

"(7) A traffic officer shall at all times when wearing a full or partial traffic officer's uniform, display his or her official name tag above the right breast pocket of his or her uniform in such a manner that it is completely visible and easily legible." 10

Amendment of section 3K of Act 93 of 1996, as inserted by section 2 of Act 21 of 1999

3. Section 3K of the principal Act is hereby amended— 15

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

"(1) Any person who is not an authorised officer or a peace officer shall not act in a way that may create an impression that he or she is an authorised officer or a peace officer or pretend by way of word, action, conduct or demeanour[, pretend] that he or she is an authorised officer or peace officer."; and 20

(b) by the addition of the following subsections:

"(3) A person who is not duly appointed as a traffic officer under this Act, may not wear a traffic officer's uniform, any part of such uniform or any other garment or badge that distinguishes such person as a traffic officer without the written permission of the enforcement authority." 25

(4) Notwithstanding subsection (3), the Minister or MEC, as the case may be, may, if accompanied by law enforcement officials, wear a traffic officer's uniform."

Amendment of section 4 of Act 93 of 1996, as substituted by section 3 of Act 21 of 1999 30

4. Section 4 of the principal Act is hereby amended by the addition of the following subsection:

"(3) No person shall operate a motor vehicle on a public road unless such motor vehicle is registered and licensed in accordance with this Act." 35

Amendment of section 8A of Act 93 of 1996, as inserted by section 6 of Act 21 of 1999

5. Section 8A of the principal Act is hereby amended—

(a) by the substitution for subsection (1) of the following subsection: 40

"(1) Any [person,] department of State or registering authority desiring to operate a driving licence testing centre shall in the prescribed manner apply to the inspectorate of driving licence testing centres for the registration of such testing centre."; and

(b) by the addition of the following subsection: 45

"(3) No department of State or registering authority shall operate a driving licence testing centre unless such testing centre is registered and graded in accordance with this Act."

Amendment of section 11 of Act 93 of 1996, as substituted by section 9 of Act 21 of 1999 50

6. Section 11 of the principal Act is hereby amended by the addition of the following subsection:

"(4) The Minister shall prescribe the training procedures and qualifications of a person appointed under subsection (1)."

Amendment of section 17 of Act 93 of 1996

7. Section 17 of the principal Act is hereby amended—

- (a) by the substitution for subsections (2) and (3) of the following subsections, respectively:

“(2) Upon receipt of an application in terms of subsection (1), the driving licence testing centre concerned shall, if it is satisfied from the information furnished **[in the application]** or from such further information as such centre may reasonably request, that the applicant is not disqualified from obtaining a learner’s licence, determine a day on and time at which the applicant shall present himself or herself to be **[examined and tested by an examiner for driving licences]** evaluated in the manner and in respect of the matters **[as]** prescribed.”

(3) If the **[examiner for driving licences]** driving licence testing centre is satisfied that the applicant, after being evaluated in the prescribed manner, has sufficient knowledge of the matters **[as]** prescribed in respect of the class of vehicle concerned, and is not disqualified in terms of section 15 from obtaining a learner’s licence, the **[examiner]** driving licence testing centre shall issue **[or authorise the issue of]** a learner’s licence in the prescribed manner to such applicant in respect of the appropriate class of motor vehicle, and the **[examiner or the person authorised thereto by him or her]** driving licence testing centre shall—

(a) in the case where the applicant is found to be competent to drive with the aid of spectacles or contact lenses, an artificial limb or other physical aid, endorse the licence accordingly; and

(b) in the case where the applicant is a physically disabled person who has to drive a vehicle adapted for physically disabled persons, or a vehicle adapted specifically for that physically disabled applicant, endorse the licence accordingly.”; and

- (b) by the addition of the following subsections:

“(5) Any applicant for a learner’s licence who makes use of any unauthorised aid during a test for a learner’s licence shall be guilty of an offence and upon conviction shall be liable, in addition to any other sentence which the court may impose, to be disqualified from reapplying for a learner’s licence for a period not exceeding 12 months from the date of conviction.”

(6) If the court makes an order disqualifying the applicant from reapplying for a learner’s licence, and the State leads evidence to the effect that the applicant has obtained a learner’s licence in the meanwhile, the court shall require the accused to produce any such licence and shall deal with it in the manner contemplated in section 34(1)(b).”.

Amendment of section 18 of Act 93 of 1996, as amended by section 12 of Act 21 of 1999 and section 1 of Act 20 of 2003

8. Section 18 of the principal Act is hereby amended—

- (a) by the substitution in subsection (4) for the words preceding paragraph (a) of the following words:

“If an examiner for driving licences has satisfied himself or herself in terms of subsection (3) that an applicant for a driving licence is competent, **[as prescribed,]** to drive a motor vehicle of the class to which such applicant’s application relates, the examiner shall issue, or authorise **[the issue of]** a person employed by the driving licence testing centre concerned to issue, a driving licence in the prescribed manner to such applicant in respect of that class of motor vehicle, and the examiner or the **[person]** said authorised **[thereto by him or her]** person shall—”;

(b) by the insertion after subsection (5) of the following subsections:

“(5A) Any applicant for a driving licence who makes use of any unauthorised aid during a test for a driving licence shall be guilty of an offence and upon conviction shall be liable, in addition to any other sentence which the court may impose, to be disqualified from re-applying for a driving licence for a period not exceeding 12 months from the date of conviction.

(5B) If the court makes an order disqualifying the applicant from reapplying for a driving licence, and the State leads evidence to the effect that the applicant has obtained a driving licence in the meanwhile, the court shall require the accused to produce any such licence and shall deal with it in the manner contemplated by section 34(1)(b).”; and

(c) by the substitution in subsection (6) for subparagraphs (iii), (iv) and (v) of paragraph (b) of the following subparagraphs:

“(iii) on contract of employment outside the borders of the Republic; [or]

(iv) a full-time student at a foreign academic institution[.]; or

(v) a spouse of a person referred to in subparagraphs (ii) and (iii).”.

Amendment of section 20 of Act 93 of 1996

9. Section 20 of the principal Act is hereby amended by the substitution for subsection (3) of the following subsection:

“(3) Upon receipt of an application under subsection (1), the prescribed authority shall satisfy itself in the prescribed manner as to the authenticity of the document referred to in subsection (2)(a) and, if satisfied[,], that—

(a) the existing licence is a valid licence;

(b) the applicant is the holder thereof; and

(c) the holder is not disqualified as contemplated in section 15(1)(f), authorise and issue a driving licence in the manner prescribed in section 18(4) to the applicant and, if applicable, endorse such driving licence in accordance with section 18(4).”.

Substitution of section 21 of Act 93 of 1996, as substituted by section 14 of Act 21 of 1999

10. The following section is hereby substituted for section 21 of the principal Act:

“Directions to applicant for learner’s or driving licence

21. Notwithstanding anything to the contrary contained in this Act [the chief executive officer may, whenever he or she deems it necessary, direct where and by which examiner for driving licences] an applicant for a learner’s or a driving licence shall [be examined and tested, and at which driving licence testing centre such applicant may apply for a driving licence] apply to be evaluated at any driving licence testing centre.”.

Amendment of section 27 of Act 93 of 1996, as amended by section 16 of Act 21 of 1999

11. Section 27 of the principal Act is hereby amended by the substitution in subsection (4)(b) for subparagraph (ii) of the following subparagraph:

“(ii) notify the authority which issued the licence [or, in the case where it is contained in an identity document, the Director-General of Home Affairs] accordingly.”.

Amendment of section 35 of Act 93 of 1996

12. Section 35 of the principal Act is hereby amended—

(a) by the insertion in subsection (1) after paragraph (a) of the following paragraph:

“(aA) section 59(4), in the case of a conviction for an offence, 5
where—

(i) a speed in excess of 30 kilometers per hour over the
prescribed general speed limit in an urban area was
recorded; or

(ii) a speed in excess of 40 kilometers per hour over the 10
prescribed general speed limit outside an urban area or on
a freeway was recorded;”; and

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

“(3) If a court convicting any person of an offence referred to in
subsection (1), is satisfied, after the presentation of evidence under oath, 15
that circumstances relating to the offence exist which do not justify the
suspension or disqualification referred to in subsection (1) or (2),
respectively, the court may, notwithstanding the provisions of those
subsections, order that the suspension or disqualification shall not take
effect, or shall be for such shorter period as the court may [deem] 20
consider fit.”.

Amendment of section 41 of Act 93 of 1996, as substituted by section 22 of Act 21 of 1999

13. Section 41 of the principal Act is hereby amended by the addition of the following subsection: 25

“(4) The Minister shall—

(a) prescribe the training procedures and qualifications of a person appointed
under subsection (1); and

(b) determine the criteria with which an authority or a body established as an
inspectorate in terms of subsection (1) must comply.”. 30

Amendment of section 42 of Act 93 of 1996, as substituted by section 6 of Act 8 of 1998

14. Section 42 of the principal Act is hereby amended by the substitution for
subsection (5) of the following subsection:

“(5) Any document issued by a competent authority in a prescribed territory 35
relating to any vehicle registered in such 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]
regarded to be certification of roadworthiness or a roadworthy certificate relating to
any such vehicle registered in the prescribed territory for the purpose of subsection 40
(2) or (3), as the case may be.”.

Amendment of section 58 of Act 93 of 1996

15. Section 58 of the principal Act is hereby amended—

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

“(3) The driver of a fire-fighting vehicle, a fire-fighting response 45
vehicle, a rescue vehicle, an emergency medical response vehicle or an
ambulance who drives such vehicle in the performance of his or her
duties, a traffic officer or a person appointed in terms of the South African
Police Service Act, 1995 (Act No. 68 of 1995), who drives a vehicle in
the carrying out of his or her duties or any person issued with the 50
necessary authorisation and driving a vehicle [while engaged in civil
protection as contemplated in any ordinance made in terms of
section 3 of the Civil Protection Act, 1977 (Act No. 67 of 1977)], may
disregard the directions of a road traffic sign which is displayed in the
prescribed manner: Provided that— 55

- (a) he or she shall drive the vehicle concerned with due regard to the safety of other traffic; and
- (b) in the case of any such fire-fighting vehicle, fire-fighting response vehicle, rescue vehicle, emergency medical response vehicle, ambulance or any vehicle driven by a person [**while he or she is so engaged in civil protection,**] issued with the necessary authorisation, such vehicle shall be fitted with a device capable of emitting a prescribed sound and with an identification lamp, as prescribed, and such device shall be so sounded and such lamp shall be in operation while the vehicle is driven in disregard of the road traffic sign.”.

Substitution of section 60 of Act 93 of 1996

16. The following section is hereby substituted for section 60 of the principal Act:

“Certain drivers may exceed general speed limit

60. Notwithstanding the provisions of section 59, the driver of a fire-fighting vehicle, a fire-fighting response vehicle, a rescue vehicle, an emergency medical response vehicle or an ambulance who drives such vehicle in the carrying out of his or her duties, a traffic officer or a person appointed in terms of the South African Police Service Act, 1995 (Act No. 68 of 1995), who drives a vehicle in the carrying out of his or her duties or any person issued with the necessary authorisation and driving a vehicle [while engaged in civil protection as contemplated in any ordinance made in terms of section 3 of the Civil Protection Act, 1977 (Act No. 67 of 1977)], may exceed the applicable general speed limit: Provided that—

- (a) he or she shall drive the vehicle concerned with due regard to the safety of other traffic; and
- (b) in the case of any such fire-fighting vehicle, fire-fighting response vehicle, rescue vehicle, emergency medical response vehicle, ambulance or any vehicle driven by a person [**while he or she is so engaged in civil protection,**] issued with the necessary authorisation, such vehicle shall be fitted with a device capable of emitting a prescribed sound and with an identification lamp, as prescribed, and such device shall be so sounded and such lamp shall be in operation while the vehicle is driven in excess of the applicable general speed limit.”.

Amendment of section 61 of Act 93 of 1996

17. Section 61 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:

- “(1) The driver of a vehicle [**on a public road**] at the time when such vehicle is involved in or contributes to any accident in which any [**other**] person is killed or injured or suffers damage in respect of any property, including a vehicle, or animal shall—
- (a) immediately stop the vehicle and report the accident on the prescribed form and in the prescribed manner, the officer concerned shall deal with the report in the prescribed manner and the chief executive officer must ensure that the accident is recorded in the register of accidents in the prescribed manner and within the prescribed period;
 - (b) ascertain the nature and extent of any injury sustained by any person;
 - (c) if a person is injured, render such assistance to the injured person as he or she may be capable of rendering;
 - (d) ascertain the nature and extent of any damage sustained;
 - (e) if required to do so by any person having reasonable grounds for so requiring, give his or her name and address, the name and address of the owner of the vehicle driven by him or her and, in the case of a motor vehicle, the [**registration or similar mark**] licence number thereof;
 - (f) if he or she has not already [**furnished the information referred to in paragraph (e)**] reported the accident to a police or traffic officer at the scene of the accident, and unless he or she is incapable of doing so by reason of

injuries sustained by him or her in the accident, as soon as is reasonably practicable, and in **[any]** the case where a person is killed or injured, within 24 hours after the occurrence of such accident, or in any other case on the first working day after the occurrence of such accident, report the accident to any police officer at a police station or at any office set aside by a competent authority for use by a traffic officer, and there produce his or her driving licence and furnish his or her identity number and such information as is referred to in **[that]** paragraph (e); and

- (g) not, except on the instructions of or when administered by a medical practitioner in the case of injury or shock, take any intoxicating liquor or drug having a narcotic effect unless he or she has complied with the provisions of paragraph (f), where it is his or her duty to do so, and has been examined by a medical practitioner if such examination is required by a traffic officer.”.

Amendment of section 68 of Act 93 of 1996, as substituted by section 12 of Act 8 of 1998

18. Section 68 of the principal Act is hereby amended —

- (a) by the substitution for the heading to section 68 of the following heading:
“Unlawful acts in relation to [registration] number plates, registration number, registration mark or certain documents”; and
- (b) by the substitution for subsection (3) of the following subsection:
 “(3) No person shall—
- (a) falsify or counterfeit or, with intent to deceive, replace, alter, deface or mutilate or add anything to a certificate, licence or other document issued or recognised in terms of this Act; **[or]**
- (b) be in possession of such certificate, licence or other document which has been falsified or counterfeited or so replaced, altered, defaced or mutilated or to which anything has been so added[.]; or
- (c) produce any document to be used for the purposes of this Act which differs in format or in content from a document prescribed under this Act.”.

Insertion of sections 74A and 74B in Act 93 of 1996

19. The following sections are hereby inserted in the principal Act after section 74:

“Act or omission of manager, agent or employee of consignor and consignee

74A. (1) Whenever any manager, agent or employee of a consignor or consignee, as the case may be, does or fails to do anything which, if the consignor or consignee had done or failed to do it, would have constituted an offence in terms of this Act, the consignor or consignee, as the case may be, shall be regarded to have committed the act or omission personally in the absence of evidence indicating—

- (a) that he or she did not connive at or permit such act or omission;
- (b) that he or she took all reasonable measures to prevent such act or omission; and
- (c) that such act or omission did not fall within the scope of the authority of or in the course of the employment of such manager, agent or employee,

and be liable to be convicted and sentenced in respect thereof.

(2) In the circumstances contemplated in subsection (1) the conviction of the consignor or consignee shall not absolve the manager, agent or employee in question from liability or criminal prosecution.

Proof of certain facts

74B. (1) In any prosecution under this Act, a goods declaration or any other document relating to the load of a vehicle and confiscated from such vehicle shall be proof of the matters stated in such document unless credible evidence to the contrary is adduced.

(2) A copy of or extract from any document referred to in subsection (1), and certified as a true copy or extract by the officer in whose custody the original document is, shall, unless credible evidence to the contrary is adduced, be admissible as evidence and be proof of the truth of all matters stated in such document without the requirement of having to produce the original document from or of which such extract or copy was made.”.

Amendment of section 75 of Act 93 of 1996, as amended by section 13 of Act 8 of 1998 and section 31 of Act 21 of 1999

20. Section 75 of the principal Act is hereby amended—

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

“(b) the identification of vehicles or parts of vehicles and, in relation to a motor vehicle, the size and shape of the **[registration] licence** mark or number to be displayed in terms of this Act and the means to be applied to validate such mark or number and to render any such mark or number easily distinguishable, whether by night or by day, when any such vehicle is operated on a public road.”;

(b) by the substitution in subsection (1) for paragraph (r) of the following paragraph:

“(r) an accident reporting system and the furnishing of accident reports and statistics of any nature;”; and

(c) by the addition to subsection (1) of the following paragraphs after paragraph (zA):

“(zB) the regulation of any person who offers goods for transportation on a public road or accepts goods after transportation, in relation to the mass of such goods, the documentation relating to such goods, the agreements that have to be concluded for such transportation, insurance in respect of the transportation of such goods and any other matter relating to the offering of goods for transportation or the acceptance of transported goods;

(zC) the criteria in terms of which a person is classified as an habitual overloader, the offences to which such classification applies, the criteria for rehabilitation, if necessary and the sanctions for classification as an habitual overloader;

(zD) the equipment to be used for law enforcement purposes, the certification of such equipment and requirements in respect of records obtained from the equipment;

(zE) measures to limit speed; and

(zF) those vehicles which shall be classified as an ‘**emergency medical response vehicle**’.”.

(d) by the insertion of the following subsection:

“(2B) A regulation made under subsection (1)(zF) shall be so made after consultation with the Minister of Health.”.

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

“(6) Before the Minister makes any regulation, the Minister **[may, if he or she deems it expedient,]** must cause a draft of the proposed regulations—

(a) to be referred to Parliament for comment; and

(b) at the same time, to be published in the *Gazette* together with a notice calling upon all interested persons to lodge in writing, and within a period specified in the notice, but not less than four weeks as from the date of publication of the notice, any objections or representations which they would like to raise or make, with the Director-General for submission to the Minister:

Provided that, if the Minister thereafter decides to alter the draft regulation as a result of any objections or representations submitted thereafter, it shall not be necessary to publish such alterations before making the regulations.’

Amendment of section 76 of Act 93 of 1996

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21. Section 76 of the principal Act is hereby amended by the substitution for subsection (4) of the following subsection:

“(4) If any standard incorporated in the regulations is amended or replaced, such standard shall remain in force until such time that the Minister by notice in the Gazette re-incorporate the amended or replaced standard.”.

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Amendment of section 78 of Act 93 of 1996, as amended by section 33 of Act 21 of 1999

22. Section 78 of the principal Act is hereby amended by the addition of the following subsection:

“(5) Subject to the Promotion of Access to Information Act, 2000 (Act No. 2 of 2000), the Minister may for the purposes of this Act, determine—
(a) information that may be provided to any person; and
(b) the fees payable for the provision of such information.”.

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Substitution of section 81 of Act 93 of 1996

23. The following section is hereby substituted for section 81 of the principal Act: 20

“Vehicle and load may be exempted from provisions of Act

81. (1) [An MEC] The Minister may, after the applicant has paid the fees or charges referred to in section 7(3) and subject to such conditions [and upon payment of such fees or charges] as he or she may determine, authorise in writing, either generally or specifically, the operation on a public road of a vehicle which [does not], due to such vehicle’s original design cannot comply with [the provisions of] this Act [or the conveyance on a public road of passengers or any load otherwise than in accordance with the provisions of this Act].

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(2) The MEC may, after the applicant has paid the fees or charges referred to in section 7(3) and subject to such conditions as he or she may determine, authorise in writing, either generally or specifically, the conveyance in a safe manner on a public road of passengers or any load otherwise than in accordance with this Act.

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(3) An MEC shall determine the fees or charges payable for a vehicle or load that does not comply with this Act.”.

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Amendment of section 89 of Act 93 of 1996

24. Section 89 of the principal Act is hereby amended—

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

“(2) Any person convicted of an offence in terms of subsection (1) read with section 3K(1) or (2), 42(1) or (2), 44(1), 45(2), 46(1), 49 or 65(1), (2), (5) or (9) shall be liable to a fine or to imprisonment for a period not exceeding six years.”; and

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

“(3) Any person convicted of an offence in terms of subsection (1) read with section 3A (3), 17(4), 17 (5), 18 (5), 59(4), 61(2), 66 (3) or 68 (1), (2), (3), (4) or (6) shall be liable to a fine or to imprisonment for a period not exceeding three years.”.

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Substitution of section 92 of Act 93 of 1996, as amended by section 38 of Act 21 of 1999

25. The following section is hereby substituted for section 92 of the principal Act:

“Fees

- 92.** (1) The fees payable in respect of any application or request made, or document issued, or any other matter relating to the registration and licensing system of motor vehicles shall be determined under the laws of the province concerned. 5
- (2) The fees payable in respect of any application or request made, or document issued, or any other matter referred to in this Act, other than the fees which relate to the registration and licensing system of motor vehicles, shall be prescribed. 10
- (3) The fees payable by driving licence testing centres to defray the costs incurred by the Corporation with respect to the issuance of driving licences, shall be prescribed. 15
- (4) The fees—
- (a) referred to in subsection (1) shall be administered in accordance with the laws of the province concerned; and
- (b) referred to in subsections (2) and (3) shall be administered as prescribed.”. 20

Amendment of section 93 of Act 93 of 1998

26. Section 93 of the principal Act is hereby amended—

- (a) by the substitution for subsection (1) of the following subsection:
 “(1) Subject to [subsections] subsection (2) [and (3)], the laws mentioned in the Schedule are hereby repealed to the extent indicated in third column thereof.”; and 25
- (b) by the repeal of subsection (3).

Insertion of sections 93A and 93B in Act 93 of 1998

27. The following sections are hereby inserted after section 93 of the principal Act:

“Transitional provisions

93A. For the purposes of—

- (a) sections 3A to 3E, 5, 6, 9, 10, 15, 16, 21, 25, 27, 28A to 28C, 29, 38, 39, 40, 45, 46, 50, 51A and 51B, any reference to the ‘chief executive officer’ or the ‘inspectorate of driving licence testing centres’ or ‘the inspectorate of testing stations’ shall be regarded to be a reference to the ‘MEC concerned’; 35
- (b) section 3(1) and (2), any reference to the ‘Shareholders Committee’ shall, in consultation with the relevant MEC’ shall be regarded to be a reference to the ‘MEC concerned’ and any reference to the ‘Shareholders Committee’ shall be regarded to be a reference to the ‘MEC concerned’; 40
- (c) section 59, any reference to the ‘Shareholder’s Committee’ shall be regarded to be a reference to the ‘MEC’s’;
- (d) sections 3L, 77 and 83, any reference to the ‘Shareholders Committee’ or the ‘chief executive officer’ shall be regarded to be a reference to the ‘Minister’; 45
- (e) section 51A, any reference to the ‘Shareholders Committee’ shall be regarded to be a reference to the ‘Minister’;
- (f) sections 52 to 53, any reference to the ‘Chief Executive Officer’ shall be regarded to be a reference to the ‘Director-General’, 50
- and this interpretation shall apply from 1 August 2000 until a notice is published by the Minister in the *Gazette* indicating that the functionary in a section of the Act shall be regulated as stated in the relevant section.

Transitional provision: General

93B. Any approval, appointment, grading, permission, authority, order, prohibition, information or document issued, made, given or granted and any other action taken under any provision of a repealed law, shall be regarded to have been issued, made, given, granted or taken under the corresponding provisions of this Act.” 5

Short title and commencement

28. This Act is called the National Road Traffic Amendment Act, 2008, and comes into operation on a date fixed by the President by Proclamation in the *Gazette*.

MEMORANDUM ON THE OBJECTS OF THE NATIONAL ROAD TRAFFIC AMENDMENT BILL, 2008

1. BACKGROUND

The Bill proposes to give effect in the short term to some of the principal strategies contained in the Road to Safety Strategy 2001-2005. The Bill implements the strategic interventions highlighted in the Road to Safety Strategy. Furthermore, it deals with the fraudulent activities within the issuance of driving licences and roadworthy certificates and with curbing the incidences of criminal activities by or in relation to motor vehicles or their operation on public roads. The Bill amends certain definitions and also provides some new definitions.

2. OBJECTS OF BILL

The Bill aims to:

- enhance the professionalism of traffic officers and combat fraudulent and corruptive practices in law enforcement;
- limit and control fraudulent and corruptive practices generally;
- clarify conduct that constitutes an offence;
- prohibit private persons from operating driving licence testing centres;
- enhance the quality of learner and driving licence evaluation;
- provide for the endorsement or suspension of a driving licence if a driver is convicted on a charge of excessive speeding;
- facilitate the transition to a new driving licence regime;
- enhance the quality of roadworthiness certification;
- enhance the quality of road accident reporting;
- empower the MEC to set fees; and
- address consequential and minor editorial changes.

The Bill achieves this by—

- (a) amending the National Road Traffic Act, 1996 (Act No. 93 of 1996), so as to insert certain definitions and to amend others;
- (b) prohibiting the unauthorised use of an authorised officer's infrastructure number;
- (c) providing for visible display of nametags by traffic officers and regulating the conduct of traffic officers in relation to the examination of the loading of motor vehicles;
- (d) prohibiting the impersonation of traffic officers and the wearing of a traffic officer's uniform without official written permission;
- (e) empowering the Minister to prescribe training procedures and qualifications of persons appointed as national inspectors at driving licence testing centres and testing stations;
- (f) making new provision regarding the process by which driving licences are issued;
- (g) recognising documents relating to roadworthiness issued in a prescribed territory;

- (h) empowering the Minister to prescribe the manner and form of accident reporting;
- (i) providing for circumstances when emergency vehicles may ignore road traffic signs and speed limits;
- (j) giving the Minister certain powers;
- (k) providing for liability of managers, agents and employees;
- (l) empowering the MEC to set fees; and
- (m) deleting obsolete provisions.

3. DISCUSSION

- 3.1. Clause 1 amends existing definitions and inserts new definitions.
- 3.2. Clause 2 amends section 3(A) of the principal Act by providing that persons who is appointed on probation must comply with the competency registration requirements and may not use an authorised officer's infrastructure number to certify a vehicle tested.
- 3.3. Clause 3 amends section 3(K) of the principal Act by prohibiting the wearing of a traffic officer's uniform by people not appointed as traffic officers and by providing for instances when the Minister or MEC may wear a traffic officer's uniform.
- 3.4. Clause 4 amends section 4 of the principal Act by prohibiting the operation of a motor vehicle on a public road unless such motor vehicle is registered and licensed.
- 3.5. Clause 5 amends section 8(A) of the principal Act by prohibiting a private person from operating a driving licence testing centre and by providing that all driving licence testing centres must be registered and graded.
- 3.6. Clause 6 amends section 11 of the principal Act by empowering the Minister to prescribe training procedures and qualification of persons appointed in terms of the Act.
- 3.7. Clause 7 amends section 17 of the principal Act by providing for instances where a person who is disqualified from obtaining a learner's licence may follow a different process in applying for a learner's licence and by making it an offence for an applicant to make use of an unauthorised aid during a test for a learner's licence.
- 3.8. Clause 8 amends section 18 of the principal Act by streamlining the process of issuing of a driving licence after the examiner had conducted the driving licence test and by making it an offence for an applicant to make use of an unauthorised aid during the test for a driving licence.
- 3.9. Clause 9 amends section 20 of the principal Act by providing for the conversion of the old TBVC driving licences.
- 3.10. Clause 10 amends section 21 of the principal Act by providing that an applicant for a learner's or a driving licence can apply to be evaluated at any driving licence testing centre.
- 3.11. Clause 11 amends section 27 of the principal Act by including a requirement that the authority that issued a driving licence be notified in respect of transactions relating to that licence.
- 3.12. Clause 12 amends section 35 of the principal Act by providing for appropriate sentences that can be imposed if a driver has exceeded the maximum speed by a certain speed.

- 3.13. Clause 13 amends section 41 of the principal Act by providing for the training procedures and qualifications that must be met for persons to be appointed as examiners of motor vehicles and to cater for the criteria for the registration of such testing stations.
- 3.14. Clause 14 amends section 42 of the principal Act by providing for the acceptance in the Republic of roadworthy certificates issued in a foreign country.
- 3.15. Clauses 15 and 16 amend section 58 and 60, respectively, of the principal Act by providing for drivers of emergency vehicles who have the necessary authorisation to be excluded from complying with speed and road traffic signs.
- 3.16. Clause 17 amends section 61 of the principal Act by providing for the conduct of the driver of a vehicle in cases where such driver is involved in an accident on a public road and the process that should be followed after the accident.
- 3.17. Clause 18 amends section 68 of the principal Act by prohibiting the tampering with any document issued in terms of the provisions of the National Road Traffic Act (hereinafter referred to as the “NRTA”).
- 3.18. Clause 19 inserts after section 74 of the principal Act provisions that streamline the prosecution of operators of motor vehicles in addition to the prosecution of the driver of a motor vehicle for overloading such vehicle. This will enable the Department to also prosecute the consignors and the consignees in relation to the transgression of the provisions of the NRTA.
- 3.19. Clause 20 amends section 75 of the principal Act by providing that a distinguishable mark should be visible on the motor vehicle and make additions to the matters on which the Minister can regulate and how it should be done.
- 3.20. Clause 21 amends section 76 of the principal Act by providing that standards that have been amended or replaced, will remain in force until such time as the Minister by notice in the *Gazette* has re-incorporated or amended it.
- 3.21. Clause 22 amends section 78 of the principal Act by providing for the requirements as contained in the Promotion of Access to Information Act, 2000 (Act No. 2 of 2000).
- 3.22. Clause 23 amends section 81 of the principal Act by providing for clarification in terms of an exemption that can be granted by the Minister and those that can be granted by the MEC.
- 3.23. Clause 24 amends section 89 of the principal Act by providing for offences and sentences that may be imposed for the transgression of the NRTA.
- 3.24. Clause 25 amends section 92 of the principal Act by providing for different fees that can be levied.
- 3.25. Clause 26 amends section 93 of the principal Act which deals with the repealing laws mentioned in the Schedule to the Act.
- 3.26. Clause 27 amends section 93 of the principal Act by adding transitional provisions.

4. CONSULTATION

Provincial departments responsible for transport and traffic in the provinces, local authorities and other stakeholders were consulted.

5. FINANCIAL IMPLICATIONS

None.

6. CONSTITUTIONAL IMPLICATIONS

None.

7. PARLIAMENT PROCEDURE

7.1 The State Law Advisers and the Department of Transport are of the opinion that this Bill must be dealt with in accordance with the procedure prescribed by section 76(1) or (2) of the Constitution since it falls within a functional area listed in Schedule 4 to the Constitution, namely “road traffic regulation”.

7.2 The State Law Advisers are of the opinion that it is not necessary to refer this Bill to the National House of Traditional Leaders in terms of section 18(1)(a) of the Traditional Leadership and Governance Framework Act, 2003 (Act No. 41 of 2003), since it does not contain provisions pertaining to customary law or customs of traditional communities.

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