

REPUBLIC
OF
SOUTH AFRICA



REPUBLIEK
VAN
SUID-AFRIKA

Government Gazette Staatskoerant

Vol. 400

PRETORIA, 19 OCTOBER
OKTOBER 1998

No. 19381

GENERAL NOTICE

NOTICE 2434 OF 1998

DEPARTMENT OF TRANSPORT

Road Traffic Management Corporation Draft Bill, 1998

The above-mentioned Draft Bill is published in *Schedule A* for comment.

The Road Traffic Management Corporation Levies Draft Bill is published in *Schedule B* for comment.

The Road Traffic Management Corporation framework necessitates several amendments to current legislation:—

1. The Draft National Road Traffic Amendment Bill is published for comment in *Schedule C*
2. The Draft Provincial Road Traffic Amendment Bills are published for comment in *Schedule D*
3. The Administrative Adjudication of Road Traffic Offences Draft Bill is published for comment in *Schedule E*

Interested parties are invited to submit written comments no later than 30 November 1998 to:

Mr H. van Tonder
Room No. 3054
Department of Transport
Forum Building
Private Bag X 193
PRETORIA
0001

Telephone: (012) 309 3325

Fax: (012) 328 2215

e-mail: GrimselM@ndot.pwv.gov.za

The background to the Draft Bill and the reasons for the amendments are explained in the Explanatory Note preceding *Schedule A*.

EXPLANATORY MEMORANDUM

1. On 17 March 1998, the Director-General of Transport presented an innovative proposal to MINCOM concerning the creation of a Road Traffic Management Corporation in South Africa (MINCOM comprises the nine members of the Executive Councils of the provinces and the Minister of Transport, who is the chairperson). The idea was designed to counter the legacy of lack of investment, commitment and resources in road traffic and to avert the current crisis in road traffic management as witnessed by the extent of lawlessness and the exceptionally high death tolls on the roads. The Corporation would be able to address simultaneously all functional areas which cover road traffic safety and to perform its work in various areas of Government activity such as vehicle registration and licencing, vehicle roadworthiness and testing stations, traffic law enforcement and accident investigation and reconstruction.

MINCOM supported the proposal and requested a study team, comprising provincial and national personnel, to undertake a detailed study and examine the implications of implementation of a Corporation model.

Several meetings took place to investigate thoroughly how best to address existing problems. These meetings identified, as major factors contributing to the bleak picture, the lack of —

- a proper and tight institutional framework conducive to co-ordinated road traffic management and responsive to functional needs
- co-operation and co-ordination in the management strategy in respect of the different functional areas
- co-ordination in the manner in which the private sector is engaged
- standardised regulating contracts for appointment of public and private sector entities as agents
- effective consultative and communication structures
- a strong resource base
- adequate training, equipment, manpower levels and infrastructure
- correlation between tariffs and the cost of operations
- unified authority and responsibility
- uniform legislation, procedure, tariff structures, fines and collection levels
- adequate utilisation of checks and balances and management information systems

2. The model allows existing provincial and local government structures to continue performing road traffic functions on an agency basis. Quality of service will be closely controlled and monitored. Funding will be secured and the model ensures renewed investments in personnel, training and equipment. The draft legislation was preceded by various studies namely —

- a status quo study of current South African road traffic and other legislation including:
 - Road Traffic Act, 1989 and regulations
 - Road Traffic Act, 1996 and regulations
 - National Road Safety Act, 1972
 - Fiscal Relations Act, 1997
 - Administrative Adjudication of Road Traffic Offences Act, 1998
 - provincial road traffic legislation
- a status quo study of the South African Constitution and current constitutional practice in other sectors
- a comparative survey of institutions and constitutional practice in the US, Canada,

Australia, Germany, India and the Netherlands.

A discussion document, drafted in bill form, was prepared for consideration by MINCOM, to facilitate discussion and consultation. The legislative model is premised on co-operative governance and output has been tailored to the specific needs that had been identified.

3. On 28 August 1998, the Committee of Land Transport Officials (COLTO) consisting of the heads of the Transport Departments of the provinces and the National Department of Transport, presented MINCOM with draft framework legislation designed to —

- establish the Corporation as a statutory body with responsibility for managing road traffic in South Africa, steered by the Minister and MECs
- create co-operative structures and procedures
- ensure coherent implementation of national policy
- supplement existing resources
- extend the capacity of government and decrease dependence on public funding
- align the process with the user-pays principle
- improve service provision and protection of existing assets and infrastructure
- render the Corporation accountable for all expenditure while collecting all revenue.

The Road Traffic Management Corporation Bill provides institutional mechanisms aimed at promoting and realising the following strategic objectives. In the public interest, these are to —

- (a) enhance the overall quality of road traffic service provision and, in particular, to ensure acceptable levels of safety, security, order, discipline and mobility on roads and to protect road infrastructure and the environment through the adoption of innovative practices and implementation of innovative technology;
- (b) phase out, where appropriate, public funding and phase in private sector investment in road traffic on a competitive basis;
- (c) introduce commercial management principles to inform and guide road traffic governance and decision-making in the interest of enhanced service provision;
- (d) optimise the utilisation of public funds by —
 - (i) limiting investment of public funds to road traffic services which meet a social, political or non-commercial strategic objective and which have poor potential to generate a reasonable rate of return; and
 - (ii) securing, where appropriate, full cost recovery on the basis of the user-pays principle;
- (e) regulate, strengthen and monitor intergovernmental contact and co-operation in road traffic matters;
- (f) improve the exchange and dissemination of information in road traffic matters;
- (g) stimulate research in road traffic matters and effectively utilise the resources of existing institutes and research bodies;
- (h) develop human resources in the public and private sectors that are involved in road traffic; and
- (i) establish the Road Traffic Management Corporation as a partnership between national, provincial and local levels of government by —

- (i) effecting the pooling of road traffic powers and resources of national and provincial levels of government in support of enhanced co-operative and co-ordinated road traffic strategic planning, regulation, facilitation and law enforcement;
- (ii) focussing government on effective strategic planning, regulation, facilitation and monitoring to ensure private sector investment in road traffic; and
- (iii) extending national and provincial governments' collective capacity through a partnership with local authorities to govern road traffic.

The Road Traffic Management Corporation Bill responds to these objectives by —

- establishing and defining the structure of the Corporation and enabling it to —
 - advise
 - execute road traffic services
 - facilitate and promote private sector investment
 - execute directives
 - undertake research
- defining the relationships among the organs of the Corporation, their functions and their interaction with, particularly, provincial and local authorities and the private sector.

4. The institutional model outlined below is representative of the framework upon which it was possible to obtain the greatest degree of consensus to date. The drafting process has had to demonstrate a keen awareness of the need to leave intact constitutional powers and competencies. The model on which the draft legislative framework is based does not require constitutional reform, and brings these powers and competencies together to be exercised collectively, through the Corporation. This approach ensures, moreover, that ad-hoc informal intergovernmental institutions will not proliferate.

The legislative framework is being developed on an ongoing basis and the institutional structure of the initial draft has been simplified and refined. The model impacts on all spheres of Government. Opportunity for comment and input, discussion and consultation is allowed and will be used to clarify issues surrounding the Corporation and its organs.

5. The decision of the MINCOM meeting of 28 August had particular implications for the institutional framework of the Corporation. On that date, it took the following decisions —

- to establish the Minister and Members of the Executive Council as the directors of the Corporation
- not to support the idea of a majority private sector board.

In line with revision of the Road Traffic Management Corporation Bill to align it with the MINCOM decision, the Bill provided for a Shareholders Committee comprising the Minister and MECs as the top structure of the Corporation. Other principal organs of the Corporation comprise —

- the chief executive officer
- the managers of business units.

To retain a measure of flexibility in the legislation, the Shareholders Committee is permitted, should it so wish, to appoint a board to undertake such functions as may be delegated to it. This "backdoor" was inserted because it may eventually become clear that the Shareholders

Committee would need to delegate some of its functions. If a board were to be established, the Shareholders Committee may delegate certain functions to it without shifting or altering its political responsibility. In addition, its composition will be determined by the preferences of the Shareholders Committee, i.e. it could have public or private sector members in a *ratio* determined by the Shareholders Committee.

6. On 18 September, MINCOM approved the results of the investigation, the model proposed and the framework legislation for the creation of the Corporation. MINCOM also decided to consult the executive. Provinces took it upon themselves to approach the various executive committees, where needed, with the assistance of the task team. MINCOM also decided that the consultation process with the local authorities, labour unions, licencing officials, law enforcement officers and the public must be undertaken by the provinces.

The Minister is scheduled to meet with the Intergovernmental Forum comprising the Premiers during November 1998.

7. The Road Traffic Management Corporation Bill pulls together all the functions of the Shareholders Committee into one section to provide a "snapshot" of how the Corporation will manage and execute road traffic functions. Its primary functions include monitoring of the performance of the Corporation, deciding whether and when to propose amending legislation and new policies, and to approve the "governing instruments" of the Corporation, such as the business and financial plan and a governance agreement with the board if a board is established.

8. The MINCOM decision of 28 August also implied that the Shareholders Committee must have the powers and competencies required to fulfil their task. The Corporation requires powers to execute its functions. Ideally, the legislation should describe the Corporation's powers in respect of each of its functional areas. Given the urgency of the need to institutionalise co-operation in road traffic, reliance must be placed on functions as they exist in current legislation, principally the National Road Traffic Act, 1996 (Act No. 93 of 1996) and its regulations together with provincial legislation.

National and provincial governments retain their respective and differentiated policy-making, regulatory and monitoring functions but exercise these collectively and co-operatively. In addition to functions defined in current legislation as amended, the Corporation will execute functions as conferred by contract. The MEC of a province may enter into an agreement with the Corporation in terms of which the Corporation must perform the stipulated functions of the MEC in terms of the National Road Traffic Act, 1996 or any other law relating to road traffic, on behalf of the MEC. Thus, the Corporation has the powers of a statutory juristic person, the powers contained in road traffic legislation and the powers conferred by contract, thus remaining within the line drawn by exclusive provincial powers in terms of the Constitution Act, 1996 (Act No. 108 of 1996).

The spirit of co-operative government is brought to bear on concurrent national and provincial competencies in terms of the Constitution Act, 1996 by means of the Shareholders Committee. National, provincial and local governments exercise their powers individually and collectively. The "contracted" functions and management of operations by means of contracts will enable the Corporation to fulfil its core role as a co-ordinatory body in respect of the different spheres of government and involvement of the private sector.

9. The chief executive officer manages and controls the day-to-day affairs of the Corporation in accordance with a business and financial plan and must, amongst others, give effect to directives of the Shareholders Committee, take charge of strategic planning and monitoring of business units, and assign functions to managers of business units if authorised to do so.

The chief executive officer has a strong monitoring function within the Corporation and as regards its performance. In particular, the chief executive officer monitors the Corporation's involvement of local authorities and the private sector in road traffic service provision as well

as its compliance with public service obligations. The chief executive officer therefore functions as a "check" in respect of the Corporation's relations with the public at large, local authorities and private sector participants. In support of its monitoring function, the chief executive officer is empowered to investigate complaints made against the Corporation relating to non-compliance with its functions.

The relationship between the Shareholders Committee and chief executive officer is given content through the conclusion of a performance contract. Similar contracts are concluded between the chief executive officer and the managers of business units.

The managers of business units manage units that may be established to carry out the functions in certain road traffic functional areas. In line with the flexible nature of the draft legislation, the business units to be established are not defined as this may unduly restrict dynamic commercially-based responses to changing realities. Business units are, however, required to be managed on a commercial and ring-fenced basis and independently of each other.

10. In the interest of a comprehensive business and financial plan, the Shareholders Committee must agree on the extent to which resources currently vesting in national and provincial governments will be transferred to the Corporation. The transferral of resources will also involve personnel, presently in the employ of the national and provincial Departments of Transport, who elect to leave the civil service to be permanently employed by the Corporation. The Minister or a MEC may, after consultation with the Shareholders Committee, the Public Service Commission and the Head of Department, with the written consent of an official in the employ of the national or provincial Department of Transport concerned, make available the services of that official to the Corporation.
11. The Road Traffic Management Corporation Bill goes hand in hand with a revision of road traffic laws to reflect the new intergovernmental relationship. The establishment and operation of the Corporation implies several amendments to the National Road Traffic Act, 1996. Furthermore, in the interest of uniformity across the country, the functions spelt out in provincial legislation and the portions of the provincial enactments relevant to the Corporation must be incorporated at the national level. Functions legislated on at the provincial level need to be "drawn up" to the National Road Traffic Act, 1996, without necessarily changing the competent authority. Care has been taken not to take away any of the sources of income for provincial authorities. Provincial acts still address aspects falling outside the ambit of the Corporation, for example the setting of provincial licence fees.

The Corporation requires for its operation, besides a National Road Traffic Amendment Act and several provincial Amendment Acts, two other components in support thereof —

- a Road Traffic Management Corporation Levies Act, 1998
- an Administrative Adjudication of Road Traffic Offences Amendment Act, 1998.

As part of the process of reform, the National Road Safety Act, 1972 will be repealed in its entirety.

12. Reliance on national and provincial road traffic legislation is a transitional remedy. In the medium term, once the Corporation is operational, complete revision of all functional areas in the National Road Traffic Act, 1996 will be necessary to address shortcomings in the legislation in the areas where the Corporation is active. The Corporation will, as a matter of priority, recommend a revised legislative framework for itself which will provide for an amplified road traffic policy framework to "fill gaps" in existing road traffic legislation in respect of certain functional areas.
13. The Corporation is empowered to undertake the road traffic function itself or to outsource the function to the private sector and provincial and local authorities. For this purpose, the

legislation enables outsourcing on a contractual basis and also enables optimisation of private investment through —

- the trading of shares in companies in which the Corporation is a shareholder
- the conclusion of joint ventures between the Corporation, the private sector, other state organs and even foreign state entities.

14. The business and financial plan of the Corporation is the strategic planning "map" for the execution of the Corporation's functions. For the purpose of mobilising private sector involvement in the provision of road traffic services, the plan must also specify, in relation to each traffic-related asset or service, amongst others —

- the nature of private sector investment /services to be procured
- the release action to be undertaken, including the investment or concession contracts to be utilized
- whether the asset or service can be operated at a reasonable rate of return or whether provision can only take place in terms of a negative concession
- the nature and levels of essential public services which must be ensured
- the time scales in which private sector participation is to take place.

15. The Road Traffic Management Corporation Bill establishes an enabling framework for private investment in road traffic in accordance with the business and financial plan. It sets out a number of options for the investment of private capital in a road traffic facility or service. These include —

- acquisition of a state-owned road traffic facility
- trading of shares in a state-owned road traffic related company through the purchase or exchange of shares
- acquisition of shares by a state-owned enterprise (which includes a company) in a project company in terms of a joint equity venture
- the conclusion of appropriate road traffic facility and services investment contracts.

The Bill allocates powers to the Shareholders Committee to drive the process of increased private sector involvement and lays down certain conditions and procedures to be followed in the interest of transparency. In particular, it specifies a broad range of investment contracts to facilitate private investment in road traffic facilities and services. The Corporation must, where appropriate, develop standard documentation and adhere to procurement procedures in accordance with prescribed guidelines.

16. The Road Traffic Management Corporation Bill provides for compliance and monitoring checks and balances to protect the public interest in the light of increased private sector involvement. The Shareholders Committee assumes final responsibility for ensuring that compliance and monitoring are undertaken and is supported in this by —

- the chief executive officer (who is empowered to hear and investigate complaints and take remedial action)
- the managers of business units
- the board, upon its establishment.

17. The Corporation is funded from a number of sources. These include monies that may be prescribed in terms of regulations under the Road Traffic Management Corporation Bill (including monies charged by the Corporation for the sale of services); levies imposed under section 2 of the Road Traffic Management Corporation Levies Act, 1998; fees, fines and penalties payable to the Corporation as an issuing authority in terms of the Administrative Adjudication of Road Traffic Offences Act, 1998; interest on invested cash balances; loans; donations and monies appropriated by Parliament.
18. The Road Traffic Corporation Bill concludes with a number of miscellaneous provisions including provisions aimed at encouraging innovative projects; procedures to be followed by the Corporation in conducting enquiries; procedures and responsibilities in the development of regulations; limitation of liability and interim arrangements.

ROAD TRAFFIC MANAGEMENT CORPORATION DRAFT BILL

Schedule A

A handwritten signature in black ink, consisting of a large, stylized 'C' shape with a horizontal line through it, and a smaller, more complex scribble below it.

BILL

To provide, in the public interest, for co-operative and co-ordinated planning and provision of advice, regulation, facilitation and law enforcement in respect of road traffic matters by the national, provincial and local spheres of government; to provide for the phasing in of private investment in road traffic; to that end, to provide for the establishment of the Road Traffic Management Corporation; and to provide for matters connected therewith.

PREAMBLE

SINCE there is a need to enhance the overall quality of road traffic and, in particular, to promote acceptable levels of safety, security, order, discipline and mobility on the roads and to protect road infrastructure and the environment through the adoption of innovative road traffic practices and technology;

AND SINCE there is a need to define and strengthen co-operation and co-ordination between the national, provincial and local spheres of government in support of their respective road traffic strategic planning, regulation, facilitation and enforcement;

AND SINCE there is a commitment to engage the private sector and, particularly, the previously disadvantaged sectors, to take up business opportunities in the provision of road traffic services;

AND SINCE there is a need to guide and sustain the transition towards the phasing out of public funding and the concomitant expansion of private investment in road traffic;

AND SINCE public transport and road traffic regulation are of vital importance to the development, safety and quality of life of the citizens of the Republic;

AND SINCE there is a need to maximize and guide the constructive role of local government authorities in support of enhanced road traffic service provision;

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

ARRANGEMENT OF SECTIONS

Sections

PART 1: INTRODUCTORY PROVISIONS

1. Definitions
2. Objectives of Act
3. Scope of Act

PART 2: ESTABLISHMENT AND GOVERNANCE OF ROAD TRAFFIC MANAGEMENT CORPORATION

4. Establishment of Corporation
5. Independence of Corporation
6. Composition and operation of Corporation
7. Establishment and composition of Shareholders Committee
8. Role of Shareholders Committee
9. Appointment of and delegation to board
10. Conditions and period of office of board members
11. Meetings of Shareholders Committee
12. Decisions that require special majority
13. Shareholders Committee directives
14. Business and financial plan
15. Appointment of chief executive officer
16. Publication and reporting
17. Secretariat
18. Establishment of business units
19. Appointment of managers of business units
20. Staff of Corporation
21. Annual report
22. Transfer of resources

PART 3: FUNDING

23. Finance
24. Financial viability
25. Application of Reporting by Public Entities Act

PART 4: FUNCTIONS AND POWERS

26. Functions of Corporation
27. Powers of Shareholders Committee
28. Functions of chief executive officer
29. Agreements relating to functions
30. Law enforcement

PART 5: PRIVATE INVESTMENT IN ROAD TRAFFIC

31. Private investment
32. Trading of shares
33. Joint equity venture
34. Road traffic facility and services investment contracts

PART 6: SUB-CONTRACTING TO PROVINCIAL AND LOCAL AUTHORITIES

35. Appointment of agents

PART 7: COMPLIANCE AND MONITORING

- 36. Compliance, monitoring and regulatory approach
- 37. Monitoring duties of chief executive officer
- 38. Complaints to chief executive officer
- 39. Powers of chief executive officer
- 40. Contract compliance monitoring

PART 8: MISCELLANEOUS

- 41. Innovation
- 42. Enquiries
- 43. Legal rights
- 44. Regulations
- 45. Restriction on use of name
- 46. Limitation of liability
- 47. Interim arrangements
- 48. Offences
- 49. Amendment of section 1 of Act 46 of 1998
- 50. Short title and commencement

PART 1: INTRODUCTORY PROVISIONS**Definitions**

1. In this Act, unless the context indicates otherwise -

"board" means the board appointed under section 9;

"BT contract" means a contract to build-and-transfer, i.e. a contractual or other arrangement whereby a project contractor finances and constructs a road traffic facility and after its completion turns it over to the Corporation, which pays the contractor on an agreed schedule its total investments expended on the project, plus a reasonable rate of return thereon, or any variation of such terms as may be agreed;

"BLT contract" means a contract to build-lease-and-transfer, i.e. a contractual or other arrangement whereby a project contractor finances and constructs a road traffic facility and upon its completion leases it to the Corporation for a fixed term after which ownership of the asset is automatically transferred to the Corporation concerned, or any variation, amendment or addition of such terms as may be agreed;

"BOT contract" means a contract to build-operate-and-transfer, i.e. a contractual or other arrangement whereby a project contractor -

- (a) constructs and finances a road traffic facility;
- (b) assumes cost overruns, delays and specified performance risks;
- (c) operates and maintains such asset over a fixed term during which the contractor is allowed to charge users appropriate tolls, fees, rentals and charges not exceeding those proposed in its bid or as negotiated and incorporated in the contract to enable that contractor to recover its investment and operating and maintenance expenses in the

project plus a reasonable rate of return thereon; and

- (d) transfers the asset to the Corporation concerned at the end of the fixed term or any variation, amendment or addition of such terms as may be agreed;

"BOO contract" means a contract to build-own-and-operate, i.e. a contractual or other arrangement whereby a project contractor finances, constructs, owns, operates and maintains a road traffic facility with no time limitation imposed on ownership and from which the contractor is allowed to recover its total investment, operating and maintenance costs plus a reasonable rate of return thereon by collecting tolls, fees, rentals or other charges from facility users, or any variation, amendment or addition of such terms as may be agreed, but as long as the contractor is not in violation of its franchise, it can continue to operate the asset in perpetuity;

"BTL contract" means a contract to build-transfer-and-lease, i.e. a contractual or other arrangement whereby a project contractor finances and constructs a road traffic facility assuming cost overruns, delays and specified performance risks, and transfers the asset to the Corporation but thereafter operates the asset on behalf of the Corporation in terms of a lease, or any variation, amendment or addition of such terms as may be agreed;

"business unit" means a business unit of the Corporation established in terms of section 19;

"business and financial plan" means the business and financial plan of the Corporation contemplated in section 14;

"contract-add-operate arrangement" means a contractual arrangement whereby the project contractor adds to an existing road traffic facility which it is renting from the Corporation and operates such road traffic facility over a fixed period which includes the transfer of the asset back to the Corporation, or any variation, amendment or addition of such terms as may be agreed;

"Corporation" means the Road Traffic Management Corporation established by section 4;

"franchising contract" means an operating agreement whereby an operator assumes the investment cost and commercial risk in respect of a road traffic facility or service as defined in the agreement, but the Corporation retains control over and responsibility for defined common functions;

"innovative project" means a project which possesses at least one of the following attributes -

- (a) a recognized process, design, methodology or engineering concept which has demonstrated its ability to significantly reduce construction costs, accelerate project execution, improve safety, enhance project performance, extend economic life, reduce costs of facility maintenance and operations or reduce negative environmental impacts or social or economic disturbances or disruptions during either the project implementation or construction phase or the operation phase;
- (b) a process for which the project proponent or a member of the proponent joint equity venture or consortium possesses exclusive rights, either worldwide or regionally;
- (c) a design, methodology or engineering concept for which the proponent or a member of the proponent joint equity venture or consortium possesses intellectual property rights; or
- (d) clustering services in the transport and other sectors with the potential to enhance the efficiency and affordability of transportation;

"joint equity venture" means a contractual arrangement between the Corporation and a private

person or entity for the purpose of undertaking a new commercial activity in respect of which the Corporation is a shareholder or provides a portion of the equity or investment capital;

"management contract" means a contract between the Corporation and an agent whereby a contractor undertakes to perform specified functions on an agency basis and assumes responsibility for specified working capital risks for which such contractor is reimbursed on a performance fee basis, but ownership and control are retained by the Corporation;

"MEC" means the Member of the Executive Committee of a province who is responsible for road traffic matters in that province; or, if more than one MEC is responsible for road traffic matters in any one province and a vote must be brought out in the Shareholders Committee, the member whose portfolio is most closely connected to the functional area within which the decision lies;

"Minister" means the Minister of Transport;

"negative concession" means a contract to provide a road traffic service which is essential to the public but cannot be provided at a profit and requires public financing;

"participants" means participants as defined in section 1 of the Road Traffic Management Corporation Levies Act, 1998;

"prescribed" means prescribed by regulation under section 44;

"public service obligation" means a social or political obligation resting on the State to provide a non-profitable road traffic service;

"ring-fencing" in relation to business units, means containing each business unit and keeping separate accounting records for each one in order to ascertain its profitability and prevent cross-subsidisation;

"road traffic service" means a service that must be provided in terms of any law for the purpose of road traffic regulation;

"ROT contract" means a contract to rehabilitate-operate-and-transfer, i.e. a contractual or other arrangement whereby an existing road traffic facility is -

- (a) turned over to a project contractor to refurbish and operate for a fixed period at the expiration of which legal title to the asset is turned over to the Corporation; or
- (b) leased to a project contractor to refurbish and operate for a fixed period, and may include the purchase of an existing facility from abroad, importing, refurbishing, erecting and consuming it within the Republic,

or any variation, amendment or addition of such terms as may be agreed;

"ROO contract" means a contract to rehabilitate-own-and-operate, i.e. a contractual or other arrangement whereby an existing road traffic facility is turned over to a private person or entity to refurbish and operate with no time limitation imposed on ownership, but as long as the operator is not in violation of its franchise, it can continue to operate the facility in perpetuity or under any variation or amendment or addition to such terms as may be agreed;

"SAPS" means the South African Police Service established by section 5 of the South African Police Service Act, 1995 (Act No. 68 of 1995);

"Secretariat" means persons whom the Minister appoints, or officers in the Department of Transport whom the Minister seconds, to perform the administrative and secretarial work of the Shareholders Committee in accordance with section 17; and

"Shareholders Committee" means the Shareholders Committee established by section 7.

Objectives of Act

2. The objectives of this Act are, in the public interest, to -

- (a) enhance the overall quality of road traffic service provision and, in particular, to ensure acceptable levels of safety, security, order, discipline and mobility on roads and to protect road infrastructure and the environment through the adoption of innovative practices and implementation of innovative technology;
- (b) phase out, where appropriate, public funding and phase in private sector investment in road traffic on a competitive basis;
- (c) introduce commercial management principles to inform and guide road traffic governance and decision-making in the interest of enhanced service provision;
- (d) optimise the utilisation of public funds by -
 - (i) limiting investment of public funds to road traffic services which meet a social, political or non-commercial strategic objective and which have poor potential to generate a reasonable rate of return; and
 - (ii) securing, where appropriate, full cost recovery on the basis of the user-pays principle;
- (e) regulate, strengthen and monitor intergovernmental contact and co-operation in road traffic matters;
- (f) improve the exchange and dissemination of information in road traffic matters;
- (g) stimulate research in road traffic matters and effectively utilise the resources of existing institutes and research bodies;
- (h) develop human resources in the public and private sectors that are involved in road traffic; and
- (i) establish the Road Traffic Management Corporation as a partnership between national, provincial and local spheres of government by -
 - (i) effecting the pooling of road traffic powers and resources of national and provincial spheres of government in support of enhanced co-operative and co-ordinated road traffic strategic planning, regulation, facilitation and law enforcement;
 - (ii) focussing government on effective strategic planning, regulation, facilitation and monitoring to ensure private sector investment in road traffic; and
 - (iii) extending national and provincial governments' collective capacity through a partnership with local authorities and the private sector to govern road traffic.

Scope of Act

3. This Act must be read in conjunction with other national and provincial Acts concerning road traffic matters.

PART 2: ESTABLISHMENT AND GOVERNANCE OF ROAD TRAFFIC MANAGEMENT CORPORATION

Establishment of Corporation

4. A juristic person called the Road Traffic Management Corporation is hereby established.

Independence of Corporation

5. The Corporation must perform its functions in an independent and impartial manner without undue influence from any person.

Composition and operation of Corporation

6. The Corporation comprises, and operates by means of -

- (a) a Shareholders Committee;
- (b) a chief executive officer;
- (c) a board, subject to a decision of the Shareholders Committee to establish a board in terms of section 9;
- (d) managers of business units appointed in terms of section 19; and
- (e) such professional, technical, administrative and support staff as may be required for the proper performance of its functions.

Establishment and composition of Shareholders Committee

7. (1) A Shareholders Committee is hereby established.

(2) The Shareholders Committee consists of 10 members, with one vote per member, comprising -

- (a) the Minister; and
- (b) the MEC responsible for road traffic regulation in each province.

(3) The vote which the MEC as contemplated in subsection (2)(b) exercises, may be a consolidated vote and when it constitutes a consolidated vote, must be exercised by the MEC whose portfolio is most closely connected to the function regarding which a decision needs to be taken.

(4) The chief executive officer must attend the meetings of the Shareholders Committee and may take part in deliberations but has no vote.

Role of Shareholders Committee

8. (1) The Shareholders Committee constitutes a forum through which the national government and the provincial governments co-operate with each other and with other persons or bodies concerned with road traffic matters.

(2) The Shareholders Committee is responsible for directing and guiding the proper functioning of the Corporation in the public interest and for reflecting, in its decision-making procedures, the spirit of co-operation and mutual trust contemplated in section 41(1)(h) of the Constitution of the Republic of South

Africa Act, 1996 (Act No. 108 of 1996).

Appointment of and delegation to board

9. (1) The Shareholders Committee may appoint a board comprising a maximum of eight persons from the public and the private sector with proven expertise and competency in the field of corporate management, commerce, commercial banking, financing and road traffic affairs.

(2) Before establishing a board as contemplated in subsection (1), the Shareholders Committee must come to an agreement as to -

- (a) the powers that will be delegated to the board after its establishment and in respect of which the Shareholders Committee may issue directives in terms of section 13; and
- (b) the conditions it deems fit in respect of the delegated powers.

(3) The Shareholders Committee may, at any time, withdraw a delegation effected in terms of this section.

(4) The Shareholders Committee will not be divested of its responsibilities on account of having effected a delegation in terms of this section.

(5) In determining the composition of the board contemplated in subsection (1), the Shareholders Committee must take into account the nature of the functions that may be delegated to the board.

(6) Members of the board may only be appointed after -

- (a) the Shareholders Committee has, by notice in the *Gazette*, the respective *provincial Gazettes* and two newspapers circulating country-wide, called for nominations for members of the board;
- (b) the Shareholders Committee has submitted a list of at least 15 suitable candidates to the relevant committee of Parliament, unless fewer than 15 nominations are received, in which case the Shareholders Committee must submit all nominations received;
- (c) the relevant committee of Parliament has submitted a short-list of at least 12 candidates to the Shareholders Committee; and
- (d) the Shareholders Committee has, by notice in the *Gazette*, the respective *provincial Gazettes* and two newspapers circulating country-wide, published the short-list referred to in paragraph (c) and called for public comment or objections to be submitted by not later than a date specified in such notice.

(7) The first meeting of the board must be held at the place and time specified by the Shareholders committee.

(8) Procedure in respect of meetings of the board, decisions, remuneration and conditions of service of board members are as prescribed.

Conditions and period of office of board members

10. (1) An appointed member vacates his or her office immediately if he or she -

- (a) has been or is convicted -
 - (i) whether in the Republic or elsewhere, of theft, fraud, forgery or uttering a forged document, perjury or any offence involving dishonesty; or

- (ii) of any offence in terms of the Corruption Act, 1992 (Act No. 94 of 1992), the Companies Act, 1973 (Act No. 61 of 1973), or of contravening this Act;
- (b) without authorisation has disclosed or discloses, or improperly has acted or acts on, information gained as a result of his or her membership of the board;
- (c) is or becomes a political office bearer;
- (d) is or becomes an unrehabilitated insolvent or has committed or commits an act of insolvency;
- (e) has been or is removed from an office of trust on account of misconduct; or
- (f) has been or is relieved of his or her office under subsection (3).

(2) If a member of the board, or his or her spouse, immediate family member, life partner or business associate, has any direct or indirect financial interest in any matter to be dealt with at any meeting of the board, that member -

- (a) must immediately after that interest has come to his or her attention, disclose that interest and the extent thereof in writing to the chairperson of the board, who must table that statement at the beginning of the next meeting of the board;
- (b) may not attend any portion of a meeting of the board during the consideration of that matter by the board;
- (c) may not in any manner take part as a member of the board in the consideration of that matter by the board; and
- (d) may not in any manner endeavour to influence the opinion or vote of any other member of the board in connection with that matter.

(3) The Shareholders Committee must immediately relieve any appointed member of his or her office if that member has -

- (a) failed to immediately vacate his or her office in terms of subsection (1);
- (b) failed to strictly comply with subsection (2);
- (c) failed to attend three consecutive meetings of the board without prior leave of the board as noted in the minutes of those meetings;
- (d) been unable to perform his or her functions of office effectively due to continued serious ill-health;
- (e) been convicted of an offence during his or her term of office and sentenced to a period of imprisonment without the option of a fine by a court; or
- (f) become of unsound mind.

(4) The Shareholders Committee may, on the same date and conditions, relieve all the appointed members of the board of their offices if -

- (a) the Corporation has failed to substantially comply with a directive issued by the Shareholders Committee in terms of section 13 or with the business and financial plan entered into in terms of section 14 and the governance agreement once it has been finalised on account of the establishment of the board; and

(b) the Shareholders Committee has -

- (i) in writing individually notified every appointed member of the board of the nature of such failure, and has, within seven days of the date of such notification, tabled a copy of it in Parliament or, if Parliament is not then in session, published a copy of it in the *Gazette*;
- (ii) afforded the board a reasonable opportunity to make a written submission to it in respect of the said notification; and
- (iii) if such submission does not satisfactorily explain the failure specified in the said notification, afforded the board a reasonable opportunity to rectify that failure but the board has failed to do so.

(5) Every member of the board must within 14 days of his or her appointment to the board submit a written statement to the Shareholders Committee declaring that he or she at the time of his or her appointment is not disqualified in terms of the criteria contemplated in subsections (1) and (3).

(6) The Shareholders Committee must, within one month after their appointment, publish a list of the members of the board by notice in the *Gazette*, the respective *provincial Gazettes* and two newspapers circulating country-wide.

(7) The Shareholders Committee must designate one of the members of the board as the chairperson and another as the deputy chairperson until the board has met and is able to elect its own presiding officers.

(8) A member of the board holds office for a period determined by the Shareholders Committee, which period may not exceed three years, but the Shareholders Committee may, in order to ensure continuity and consistency, appoint a member or members for a period longer than three years, but not exceeding five years.

(9) A member of the board may resign on one month's written notice to the Shareholders Committee.

(10) The Shareholders Committee must fill vacancies on the board as soon as possible in accordance with the provisions set out in section 9(6) subject to necessary changes.

Meetings of Shareholders Committee

11. (1) The Minister is the chairperson of the Shareholders Committee.

(2) The Minister convenes the Shareholders Committee at least four times a year at the place and time specified by the Minister.

(3) The Shareholders Committee appoints a MEC referred to in section 7(2)(b) as deputy chairperson for a period not exceeding 12 months.

(4) The Minister or, in his or her absence, the deputy chairperson, if he or she is present, presides at every meeting of the Shareholders Committee.

(5) If both the Minister and the deputy chairperson are absent from a meeting of the Shareholders Committee, the members present elect a person from among their number to preside at the meeting.

(6) Subject to subsections (8), (9) and (10), the Shareholders Committee must adopt a procedure to be followed at meetings.

(7) A quorum for a meeting of the Shareholders Committee is one more than fifty per cent of the appointed members.

(8) The Shareholders Committee must endeavour to reach consensus on any matter considered by it, but in the event that it cannot reach consensus, the decision of the majority of the Shareholders Committee members prevails in instances where section 12 does not apply.

(9) In the case of an equality of votes, the member chairing the meeting has a casting vote and must exercise such vote to break a deadlock.

(10) No decision of the Shareholders Committee is invalid by reason only of the fact that when the decision was taken, a vacancy existed on the Shareholders Committee.

(11) The Secretariat compiles minutes of the meetings of the Shareholders Committee and makes them available to the members of the Shareholders Committee.

Decisions that require special majority in Shareholders Committee

12. Any decision to -

- (a) change policy or adopt a new policy;
- (b) submit legislation to Parliament to amend the Road Traffic Management Corporation Act, 1998 and any other law concerning road traffic matters;
- (c) deviate from, or amend, the business and financial plan for the Corporation;
- (d) approve the annual report as contemplated in section 21(1);
- (e) appoint the board;
- (f) delegate functions to the board;
- (g) discharge the chief executive officer; or
- (h) impose or adjust levies,

requires a two-third majority in the Shareholders Committee.

Shareholders Committee directives

13.(1) The Shareholders Committee may, in respect of road traffic matters, in writing issue a directive requiring the chief executive officer to do or not to do what is mentioned in the directive, if the Shareholders Committee considers it necessary so to direct in the interest of road traffic safety and security.

(2) Any directive issued under subsection (1) may not be inconsistent with the provisions of any law administered by the Corporation and must meet the requirements in respect of financial viability set in section 24(2).

(3) The Shareholders Committee must consult with the manager of the business unit concerned prior to issuing a directive under subsection (1).

(4) The chief executive officer must take all the necessary steps to give effect to a directive issued under subsection (1).

(5) The Minister and every MEC must cause a copy of every directive issued under subsection (1) to be tabled, as prescribed -

- (a) in Parliament within 14 days of the issuing of that directive, or, if Parliament is not then

- in session, within 14 days after the commencement of its next ensuing session; and
- (b) in the provincial legislature concerned within 14 days of the issuing of that directive, or, if the legislature is not then in session, within 14 days after the commencement of its next ensuing session.

Business and financial plan

14. (1) The chief executive officer is responsible for the preparation of the business and financial plan and, to this end, must prepare a draft plan in respect of the ensuing financial year and each of the two immediately following financial years, at least six months before the commencement of the financial year of the Corporation.

(2) The financial year spans the period as determined by the Shareholders Committee.

(3) For the purpose of subsection (1), the managers of the business units must, in the format and within the time scale specified in a written instruction issued by the chief executive officer, provide draft inputs to the draft business and financial plan which relates to the functional focus of their business units.

(4) The chief executive officer must consider any comments which are made by the managers of the business units in respect of the draft business and financial plan and must, within two months after their comments have been received, finalise the business plan for submission to the Shareholders Committee.

(5) The chief executive officer must, by January of each year, submit the business and financial plan to the Shareholders Committee for consideration and approval.

(6) For the purpose of subsection (1), the draft business and financial plan must specify -

- (a) the objectives of the Corporation for the ensuing financial year and each of the two immediately following financial years;
- (b) what the Corporation's scope of business, efficiency, financial performance and pricing of services will be;
- (c) the key performance indicators, targets and criteria for assessing the performance of the Corporation;
- (d) the principles, strategies, policies and budgets for achieving those objectives, which must include the commitment to phase in private investment in road traffic and, where appropriate, subcontract road traffic service provision;
- (e) the measures that are necessary to protect the financial soundness of the Corporation, including -
 - (i) the ring-fencing of business units; and
 - (ii) subject to section 34, the release of business opportunities to the private sector;
- (f) the thresholds at which the chief executive officer must obtain the Shareholders Committee's approval in the awarding of tenders and granting of concessions; and
- (g) consultation requirements in respect of that plan.

(7) For the purpose of mobilising private sector investment or participation in road traffic as contemplated in section 31, the business and financial plan must, in respect of every road traffic-related asset or service, specify -

- (a) the nature of the investment or services to be procured;

- (b) the release action to be undertaken in respect of such a road traffic asset or service, which may include the actions set out in section 31, where appropriate;
- (c) the order of priority in which the actions referred to in paragraphs (a) and (b) are to be undertaken;
- (d) the appropriate contract to be utilized for the purpose of paragraphs (a) and (b);
- (e) whether the road traffic asset or service can be operated at a reasonable rate of return or whether such asset or service can only be provided in terms of a negative concession;
- (f) the nature and levels of essential public services which must be ensured;
- (g) the potential for unbundling road traffic services or bundling road traffic services with each other or with other transport or non-transport related services; and
- (h) the time scale within which any action in terms of paragraphs (a) and (b) must be undertaken.

(8) The Minister and each MEC serving on the Shareholders Committee must cause copies of the approved business and financial plan to be tabled in Parliament and every provincial legislature, as the case may be, within 14 days of receipt of that plan, or, if Parliament or the legislature is not then in session, within 14 days after commencement of its next ensuing session.

(9) Failure by the Corporation to comply with any provision of the business and financial plan does not affect the validity or enforceability of any agreement, right, obligation or liability entered into, acquired or incurred by the Corporation.

Appointment of chief executive officer

15. (1) The Shareholders Committee must, subject to subsection (3), appoint a chief executive officer of the Corporation within one month after the date of commencement of this Act.

(2) The chief executive officer has observer status on the Shareholders Committee, but upon the establishment of the board, he or she will participate as a full member of the board while continuing to attend meetings of the Shareholders Committee upon instruction to do so.

(3) For the purpose of subsection (1), the Shareholders Committee must invite applications for the post of chief executive officer by publishing an advertisement in two or more newspapers circulating country-wide.

(4) Any person appointed to the post of chief executive officer of the Corporation must -

- (a) have at least five years management experience of which at least three years must have been gained in an executive capacity;
- (b) be knowledgeable about road traffic affairs; and
- (c) be a South African citizen, unless expressly exempt by the Shareholders Committee from this requirement.

(5) The appointment of the chief executive officer is subject to the conclusion between such officer and the Shareholders Committee of a performance contract.

(6) A chief executive officer is appointed for a period of five years, on the completion of which the post must be re-advertised in the manner specified in subsection (3).

(7) A chief executive officer may apply for re-appointment after the expiration of the period of

appointment referred to in subsection (6).

(8) The chief executive officer holds office on the terms and conditions, including remuneration and allowances, as the Shareholders Committee determines in writing, in concurrence with the Minister of Finance: Provided that -

- (a) the chief executive officer may not engage in any other paid employment and may not participate in any activity in respect of which he or she is in any way remunerated or receives any benefits or allowances, without the prior written approval of the Shareholders Committee; and
- (b) the chief executive officer or his or her spouse, immediate family member, life partner or business associate, may not hold any direct or indirect financial interest in any road traffic activity or the road traffic industry -
 - (i) without the prior approval of the Shareholders Committee; and
 - (ii) unless the minutes of the meeting of the Shareholders Committee reflecting such approval are open to inspection by the public at the head office of the Corporation during business hours.

Publication and reporting

16. (1) The Shareholders Committee must, as soon as is practicable after each meeting and by notice in the *Gazette*, in every *Provincial Gazette* and a newspaper circulating country-wide, cause full particulars to be published of a policy decided upon.

(2) The Shareholders Committee must present to Parliament and each provincial legislature, an annual written report on its activities, including -

- (a) directives issued;
- (b) recommendations made;
- (c) decisions taken; and
- (d) progress made in, or hindrances in the way of, the implementation of decisions.

Secretariat

17. The Minister may appoint as many members of staff or second as many officials employed by the national Department of Transport as he or she may reasonably determine to be necessary for administrative support and performance of the secretarial functions of the Shareholders Committee.

Establishment of business units

18. (1) The Shareholders Committee must, as part of the organisational structuring of the Corporation, establish as many business units as are required in accordance with the business and financial plan, to ensure effective management of the road traffic functions performed by the chief executive officer in terms of section 28.

(2) The area in which a business unit may manage a particular function may be national, regional, provincial or otherwise.

(3) A manager appointed in terms of section 19 is responsible for the day-to-day functioning of a business unit, and must manage its business unit -

- (a) along commercial lines in accordance with the business and financial plan; and
- (b) independently from any other business unit and on a financially ring-fenced basis.

Appointment of managers of business units

19. (1) The chief executive officer must appoint a manager for each of the business units within three months after the date of commencement of this Act.

(2) For the purpose of subsection (1), the Shareholders Committee must invite applications for the post by publishing an advertisement in two or more newspapers circulating country-wide.

(3) Any person appointed to the post of manager must -

- (a) be knowledgeable about road traffic management and operations;
- (b) have proven executive management experience; and
- (c) be a South African citizen,

unless expressly exempt by the board from one or more of these requirements upon its appointment under section 9(1).

(4) The appointment of a manager of a business unit is subject to the conclusion of a performance contract between such person and the chief executive officer.

(5) An appointment in terms of this section is for a period of five years, whereupon the post of manager must be readvertised in the manner specified in subsection (2).

(6) A serving manager of a business unit is eligible for reappointment after the expiration of the period of appointment referred to in subsection (5).

(7) A manager of a business unit holds office on such terms and conditions, including remuneration and allowances, as the chief executive officer determines in writing with the concurrence of the Shareholders Committee.

Staff of Corporation

20. (1) The chief executive officer may on such conditions as the Shareholders Committee determines appoint the employees that are necessary to enable the Corporation to properly carry out its functions.

(2) The Corporation pays its employees out of its funds such remuneration, allowances, subsidies and other benefits as the Shareholders Committee determines on the advice of the chief executive officer.

(3) The Minister or a MEC may, after consultation with the Shareholders Committee, the Public Service Commission and the Head of Department, with the written consent of an official in the employ of the national or provincial Department of Transport concerned, make available the services of that official to the Corporation.

Annual report

21. (1) The chief executive officer must, within three months before the end of each financial year contemplated in section 14(2), submit to the Shareholders Committee an annual report for its approval pertaining to the financial state of affairs and business of the Corporation and its constituent business units as at the end of that financial year, consisting of -

- (a) a balance sheet, an income statement and a cash-flow statement which is a true and

correct reflection of the state of affairs of the Corporation as at the end of that financial year;

- (b) a report by the Corporation in accordance with subsection (2);
- (c) a report by the auditor of the Corporation in accordance with subsection (3); and
- (d) any other statement or report which the Shareholders Committee may reasonably require.

(2) The report referred to in subsection (1)(b) must deal with the state of affairs, the activities and operations, and the financial position of the Corporation, and must -

- (a) state the extent to which the Corporation, during the financial year concerned, has achieved or advanced its objectives, and specifically, in respect of -
 - (i) the levels of private investment in road traffic;
 - (ii) the levels of subcontracting to provincial and local authorities; and
 - (iii) the degree to which public funding of road traffic is decreased including any reduction of public funding of negative concessions;
- (b) contain relevant performance information regarding the economic, efficient and effective application of resources, and specifically a comparison between planned and actual performance indicators as set out in the business and financial plan; and
- (c) indicate the amount of money, if any, received from the State and any other commitment furnished by the State.

(3) The auditor's report referred to in subsection (1)(c) must state separately in respect of each of the following matters whether in the auditor's opinion -

- (a) the balance sheet, income statement and cash-flow statement, as well as any other furnished information, fairly represent the financial position and results obtained by the Corporation in accordance with generally accepted accounting practice, as applied on a basis consistent with that of the preceding year;
- (b) the information furnished in terms of paragraph (a) is fair in all material respects and, if applicable, on a basis consistent with that of the preceding year;
- (c) the transactions of the Corporation that had come to the auditor's notice in the course of his or her examination were entered into in accordance with this Act, the Reporting by Public Entities Act, 1992 (Act No. 93 of 1992) upon being listed, and any applicable directives or regulations made thereunder;
- (d) the transactions that had come to his or her attention during auditing were in all material respects in accordance with the objects and functions of the Corporation;
- (e) adequate measures and procedures exist for the proper application of sound economic, efficient and effective management; and
- (f) attention should be drawn to any other matter falling within the scope of the auditor's examination which, in his or her opinion, the public interest demands that it should be brought to the notice of the Shareholders Committee, Parliament and the provincial legislatures.

(4) The Minister and every MEC must cause copies of the annual report submitted to the Shareholders

Committee in terms of subsection (1) to be tabled in Parliament and every provincial legislature, as the case may be, within 14 days of receipt of that report, or, if Parliament or a provincial legislature is not then in session, within 14 days after the commencement of its next ensuing session.

(5) A copy of the annual report submitted to the Shareholders Committee in terms of subsection (1) must be open to inspection by the public at the head office of the Corporation during business hours.

Transfer of resources

22. (1) The Shareholders Committee must, as soon as possible after the commencement of this Act, come to an agreement in respect of -

- (a) the extent of the assets, liabilities, rights and obligations of the State to be transferred to the Corporation in terms of subsection (2);
- (b) the minimum terms and conditions upon which any official of the national or a provincial Department of Transport who elects to leave the employ of the Department and who has been appointed permanently to a position in the Corporation by the chief executive officer -
 - (i) may leave the employ of the national or a provincial Department; and
 - (ii) may be employed by the Corporation; and
- (c) any other matter which the Shareholders Committee deems necessary or desirable for the proper functioning of the Corporation.

(2) Assets owned by, or liabilities, rights or obligations of, the State must be transferred by the provincial authorities concerned to the Corporation -

- (a) in terms of a Shareholders Committee decision approving the transfer with a view to achieving the objects of the Corporation; and
- (b) with the approval of the MEC responsible for Finance and the MEC responsible for Public Works in the province affected by the transfer.

(3) A registrar as defined in section 102 of the Deeds Registries Act, 1937 (Act No. 47 of 1937), on submission of a certificate by the Shareholders Committee which stipulates that a right, which is registrable in a deeds office, in respect of an asset has been transferred under subsection (2), makes free of charge such entries and endorsements as he or she deems necessary in any appropriate register, title deed or other document in order to register the transfer in the name of the Corporation.

(5) The Corporation must be substituted for the State as a contracting party in respect of any contract transferred to the Corporation in terms of subsection (2), without the substitution bringing about novation of such contract.

(6) Any litigation resulting from any cause of action in relation to any movable asset, liability, right or obligation transferred to the Corporation in terms of subsection (2) which arose -

- (a) before the transfer date, must be conducted by or against the State, as the case may be; and
- (b) on or after the transfer date, must be conducted by or against the Corporation, as the case may be.

(7) Despite anything to the contrary contained in any other law, the Corporation is exempt from any stamp duties, transfer duties or registration fees payable in terms of any law in relation to the transfer of assets in terms of subsection (2).

PART 3: FUNDING**Finance**

23. (1) The Corporation is funded from -

- (a) prescribed monies contemplated in section 44(1)(c), including monies charged by the Corporation for the sale of services;
- (b) levies imposed under section 2 of the Road Traffic Management Corporation Levies Act, 1998;
- (c) fees, fines and penalties payable to the Corporation as an issuing authority in terms of section 32 of the Administrative Adjudication of Road Traffic Offences Act, 1998 (Act No. 46 of 1998);
- (d) interest on invested cash balances;
- (e) loans;
- (f) donations; and
- (g) monies appropriated by Parliament.

(2) Money appropriated by Parliament for the performance by the Corporation of a public service obligation relating to road traffic must be paid to the Corporation.

(3) The Corporation must, with the concurrence of the Minister of Finance and every MEC responsible for Finance, establish a structure to ensure that all fines paid to the Corporation as an issuing authority in terms of the Administrative Adjudication of Road Traffic Offences Act, 1998 (Act No. 46 of 1998) are utilised by the Corporation in respect of road traffic safety.

(4) The Shareholders Committee may, upon recommendation of the chief executive officer and with the concurrence of the Minister of Finance, adjust the levies referred to in subsection (1)(b).

(5) At the end of each financial year the chief executive officer must report to the Shareholders Committee on any surplus funds of the Corporation, as may be determined by the Minister and MECs in consultation with the Minister of Finance and MECs for Finance in each province.

(6) The Shareholders Committee may direct that payments be made from the surplus funds to a province, but that such payments must be proportionate to the relative contribution to the profits generated through the provision of road traffic services in the province or received by an agent acting on behalf of the Corporation within the geographical area of the province.

(7) The Corporation must open and maintain one or more accounts with a bank registered finally as a bank in terms of the Banks Act, 1990 (Act No. 94 of 1990), in which there must be deposited the money received by the Corporation and from which payments for it or on its behalf must be made.

Financial viability

24. (1) The chief executive officer is the accounting officer of the Corporation and must ensure that the expenses of the Corporation do not exceed its income.

(2) The Shareholders Committee must ensure that any directive issued in terms of section 13 falls within the parameters of the business and financial plan.

(3) The Shareholders Committee must obtain the concurrence of the Minister of Finance and every MEC

responsible for Finance to place at the disposal of the Corporation additional funding in respect of any directive that has financial implications not foreseen in the business and financial plan or of any cost or expense which is a direct result of any directive issued by the Shareholders Committee and which the Corporation cannot readily recover from participants in road traffic or any other person who has benefited from any action taken by the Corporation in complying with that directive.

Application of Reporting by Public Entities Act

25. The provisions of the Reporting by Public Entities Act, 1992 (Act No. 93 of 1992), apply to the Corporation after it has been entered as a listed entity as defined in section 1 of that Act.

PART 4: FUNCTIONS AND POWERS

Principal function of Corporation

26. The Corporation and its organs must, jointly and individually, act -

- (a) in the public interest; and
- (b) within the confines of -
 - (i) the business and financial plan as contemplated in section 14;
 - (ii) the governance agreement concluded upon the establishment of a board by a decision of the Shareholders Committee; and
 - (iii) performance contracts concluded with the chief executive officer and the managers of the business units as contemplated in section 15(5) and section 19(4) respectively,

to enhance the overall quality of road traffic management and service provision by establishing and maintaining co-ordinatory and consultative structures with other government interested departments, companies, agencies, local authorities and private business.

Powers of Shareholders Committee

27. (1) The powers of the Shareholders Committee are -

- (a) to ensure proper monitoring of the Corporation's performance and attainment of objectives, and specifically to monitor -
 - (i) the level and scope of performance of the Corporation with reference to the business and financial plan;
 - (ii) the performance of public service obligations by the Corporation; and
 - (iii) the impact of investment contracts contemplated in section 34 and performance contracts as contemplated in sections 15(5) and 19(4),by means of reports received from the chief executive officer, including reports concerning the implementation of directives issued to the chief executive officer;
- (b) after appropriate consultations, to decide -

- (i) which functions are to be carried out by the organs of the Corporation;
- (ii) to propose legislative amendments to the Road Traffic Corporation Act, 1998 or any other Act concerning road traffic matters, change a policy or adopt a new policy or any other matter relating to road traffic matters;
- (iii) on the suitability of proposals for the achievement of objectives;
- (iv) whether to ratify an international agreement on road traffic regulation or recommend conclusion of an international agreement;
- (v) on the span of the financial year of the Corporation; and
- (vi) with the necessary concurrence where concurrence may be required, on the conditions of appointment of -
 - (aa) subject to sections 9 and 10, members of the board;
 - (bb) subject to section 15, the chief executive officer;
 - (cc) subject to section 19, the managers of business units; and
 - (dd) subject to section 20, employees of the Corporation;
- (c) subject to section 9, to appoint board members and conclude a governance agreement with the board after it has been established;
- (d) to appoint a chief executive officer in terms of section 15;
- (e) to authorise the chief executive officer to assign functions to the managers of business units as contemplated in section 28(l);
- (f) to approve the final draft of -
 - (i) the business and financial plan and any amendment thereto;
 - (ii) the annual report as contemplated in section 21(1);
 - (iii) the national law enforcement code as contemplated in section 30; and
 - (iv) the governance agreement, upon conclusion of such an agreement with the board after it has been established by a decision of the Shareholders Committee;
- (g) after appropriate consultation where consultation is required, to approve -
 - (i) the awarding of tenders or granting of concessions above the thresholds as set out in the business and financial plan;
 - (ii) transactions entered into to give effect to a release action as contemplated in section 14(7)(b);
 - (iii) the performance contract to be concluded between the Shareholders Committee and the chief executive officer as contemplated in section 15(5), and between the chief executive officer and the managers of the business units as contemplated in section 19(4);
- (h) to consult on, and facilitate, the implementation of this Act or any other law relating to

road traffic regulation;

- (i) to consult and agree on the transfer of resources contemplated in section 22;
- (j) to conduct an investigation, survey or audit relating to road traffic matters;
- (k) to consider the need for research and technical investigation relating to road traffic regulation, and take steps for it to be conducted;
- (l) to adjust the levies contemplated in section 23(1)(b);
- (m) subject to section 23(6), to direct that payments be made from the surplus funds to a province;
- (n) upon advice of the chief executive officer, to approve any variation of contracts referred to in section 34(1) to procure an investment;
- (o) to arrange for reimbursement of a bidder as contemplated in section 41(3);
- (p) to issue a directive to a member of the public upon conclusion of an enquiry by the chief executive officer, re-open an enquiry, review its findings or refuse a request to review its findings as contemplated in section 42;
- (q) to require statements and reports from managers of business units that may be reasonably required in the interest of informed decision-making;
- (r) to respond to complaints received from the public and investigate complaints against the chief executive officer in terms of section 37(2);
- (s) to refer complaints received in terms of section 38(1) to the chief executive officer for investigation;
- (t) subject to section 16(2) and section 21(4), to report to Parliament and the provincial legislatures on its activities;
- (u) to publish full particulars of policies decided upon in the *Gazette*;
- (v) subject to section 41, to encourage innovative projects; and
- (w) to exercise and perform on behalf of the Corporation the powers and duties specified in this Act or in any other law, or which have been conferred onto the Corporation by contractual agreement between the MEC and the chief executive officer in terms of section 29.

Functions of chief executive officer

28. The functions of the chief executive officer of the Corporation, subject to the performance contract contemplated in section 15(5), are to -

- (a) subject to section 14, prepare a business and financial plan and submit it to the Shareholders Committee for approval;
- (b) manage and control the day to day affairs of the Corporation in accordance with the business and financial plan contemplated in section 14;
- (c) undertake, in accordance with this Act and any other Act concerning road traffic matters and subject to section 29, the provision and rendering of road traffic services;

- (d) execute any directive of the Shareholders Committee issued under section 13;
- (e) undertake research into road traffic matters;
- (f) after consultation with the Minister of Finance and every MEC responsible for Finance, draw up a governance agreement to be concluded between the Shareholders Committee and the board upon the establishment of the board;
- (g) facilitate private sector investment by -
 - (i) the undertaking of feasibility and investment studies to ascertain technical, commercial and economical viability of projects;
 - (ii) assisting the private sector to prepare business plans to source equity and loan finance;
 - (iii) assisting potential private investors to ensure compliance with any statutory formality or regulations; and
 - (iv) providing the private sector with advice;
- (h) promote private sector investment in road traffic by, amongst others -
 - (i) the establishment of investment help lines to assist potential investors;
 - (ii) the publication of investment-related publications;
 - (iii) holding national or localised conferences;
 - (iv) organizing investment contact visits;
 - (v) initiating contacts with other Ministries, Departments, state-owned enterprises, investment promotion centres and related parties; and
 - (vi) collecting, updating and disseminating appropriate promotional and facilitatory information;
- (i) report to the Shareholders Committee on -
 - (i) the level and scope of performance of the Corporation in terms of the business and financial plan;
 - (ii) the quality and levels of service and safety as contemplated in section 37; and
 - (iii) the impact of investment contracts contemplated in section 34 and performance contracts as contemplated in sections 15(5) and 19(4);
 - (iv) the progress achieved with reduction of exchequer finance in contracts involving a publicly funded negative concession as contemplated in section 34(6);
 - (v) subject to section 35(6), whether a private sector entity is better suited to perform the function envisaged in a public subcontract; and
 - (vi) subject to section 37(1)(c), the involvement of the private sector and local authorities in road traffic service provision, scope for involving the private sector and local authorities, monopolistic practices and impact of Corporation activity on other transport modes;

- (j) give effect to the directives issued by the Shareholders Committee in terms of section 13;
- (k) perform the functions delegated to him or her by the Shareholders Committee and the board upon its establishment;
- (l) appoint a manager for each of the business units and assign functions to the managers of business units if authorised thereto by the Shareholders Committee;
- (m) prepare the annual report in accordance with the requirements of section 21;
- (n) conclude any transaction to give effect to a release action contemplated in section 14(7)(b), subject to the approval of the Shareholders Committee where this is required;
- (o) subject to section 30, develop a national road traffic law enforcement code;
- (p) subject to section 31, restructure the affairs of the Corporation;
- (q) subject to section 38, investigate complaints from the public;
- (r) subject to section 39, monitor compliance by a business unit or the Corporation and subject to section 40, monitor compliance with contracts;
- (s) conduct an enquiry concerning road traffic matters in accordance with section 42;
- (t) perform any other function conferred on him or her in terms of this Act or any other law; and
- (u) perform any function incidental to the above-mentioned functions.

Agreements relating to functions

29. (1) Subject to section 27(1)(b)(i), the MEC of a province may enter into an agreement with the chief executive officer in terms of which the Corporation must perform the stipulated functions of the MEC in terms of the National Road Traffic Act, 1996 (Act No. 93 of 1996), or any other law relating to road traffic, on behalf of the MEC, in respect of the following matters -

- (a) the power of the MEC in respect of motor vehicles, drivers and activities of operators;
- (b) the exemption of vehicles and loads from the provisions of the National Road Traffic Act, 1996;
- (c) registration of operators,
- (d) or any other function which the MEC identifies as suitable to be performed by the Corporation.

(2) An agreement contemplated in subsection (1) comes into operation on the date of its publication in the *Gazette*.

Law enforcement

30. (1) For the purpose of executing the law enforcement function, the chief executive officer must develop a national road traffic law enforcement code that sets out, at least -

- (a) uniform national standards for employment of law enforcers;

- (b) management practices in respect of law enforcers;
- (c) priorities and strategic direction for law enforcers;
- (d) goals;
- (e) operating principles, performance level and procedures;
- (f) human resource practices; and
- (g) supporting management information and systems to be implemented.

(2) The code must be published in the *Gazette* for interested parties to comment on.

(3) Upon completion, the code must be submitted to the Shareholders Committee for approval.

(4) The code must be revised on the recommendation of the Shareholders Committee and at regular three year intervals.

(5) Revisions of the code must be published in the *Gazette* for interested parties to comment on.

PART 5: PRIVATE INVESTMENT IN ROAD TRAFFIC

Private investment

31. The chief executive officer may, subject to the approval of the Shareholders Committee, for the purpose of restructuring the affairs of the Corporation or of privatisation -

- (a) form companies in terms of the Companies Act, 1973 (Act No. 61 of 1973), and transfer to such companies all or some of the business units or parts thereof, including assets, liabilities, rights and obligations, and trade shares in such companies through -
 - (i) sale of shares in such companies to any private person; or
 - (ii) subject to section 32, exchange shares with the aim of merging any such company with any other company with private shareholding;
- (b) acquire shares in a project company with private shareholding in terms of a joint equity venture;
- (c) conclude appropriate investment contracts or concession contracts; or
- (d) conclude an appropriate contract with any private person for the performance of any function relating to any road traffic facility and service vested in it in terms of this Act or any other law.

Trading of shares

32. (1) For the purpose of section 31 (a), the board of directors of a company in which the Corporation is a shareholder and which is incorporated in terms of the provisions of the Companies Act, may take all steps necessary to -

- (a) offer the shares in such company for sale in the manner specified in subsections (5), (6)

and (7); or

- (b) subject to the provisions of subsection (2), exchange the shares of the company for the shares of a company to be merged with such company (hereinafter referred to as the "merger company").

(2) An exchange of shares referred to in subsection (1)(b) may only be undertaken if -

- (a) the entire share capital of the company in which the Corporation is a shareholder is exchanged for a minority shareholding in the merger company and the majority shareholding is privately-owned; or
- (b) the merger is effected with another company owned by another state of the region and the merger is intended to ensure economies of scale to achieve greater financial viability as a precursor to the sale of shares in the merged company.

(3) If the board of directors disregards the procedures described in subsection (1) and (2), the Minister and any shareholding MEC may trade their shares in the company.

(4) Where the Minister and any shareholding MEC acts in terms of subsection (3), he or she is entitled to be reimbursed by the company for any costs incurred.

(5) The shares referred to in subsections (1) and (2) must, with effect from a date specified in the approved business and financial plan be traded in the manner specified in subsection (6).

(6) The shares may be traded -

- (a) after an offer for sale or exchange of such shares has been published by means of a prospectus, immediately before the listing of the company on the Johannesburg Stock Exchange; or
- (b) in terms of a share sale or exchange agreement concluded between the company on the one hand and any approved buyer or barterer on the other.

(7) For the purpose of subsection (6)(b), an "approved buyer or barterer" means a person in respect of whom the sale or exchange of shares, as the case may be, has been approved by the Minister and a shareholding MEC acting upon the recommendation of the board of directors of the company concerned.

(8) Subject to subsection (9), shares must be sold or exchanged -

- (a) at a price or value which is market related; and
- (b) after a share incentive scheme has been established in terms of which shares may be allocated to the employees of the company in terms of the rules of the Johannesburg Stock Exchange.

(9) The board of directors must, prior to proceeding with any scheme for the sale or exchange of shares, submit the proposed scheme to the Minister and any shareholding MEC for approval, setting out the manner in which the provisions of this section have been complied with.

Joint equity venture

33. (1) The Corporation may, subject to the provisions of subsections (2) and (3), conclude an agreement to establish a project company, in which it may be a shareholder together with any private person or entity or Government of any other state, with the business object of operating or providing road traffic facilities and services, subject thereto that no finance is provided by the exchequer to such joint venture other than for the purposes of taking an equity share.

(2) For the purpose of subsection (1), the public shareholding in any project company may only exceed 49% if the agreement specifies a fixed period within which the public shareholding is to be reduced below 50%.

(3) The Minister and every MEC must annually report to Parliament and the provincial legislatures, as the case may be, on the feasibility of incrementally reducing public shareholding in a company formed in terms of this section.

Road traffic facility and services investment contracts

34. (1) The procurement of any investment in terms of section 31 must be effected through the conclusion of an appropriate contract which -

- (a) in the case of a publicly-owned road traffic facility, may include -
 - (i) a BOO contract or a variant thereof;
 - (ii) a ROO contract or a variant thereof;
 - (iii) a ROT contract;
 - (iv) a BOT, BT, BLT, BTL contract or variant thereof;
 - (v) a leasing contract including a contract-add-operate arrangement or variant thereof;
 - (vi) a joint equity venture contract; or
 - (vii) a management contract; and
- (b) in the case of road traffic services, may include -
 - (i) a management contract for the supervision and co-ordination of agents within -
 - (aa) a province on a provincial level; or
 - (bb) a metropolitan area on a metropolitan level; and
 - (ii) a services supply contract for amongst others -
 - (aa) law enforcement services: Provided that the Corporation subcontracts the provision of these services to a provincial or local authority or the SAPS;
 - (bb) vehicle registration and licensing service, or issuing of special permits or both services;
 - (cc) roadworthiness testing service at a vehicle testing station in respect of heavy vehicles, light motor vehicles or both;
 - (dd) driver testing in respect of learner driver licensing, driver licensing for light motor vehicles or motor cycles and driver licensing for heavy vehicles or all the services;
 - (ee) public payment service only; and
 - (ff) auditing of agents for performance and compliance.

(2) For the purposes of this section, the Corporation must develop standard contracts in accordance with prescribed guidelines: Provided that in the case of a contract involving a publicly funded negative concession, provisions must be included for -

- (a) targets for possible reduction of exchequer finance, linked to time scales;
- (b) fixed periods at which the contract will be reviewed to ascertain whether -
 - (i) targets have been met;
 - (ii) targets need to be renegotiated or the contract terminated;
- (c) separate accounting records; and
- (d) the exercise by the Corporation of the right to -
 - (i) request a report from the contractor on the financial aspects of the operations;
 - (ii) conduct an audit of the books of account of the contractor; and
 - (iii) enter the premises of the contractor to inspect any facility or document.

(3) Nothing in this Act prevents the conclusion of any combination of two or more of the contracts referred to in subsection (1) to facilitate the provisioning of a road traffic facility and service.

(4) The Shareholders Committee may upon advice of the chief executive officer approve any variation of the contracts referred to in subsection (1).

(5) The negotiation of a private contract must be confidential and one party to the negotiations may not reveal to any other person any technical, price or other information relating to the negotiations without the consent of the other party.

(6) The chief executive officer must submit quarterly reports to the Shareholders Committee on progress being achieved with the reduction of exchequer finance during the duration of a contract involving a publicly funded negative concession.

PART 6: SUB-CONTRACTING TO PROVINCIAL AND LOCAL AUTHORITIES

Appointment of agents

35. (1) The Corporation may, subject to the business and financial plan, appoint a provincial and local authority as its agent or contract with any provincial or local authority to perform any function relating to any road traffic facility or service vested in it in terms of this Act or any other law.

(2) Where the Corporation appoints a local authority as its agent or contracts with a local authority to perform any function relating to any road traffic facility, the contract may provide for the transfer of assets by the local authority concerned to the Corporation.

(3) In the case of the Corporation having entered into a subcontract for the provision of law enforcement services, as contemplated in section 34(1)(b)(ii)(aa), the contract must, subject to subsection (4), incorporate the provisions of the national road traffic law enforcement code in respect of -

- (a) performance targets; and
- (b) performance indicators,

for the purpose of measuring the performance of the agent.

(4) Subcontracting for the provision of law enforcement services must go ahead even before the national road traffic law enforcement code is finalised, and the contracts concluded before the finalisation must be renegotiated upon the entry into force of the code.

(5) Where the Corporation subcontracts the provision of road traffic law enforcement services to an agent, the Corporation will be regarded as an issuing authority for the purposes of the Administrative Adjudication of Road Traffic Offences Act, 1998 (Act No. 46 of 1998)

(6) The chief executive officer must reassess public subcontracts concluded with any provincial and local authority every two years with a view to determining whether a private sector entity is better suited to perform the function envisaged in the public subcontract and report to the Shareholders Committee upon completion of an assessment.

(7) For the purpose of this section, the Corporation must develop standard contracts in accordance with prescribed guidelines.

(8) Any procurement in terms of this Act must be undertaken in terms of the prescribed procedures.

PART 7: COMPLIANCE AND MONITORING

Compliance, monitoring and regulatory approach

36.(1) The Shareholders Committee is responsible for ensuring that compliance and monitoring are undertaken in terms of the provisions of this Act, and is assisted for this purpose by -

- (a) the chief executive officer; and
- (b) the managers of business units.

(2) For the purpose of subsection (1), the Shareholders Committee may conduct an independent investigation, survey or audit, and must -

- (a) request the chief executive officer to report on compliance with the business and financial plan at intervals determined in the business and financial plan; and
- (b) respond to a complaint received from any person.

Monitoring duties of chief executive officer

37. (1) The monitoring duties of the chief executive officer are to -

- (a) receive a complaint from any person regarding non-compliance as contemplated in section 38 and direct such complaint to the manager of the business unit concerned for further action;
- (b) monitor, and report to the Shareholders Committee on, compliance by the Corporation with public service obligations, which include -
 - (i) levels of public safety as defined in the business and financial plan or governance agreement;

- (ii) quality and levels of service as defined in the business and financial plan or the governance agreement;
- (iii) pricing of services as defined in the business and financial plan or the governance agreement; and
- (c) monitor and report to the Shareholders Committee on -
 - (i) the level of, and potential for further, private sector involvement in road traffic service provision;
 - (ii) the level of, and potential for further, involvement by local authorities in road traffic service provision;
 - (iii) the development of, and potential for, monopolistic practices arising from performance in terms of concession contracts and strategies to discourage practices such as these; and
 - (iv) the impact of the Corporation's activities on other transport modes and its contribution to model complementarity.

(2) Any complaint regarding the chief executive officer must be submitted to the Shareholders Committee or the Minister for investigation.

Complaints to chief executive officer

38. (1) Any person or agent who is directly affected by -

- (a) discrimination or a discriminatory ruling by the manager of a business unit;
- (b) failure on the part of the Corporation to execute its functions in accordance with laws concerning road traffic; or
- (c) negligence on the part of the Corporation,

may lodge a complaint with the Minister, any MEC or the Shareholders Committee who must submit it to the chief executive officer.

(2) A complaint lodged under subsection (1) must consist of a statement made under oath or a solemn declaration which details the nature or contents of the alleged discrimination, failure or negligence.

(3) The chief executive officer must investigate a complaint from any person regarding non-compliance by a manager of a business unit or the Corporation if the allegations contained in that complaint constitute a *prima facie* case of discrimination, failure or negligence.

(3) The chief executive officer must notify the manager of the business unit concerned of a complaint received and of his or her intention to investigate any allegation of discrimination, failure or negligence.

(4) If subsequent to an investigation contemplated in subsection (3), the chief executive officer is of the opinion that the manager of the business unit is guilty of such discrimination, failure or negligence, the chief executive officer, subject to subsection (5) -

- (a) must, in writing, direct the manager of the business unit concerned to rectify the discriminatory treatment, failure or negligence within a reasonable time; and
- (b) may in writing direct the manager of the business unit concerned to pay full or partial compensation for any monetary loss sustained by the person who has lodged the complaint.

(5) The chief executive officer may not act under subsection (4)(a) or (b) unless he or she has -

- (a) notified the manager of the business unit concerned in writing of his or her intention to act in terms of that subsection and has informed the manager of all the relevant facts pertaining to the complaint lodged in terms of subsection (1); and
- (b) afforded the manager of the business unit concerned the opportunity to make representations to him or her in respect of the discrimination, failure or negligence within a reasonable time.

(6) Any person may submit information to the chief executive officer regarding the existence of any constraint which hinders investment in road traffic or which detrimentally affects the efficiency or affordability or safety of road traffic service provision.

(7) The chief executive officer must, upon receiving any information specified in subsection (6), submit a recommendation to the Shareholders Committee in this regard.

Monitoring powers of chief executive officer

39. (1) The chief executive officer may -

- (a) request the manager of the business unit concerned to report on compliance at intervals to be determined, in accordance with the business and financial plan;
- (b) respond to a complaint received from any person; and
- (c) conduct an independent investigation, survey or audit.

(2) The chief executive officer must, prior to conducting an audit in terms of subsection (1)(c), publish a notice in a newspaper of general circulation inviting any person or entity to provide written comments or suggestions regarding compliance.

Contract compliance monitoring

40. Compliance with the provisions of any contract concluded in terms of this Act must be monitored by the chief executive officer in terms of this Act, the provisions of any other applicable legislation and the provisions of the contract in question.

PART 8: MISCELLANEOUS

Innovation

41. (1) The Shareholders Committee must encourage innovative projects which entail technology transfers at the expiry of a concession period -

- (a) through the use of national goods and services;
- (b) through training and employment of citizens; and
- (c) through research and development.

(2) The Shareholders Committee may, for the purpose of encouraging innovative technology transfers, research and development, negotiate tax relief incentives for private sector contractors with the Minister

of Finance:

(3) The Shareholders Committee may direct that any bidder, who in preparing a bid has undertaken innovative research which is useful, be reimbursed either partially or fully for bidding costs irrespective of whether the bid is successful or not.

Enquiries

42. (1) The chief executive officer may conduct any enquiry concerning road traffic, and must announce his or her intention to conduct an enquiry by publishing a notice in the *Gazette* -

- (a) indicating the time and place at which such enquiry will be conducted;
- (b) specifying the subject-matter of the enquiry; and
- (c) inviting interested persons to -
 - (i) submit written representations to the chief executive officer; or
 - (ii) indicate whether they wish to submit oral representations to the chief executive officer.

(2) Any written representation made by any person in pursuance of an invitation referred to in subsection (1)(c)(i) is open to inspection at the premises of the Corporation during its normal office hours.

(3) A written representation referred to in subsection (2), or a certified copy of it, must be furnished upon request to any person after payment of the prescribed fee.

(4) The chief executive officer may cause a notice to be served on any person requiring such person to appear at a place and time specified in such notice for the purpose of an enquiry.

(5) The chief executive officer must conduct an enquiry in terms of the prescribed procedure and in public, unless the Minister grants permission for an enquiry to be conducted *in camera*.

(6) The Shareholders Committee may, upon the conclusion of the enquiry, issue a directive requiring a person to undertake an action or cease to perform an action in compliance with the provisions of this Act or any other law in terms whereof the Corporation may execute road traffic functions.

(7) A directive is, subject to subsection (9) and judicial review, binding on the person to whom it is addressed.

(8) The chief executive officer must provide the party or parties with written copies of his or her findings and must specify the content of any directive issued and any action to be taken pursuant thereto.

(9) Any person who is aggrieved by the outcome of an enquiry or the content of a directive addressed to him or her may request the Shareholders Committee in writing to review the findings or any action taken pursuant thereto.

(10) The Shareholders Committee must, upon receiving a request referred to in subsection (9) -

- (a) inform all interested parties that the request has been received; and
- (b) invite further representations from any party.

(11) The Shareholders Committee may, after having taken the steps referred to in subsection (10) -

- (a) re-open the enquiry; or

- (b) refuse the request and provide the applicant with written reasons for such refusal.

Legal rights

43. (1) Any person who is affected by a decision of the chief executive officer or any other employee of the Corporation taken in terms of or by virtue of this Act or another law administered by the Corporation must exercise his, her or its legal rights in respect of that decision in terms of the rules of the High Court having jurisdiction, within 30 days after he, she or it became aware of that decision, or within such further period as that Court may allow on good cause shown.

(2) The Court referred to in subsection (1) may -

- (a) confirm, vary or set aside the relevant decision of the chief executive officer or that employee, as the case may be;
- (b) give such other decision as the chief executive officer or that employee, as the case may be, was able to give; or
- (c) remit the case to the chief executive officer or that employee, as the case may be, with the instructions it may deem fit.

(3) The Court referred to in subsection (1) may issue any order regarding costs which it deems fair under the circumstances.

(4) A decision given by the Court in terms of subsection (2) is deemed, for purposes of the laws contemplated in subsection (1), to be a decision of the chief executive officer or of that employee, as the case may be.

Regulations

44. (1) The Minister may, subject to subsection (5) and a decision of the Shareholders Committee, as qualified by section 12, make regulations regarding -

- (a) any matter which in terms of this Act is permitted or required to be prescribed;
- (b) any other matter the regulation of which may be necessary in order to achieve or promote the objectives of this Act; and
- (c) any monies that may be charged by the Corporation or that accrue to the Corporation in terms of this Act.

(2) The Shareholders Committee may -

- (a) establish an advisory regulations committee;
- (b) determine the purpose and functions of the regulations committee in respect of regulations or effect amendments thereto;
- (c) make appointments to the committee, including the chairperson and the deputy chairperson;
- (d) remove members from the committee; and
- (e) disestablish the committee.

(3) The Shareholders Committee, in appointing a member of the regulations committee, must consider -

- (a) the powers and duties of the committee;
- (b) the need for the committee to represent various relevant interests; and
- (c) the expertise necessary for the committee to exercise its powers and perform its functions effectively.

(4) A regulation may provide for such incidental, supplementary or transitional matters as may be necessary, including for penalties or a fine or imprisonment for a period not exceeding two years for a contravention thereof.

(5) A regulation -

- (a) only comes into operation 30 days after its publication in the *Gazette*;
- (b) must be tabled in Parliament by the Minister within 14 days of its publication as contemplated in paragraph (a), or, if Parliament is not then in session, at the commencement of its next ensuing session; and
- (c) must be tabled in each provincial legislature by the MEC within 14 days of its publication as contemplated in paragraph (a), or, if the legislature is not then in session, at the commencement of its next ensuing session.

Restriction on use of name

45. (1) No person may under a name containing the words "Road Traffic Management Corporation" or the translation thereof in any other official language -

- (a) conduct his, her or its affairs or business or carry on his, her or its occupation or trade;
- (b) be registered or licensed under any law; or
- (c) falsely claim to be acting on behalf of the Corporation.

(2) Any person who contravenes a provision of subsection (1) is guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding two years.

Limitation of liability

46. No employee of the Corporation, nor the Corporation, is liable in respect of anything done or omitted in good faith in the exercise of a power or the performance of a duty in terms of this Act, or in respect of anything that may result therefrom.

Interim arrangements

47. Despite anything to the contrary contained in any other law, the Minister and relevant MEC or MECs as contemplated in section 22(2) must, during the period from the date on which this section comes into operation to the date of a transfer, take the steps, or authorise anything to be done, which may be necessary to promote -

- (a) the transfer to the Corporation of the assets, liabilities, rights or obligations contemplated in section 22(2), or the employment by the Corporation of an officer of the national or provincial Departments as contemplated in section 22(1)(b); and
- (b) the commercialisation and setting up of business units in respect of road traffic functions prior to the commencement by the Corporation of the performance of its functions.

Offences

48. Any person who -

- (a) fails to comply with any directive issued under section 42(6); or
- (b) fails to comply with a notice to attend a hearing served under section 42(4),

is guilty of an offence and liable on conviction to a fine or imprisonment for a period not exceeding two years.

Amendment of section 1 of Act 46 of 1998

49. Section 1 of the Administrative Adjudication of Road Traffic Offences Act, 1998 (Act No. 46 of 1998,) is hereby amended by replacing the definition of "issuing authority" with the following definition:

"issuing authority" means -

- (a) a local authority contemplated in Chapter 7 of the Constitution of the Republic of South Africa, 1996 (Act No. 108 of 1996), the Local Government Transition Act, 1993 (Act No. 209 of 1993), or any other applicable law;
- (b) a provincial administration; or
- (c) the Road Traffic Management Corporation as defined in section 1 of the Road Traffic Management Corporation Act.

in so far as such authority, administration or Corporation is responsible for traffic matters:"

Short title and commencement

50. (1) This Act is called the Road Traffic Management Corporation Act, 1998, and comes into operation on a date determined by the President by Proclamation in the *Gazette*.

(2) Different dates may be determined in terms of subsection (1) for the commencement of different provisions of this Act and dates so fixed may differ in respect of different provinces.

ROAD TRAFFIC MANAGEMENT CORPORATION LEVIES

DRAFT BILL, 1998

SCHEDULE B

A handwritten signature or mark, possibly a stylized 'C' or 'Q' with a flourish, located in the center of the page.

BILL

To provide for the imposition of levies by the Shareholders Committee, payable to the South African Road Traffic Management Corporation; and to provide for matters connected therewith.

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

Definitions

1. In this Act, unless the context indicates otherwise-

- (i) "Corporation" means the Road Traffic Management Corporation established by section 3 of the Road Traffic Management Corporation Act, 1998;
- (ii) "levy" means an amount payable at intervals or at specified times by participants on the basis of one or more or all of the following criteria, namely -
 - (a) category of road traffic service;
 - (b) category of participant;
 - (c) nature of road traffic service; and
 - (d) frequency of utilisation of road traffic services;
- (iii) "Minister" means the Minister of Transport;
- (iv) "participant" means any person who makes use of road traffic services as defined in the Road Traffic Management Corporation Act, 1998;
- (v) "Road Traffic Infringement Agency" means the Road Traffic Infringement Agency contemplated in the Administrative Adjudication of Road Traffic Offences Act, 1998 (Act No. 46 of 1998); and
- (vi) "Shareholders Committee" means the Shareholders Committee established by section 6 of the Road Traffic Management Corporation Act, 1998.

Levies

2. (1) The Minister may, subject to subsections (2) and (3), make determinations to impose levies on participants, in respect of -

- (i) vehicle registration and licencing transactions or issuing of special permits in these cases;
- (ii) roadworthiness testing for vehicles;
- (iii) driver licencing;
- (iv) operator registration; or
- (v) other transactions between the participant and the road traffic service provider amenable to a levy.

(2) A determination under subsection (1) may only be made -

- (a) after a written recommendation of the Shareholders Committee, made by a two thirds majority of the Shareholders Committee and specifying the basis for the calculation of

the levy and the date of its commencement, has been approved by the Minister of Finance;

- (b) within the confines of the approved business and financial plan of the Corporation.

(3) A determination under subsection (1) must -

- (a) specify when and by whom the levy must be paid; and
- (b) be published in the *Gazette* at least 30 days before the commencement of the determination.

(5) The power to make a determination in terms of subsection (1) includes the power to amend or withdraw a determination.

(6) Where the Minister of Finance disapproves a recommendation contemplated in subsection (3)(a), he or she may recommend an alternative determination.

Penalties

3. (1) Where a levy imposed under section 2 is not paid to the Corporation within the period determined by the Corporation by notice in the *Gazette*, being a period beginning on the day on which the levy became due and payable, the person liable for the payment of the levy is liable to pay to the Corporation, in addition to the levy, a penalty calculated upon the unpaid amount of the levy from the date on which the levy became due and payable, and compounded.

(2) The penalty payable under subsection (1) is calculated at the percentage prescribed by the Minister by regulation, of the unpaid amount of the levy for each day during which it remains unpaid, but the amount of the penalty may not exceed the unpaid portion of the levy.

Collection of, and payment to, Corporation

4. (1) The Corporation may collect the levies imposed on participants under section 1 itself or it may appoint an agent to collect levies from provincial authorities, local authorities and private persons, and to pay them over to the Corporation.

(2) Levies and penalties payable by participants may be recovered as debts due to the Corporation.

(3) If a provincial or a local authority has not paid the prescribed levy to the Corporation, the Corporation is entitled to recover the outstanding amount from the fines collected by the Road Traffic Infringement Agency before it is paid over to a provincial or local authority in terms of the Administrative Adjudication of Road Traffic Offences Act, 1998 (Act No. 46 of 1998).

Short title and commencement

5. This Act is called the South African Road Traffic Management Corporation Levies Act, 1998 and comes into operation on a date fixed by the President by proclamation in the *Gazette*.

DRAFT NATIONAL ROAD TRAFFIC AMENDMENT BILL, 1998**SCHEDULE C**

BILL

To amend the National Road Traffic Act, 1996, to provide that certain functions may be performed by or on behalf of the Road Traffic Management Corporation; and to provide for incidental matters

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

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

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

- (a) by inserting the following definition after the definition of "certification of roadworthiness":
 "chief executive officer" means the chief executive officer of the Corporation.;
- (b) by inserting the following definition after the definition of "Convention":
 "Corporation" means the Road Traffic Management Corporation contemplated in the Road Traffic Management Corporation Act, 1998.; and
- (c) by inserting the following definition after the definition of "semi-trailer":
 "Shareholders Committee" means the Shareholders Committee of the Corporation.;

Amendment of section 3 of Act 93 of 1996

2. Section 3 of the principal Act is amended -

- (a) by replacing paragraph (c) of subsection (1) with the following paragraph:
 "(c) The powers and duties of inspectors of licences, examiners of vehicles, examiners for driving licences and traffic officers shall be as provided [by the laws of the province concerned] in sections 3D, 3E, 3F, 3G and 3H, respectively.;"
- (b) by replacing the word "Minister" in subsection (2)(a) with the words "Shareholders Committee"; and
- (c) by replacing the expression "MEC concerned" in subsection (4) with the expression "chief executive officer".

Insertion of sections 3A to 3I in Act 93 of 1996

3. The following sections are inserted in the principal Act after section 3:

"Appointment of registering authorities

3A.(1) For the purposes of this Act, the MEC shall, in consultation with the Shareholders Committee and by notice in the Provincial Gazette, appoint a registering authority for the area and on the conditions he or she determines from time to time.

(2) If the Shareholders Committee decides to combine the area of any registering authority or any portion thereof with the area of another registering authority, or to divide the area of a registering authority into areas for two or more registering authorities, or to appoint a registering authority for a new area, the MEC shall give effect thereto.

(3) Where, from or after a specific date, a registering authority (in this subsection referred to as a new registering authority) becomes the registering authority for an area previously under the jurisdiction of another registering authority (including a registering authority appointed under a repealed act or ordinance) any reference in this Act or a repealed act or ordinance to such other registering authority shall, from or after such date, be construed as a reference to such new registering authority.

(4) The powers and duties conferred or imposed upon a registering authority by or in terms of this Act shall be exercised or performed on behalf of that registering authority by the persons authorised thereto by the registering authority.

(5) If the Shareholders Committee decides that circumstances warrant such a step, the chief

executive officer may execute the functions, or appoint an agent to execute the functions, of a registering authority whose service delivery, collection of payment or management fall short of the standards set by the Road Traffic Corporation Act, 1998 in respect of business units.

Appointment of officers

3B. (1) For the purposes of this Act -

(a) the chief executive officer may, upon such conditions as he or she may determine, appoint as many persons as -

- (i) inspectors of licences;
- (ii) examiners of vehicles;
- (iii) examiners for driving licences;
- (iv) traffic officers; and
- (v) traffic wardens;

as he or she may deem expedient;

(b) a local authority which is a registering authority may, in consultation with the Shareholders Committee and upon the conditions set by the chief executive officer, appoint for its area so many persons as -

- (i) inspectors of licences
- (ii) examiners of vehicles; and
- (iii) examiners for driving licences,

as it may deem expedient;

(c) any local authority or two or more local authorities may jointly, in consultation with the Shareholders Committee and upon the conditions as set by the chief executive officer, appoint for its area or for their areas jointly, as the case may be, so many persons as traffic officers or reserve traffic officers as are reasonably necessary, and such officers shall function within such area or areas: Provided that the chief executive officer may set as a condition, that the traffic officers or reserve traffic officers function on a specified public road or portion thereof that is not necessarily situated within the area of jurisdiction of that local authority;

(d) any local authority may appoint persons as traffic wardens or as reserve traffic wardens to exercise or perform within its area such powers and duties of a traffic officer as the chief executive officer may determine: Provided that the chief executive officer may -

- (i) make different determinations in respect of different categories of traffic wardens; and
- (ii) either generally or specifically impose conditions with regard to the exercise or performance of such powers and duties; and

(e) any person or authority determined by the chief executive officer by notice in the Gazette, may, on the conditions and for the areas determined in the notice, appoint any person as an examiner of vehicles.

(2) No person shall be appointed under subsection (1) as an authorized officer unless he or she has been registered and graded in the prescribed manner.

(3) Any person appointed under subsection (1) as an authorized officer, shall upon his or her appointment be issued with a certificate of appointment by the chief executive officer, local authority, person or authority concerned, appointing him or her.

(4) An authorized officer shall not exercise any power or perform any duty unless he or she is in possession of his or her certificate of appointment.

(5) An authorized officer shall produce his or her certificate of appointment at the request of any person having a material interest in the matter concerned.

Suspension and cancellation of registration of officer

3C. (1) The inspectorate concerned may, for the period that it deems fit and in the manner prescribed, suspend or cancel the registration of an examiner for driving licences, or an examiner of vehicles, if -

- (a) in the opinion of the inspectorate such person is guilty of misconduct in the exercise of his or her powers or the performance of his or her duties; or
- (b) in the opinion of the inspectorate concerned, the performance record of such person indicates that he or she is incompetent to exercise or perform the

- powers or duties of an officer of the category in which he or she is registered.
- (2) The registration of a person referred to in subsection (1) or (2) may only be suspended or cancelled after such person had the opportunity to make representations in writing and to show cause, within the period determined by the chief executive officer, which period shall not be less than 21 days, why the registration should not be suspended or cancelled.
- (3) Any person affected by the decision of the inspectorate referred to in subsection (1) may, within 21 days after he or she became aware of the decision, request the inspectorate to give reasons in writing for its decision.
- (4) If the registration of any person is suspended or cancelled in terms of this section, that person shall forthwith return his or her registration document to the chief executive officer concerned who shall keep such document for the period of suspension, or cancel such document, as the case may be.

Powers and duties of inspector of licences

3D.(1) In addition to the powers and duties conferred upon him or her or under this Act, an inspector of licences may, subject to the provisions of this Act or any other law -

- (a) by notice in writing as prescribed, direct the owner, operator, driver or person in charge of any vehicle, wherever found, which in his or her opinion does not comply with the requirements for roadworthiness certification provided for in this Act or in any other law, to produce such vehicle for inspection, examination or testing to an appropriately graded testing station for such class of vehicle at a time and place specified in such notice;**
- (b) in respect of any motor vehicle, demand from the title holder, owner, operator or driver thereof the production of any document which such person is required to have in respect of that motor vehicle in terms of this Act or any other law, or any like document issued by a competent authority outside the Republic;**
- (c) require from any instructor -**
 - (i) where such instructor is engaged in teaching or instructing another person in the driving of a motor vehicle, forthwith; or**
 - (ii) to produce evidence of his or her registration where such instructor is not so engaged, within seven days;**
- (d) examine any motor vehicle in order to satisfy himself or herself that it is the motor vehicle in respect of which a document referred to in paragraph (b) was issued;**
- (e) impound any document referred to in paragraph (b) which appears to be or which the officer suspects to be invalid or which has been or appears to have been unlawfully altered or defaced or which is being put to unlawful use, and where any document is so impounded, the inspector shall issue a receipt in respect thereof to the person concerned;**
- (f) require the owner, operator or driver or person in charge of any vehicle forthwith to furnish his or her name and address, and give any other particulars required as to his or her identification, and where applicable, immediately to produce a professional driving permit;**
- (g) demand from any person immediately to produce a licence or any other prescribed authorisation authorising him or her to drive a motor vehicle, and to produce any other document which he or she is required to have in respect of any motor vehicle in terms of this Act or any other law;**
- (h) impound any licence or document produced to him or her in terms of paragraph (g) which in his or her opinion may afford evidence of a contravention or evasion of any provision of this Act or any other law, and where any licence or document is so impounded, the inspector shall issue a receipt in respect thereof to the person concerned;**
- (i) require any person, whether or not this person is in a vehicle, to furnish his or her name and address and to give other particulars required as to his or her identification, as well as such information as is within his or her power to furnish and which may lead to the identification of the owner, operator or driver of the vehicle concerned;**
- (j) require any person to furnish him or her with any information as is within the**

- power of such person to furnish and which may lead to the identification of the driver, owner, operator or person in charge of a vehicle at any time or during any period; or
- (k) at any reasonable time, having regard to the circumstances of the case, without prior notice, and in the exercise of any power or the performance of any duty which he or she is in terms of this Act or any other law authorized or required to exercise or perform, enter any premises on which he or she has reason to believe that any vehicle is kept.

Powers and duties of examiner of vehicles

3E. (1) An examiner of vehicles may inspect, examine or test any vehicle in order to determine whether it is roadworthy and for that purpose may dismantle the vehicle or any part thereof or its equipment or accessories: Provided that he or she shall reassemble any vehicle so dismantled unless he or she is requested by the person in charge of the vehicle not to do so.

(2) An examiner of vehicles may drive any vehicle when necessary in the performance of his or her duties, if, in the case of a motor vehicle, he or she is licenced to drive a motor vehicle of the class concerned: Provided that in the case of a physically disabled person the examiner of vehicles may request the holder of an appropriate driving licence to drive the vehicle adapted for physically disabled persons subject to his or her instruction and in his or her presence.

Powers and duties of examiner for driving licences

3F. (1) An examiner for driving licences shall test any applicant for a learner's or driving licence in the manner and in regard to the matters as prescribed, in order to determine whether this applicant is fit and competent to obtain a learner's or driving licence for the class of vehicle for which he or she applies.

(2) No examiner for driving licences shall test an applicant for a driving licence in terms of this Act unless this examiner himself or herself is licensed to drive a vehicle of the class for which the applicant applies to obtain a driving licence or of the class prescribed.

Powers and duties of traffic officers

3H. (1) In addition to the powers and duties conferred upon him or her or under this Act, a traffic officer may, subject to the provisions of this Act or any other law -

- (a) exercise or perform any of the powers or duties conferred upon an inspector of licences under section 3D;
- (b) when in uniform, require the driver of any vehicle to stop such vehicle;
- (c) inspect and test or cause to be inspected and tested by a person whom he or she considers competent to do so, any part and the functioning of any vehicle, and the equipment thereof, with a view to ascertaining whether the vehicle concerned or the functioning thereof and the equipment comply with the provisions of this Act: Provided that no officer or person instructed by the officer to inspect or test such vehicle shall, in the exercise of the power hereby conferred upon him or her, dismantle the mechanism or any working parts of any motor vehicle unless he or she is also a qualified motor mechanic or has passed an examination for examiners of vehicles as prescribed, and if he or she has so dismantled the vehicle, he or she shall reassemble the dismantled mechanism or parts unless he or she is requested by the person in charge of the vehicle not to do so;
- (d) ascertain the dimension of the load on, or the mass, axle mass load or axle unit mass load of, any vehicle, or the mass of any combination of vehicles, loaded or unloaded, and if necessary for the purpose of ascertaining such mass, require any vehicle or combination of vehicles to proceed to a mass-meter or mass-measuring device, and if the mass of any vehicle or combination of vehicles exceeds the mass allowed in terms of this Act, prohibit the operation of the vehicle or combination of vehicles on a public road until the mass has been reduced or adjusted to comply with this Act: Provided that where the load on a vehicle includes any hazardous substance as contemplated in the Hazardous Substances Act, 1973 (Act No.15 of 1973), the reduction and handling of the mass shall be undertaken in terms of that Act;

- (e) drive any vehicle where necessary in the performance of his or her duties if, in the case of a motor vehicle, he or she is licensed to drive a motor vehicle of the class concerned;
- (f) if a person, being the driver or apparently in charge of a motor vehicle, appears, by reason of his or her physical or mental condition, howsoever arising, to be incapable for the time being of driving or being in charge of this vehicle, temporarily forbid the person to continue to drive or be in charge of this vehicle and make the arrangements for the safe disposal or placing of the vehicle as in his or her opinion may be necessary or desirable in the circumstances;
- (g) regulate and control traffic upon any public road, and give such directions as may, in his or her opinion, be necessary for the safe and efficient regulation of the traffic, which may include the closing of any public road, and, where he or she is of the opinion that the driver of a motor vehicle is hampering or impeding the normal flow of traffic on a public road, direct the driver to remove the vehicle from such road and to follow another route with the vehicle;
- (h) require any person to furnish his or her name, address and other particulars which are required for his or her identification or for any process if the officer reasonably suspects this person of having committed an offence in terms of this Act or any other law or, if in the opinion of the officer, he or she is able to give evidence in regard to the commission of any such offence;
- (i) in respect of any motor vehicle, demand from the owner, operator or driver thereof to produce any document prescribed in terms of this Act;
- (j) impound any document referred to in paragraph (i) produced to him or her and which in his or her opinion may afford evidence of a contravention of or failure to comply with any provision of this Act or any other law related to road traffic matters and where any document is so impounded, the traffic officer shall issue a receipt therefor to the person concerned;
- (k) require any professional driver or the operator or owner of any motor vehicle to produce for inspection and to have a copy made of -
 - (i) any record or document which that person is required in terms of this Act to carry or have in his or her possession or which is required to be affixed to any such motor vehicle; or
 - (ii) any record which that person is required in terms of this Act to preserve;
- (l) at any time enter any motor vehicle of an operator and inspect such vehicle;
- (m) at any time enter upon any premises on which he or she has reason to believe that a motor vehicle of an operator is kept or any record or other document required to be kept in terms of this Act are to be found, and inspect and copy any such record or document, which he or she finds there;
- (n) if he or she has reason to believe that an offence in terms of this Act has been committed in respect of any record or document, inspected by him or her, impound that record or document, and where any document is so impounded, the traffic officer shall issue a receipt thereof to the person concerned;
- (o) inspect any motor vehicle or part thereof and impound any document issued in connection with the registration and licensing of such motor vehicle which relates to the motor vehicle, where it is found that the engine or chassis number of the motor vehicle differs from the engine or chassis number as specified on the document, and direct that the motor vehicle be taken, forthwith, to any police station specified by the traffic officer for police clearance, and may after such clearance has been obtained, return the impounded document to any person who is entitled thereto, or notify the owner of the motor vehicle concerned that the vehicle must be re-registered, as the case may be; and
- (p) require from the owner, operator or driver of a motor vehicle registered or deemed to be registered in any prescribed territory, police clearance in respect of the motor vehicle before allowing the motor vehicle to be taken across the borders of the Republic: Provided that the chief executive officer may exempt any owner, operator or driver in the prescribed manner from having to provide such police clearance.

Failure to comply with instruction or direction of inspector of licences, traffic officer, examiner of vehicles or peace officer

3I. (1) No person shall -

- (a) fail to comply with any instruction or direction given to him or her by an inspector of licences, traffic officer or examiner of vehicles, or obstruct, hinder or interfere with any inspector of licences, traffic officer or examiner of vehicles in the exercise of any power or the performance of any duty in terms of this Act;
- (b) fail to comply with any instruction or direction given to him or her by a peace officer, or obstruct, hinder or interfere with any peace officer in the exercise of any power relating to a provision of this Act assigned to him or her in terms of section 334 of the Criminal Procedure Act, 1977 (Act No. 51 of 1977); or
- (c) in order to compel a person referred to in paragraph (a) or (b) to perform or to abstain from performing any act in respect of the exercise of his or her powers or the performance of his or her duties, or on account of such person having performed or abstained from performing such an act, threaten or suggest the use of violence against or restraint upon such person or any of his or her relatives or dependents, or threaten or suggest any injury to the property of such person or of any of his or her relatives or dependents.

(2) Whenever the production of any document which is not required to be affixed to a vehicle or to be kept with him or her in a vehicle by any person, is demanded under sections 3D(b), 3D(g) or 3G(i), the production thereof at any police station or office set aside by a competent authority for use by a traffic officer or peace officer, within a period of seven days after being so demanded, shall be deemed to be sufficient compliance with the demand.

(3) Whenever any document is produced under subsection (2) at any police station or office referred to in that subsection, the officer in charge of such police station or office so set aside shall forthwith notify accordingly the officer who made the demand concerned and shall issue an acknowledgement of production of such document to the person producing it.

(4) Where a document is not produced under subsection (2) and any process is to be handed to or served upon a person in terms of section 54, 56, 72 or 341 of the Criminal Procedure Act, 1977, an inspector of licences, traffic officer or peace officer may require the imprint of the left thumb of the person to whom the process relates on such process, and such person shall be obliged to furnish such imprint in the manner and at such a place as directed by the inspector, officer or examiner concerned: Provided that if it is not possible to obtain the left thumb print of such person, the imprint of any other finger may be required, in which case the finger thus used shall be identified in writing by the inspector, officer or examiner concerned under each imprint of such finger.

Impersonating authorized officer or peace officer or inducing any such officer to forsake his or her duty

3J. (1) Any person who is not an authorized officer or a peace officer shall not by word, conduct or demeanour, pretend that he or she is an authorized officer or a peace officer.

(2) No person shall connive with or induce or attempt to induce any authorized officer or peace officer to omit to carry out his or her duty or to commit an act in conflict with his or her duty."

Insertion of section 4A in Act 93 of 1996

4. The following section is inserted in the principal Act after section 4:

"Application for registration of manufacturers, builders and importers

4A. No manufacturer, builder or importer is allowed to manufacture or sell motor vehicles unless he or she is registered."

Amendment of section 5 of Act 93 of 1996, as substituted by section 3 of Act 8 of 1998

5. Section 5 of the principal Act is amended -

- (a) by replacing the expression "MEC concerned" in subsection (1) with the expression "chief executive officer"; and
- (b) by replacing the expression "MEC", wherever it occurs in subsections (2), (3) and (4), with the expression "chief executive officer".

Amendment of section 6 of Act 93 of 1996, as amended by section 4 of Act 8 of 1998

6. Section 6 of the principal Act is amended by replacing the expression "MEC", wherever it occurs, with the expression "chief executive officer".

Amendment of section 8 of Act 93 of 1996

7. Section 8 of the principal Act is amended by replacing the expression "MEC in whose province that centre will be operated" with the expression "inspectorate concerned".

Amendment of section 9 of Act 93 of 1996

8. Section 9 of the principal Act is amended by replacing the expression "MEC" with the expression "inspectorate concerned".

Amendment of section 10 of Act 93 of 1996

9. Section 10 of the principal Act is amended by replacing the expression "MEC" with the expression "inspectorate concerned".

Replacement of section 11 of Act 93 of 1996

10. Section 11 of the principal Act is replaced with the following section:

"Appointment of inspectorate of driving licence testing centres"

11. (1) The Minister shall appoint a person, an authority or a body as an inspectorate of driving licence testing centres."

(2) The powers and duties of the inspectorate contemplated in subsection (1) in relation to the inspection and the control of standards, grading and operation of driving licence testing centres shall be as prescribed;

(3) The Minister may, in order to defray the expenditure incurred by or on behalf of that inspectorate for the purpose of performing its functions, prescribe fees to be paid in respect of inspections carried out in terms of this Act.

Amendment of section 15 of Act 93 of 1996

11. Section 15 of the principal Act is amended by replacing the expression "MEC" in subsection (2) with the expression "chief executive officer".

Amendment of section 16 of Act 93 of 1996

12. Section 16 of the principal Act is amended-

- (a) by replacing the expression "MEC of the province concerned" in subsection (2) with the expression "chief executive officer"; and
- (b) by replacing the expression "MEC", wherever it occurs in subsection (3), with the expression "chief executive officer".

Amendment of section 18 of Act 93 of 1996

13. Section 18 of the principal Act is amended by replacing the expression "under this Act" in subsection (6) with the expression "until the prescribed date".

Replacement of section 21 of Act 93 of 1996

14. Section 21 of the principal Act is replaced with the following section:

"Directions to applicant for 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 driving licence shall be examined and tested, and at which driving licence testing centre such applicant may apply for a driving licence."

Amendment of section 25 of Act 93 of 1996

15. Section 25 of the principal Act is amended by replacing the expressions "MEC of the province concerned", "MEC concerned" and "MEC", wherever they occur in the section, with the expression "chief executive officer".

Amendment of section 27 of Act 93 of 1996

16. Section 27 of the principal Act is amended -

- (a) by replacing the expression "MEC of the province in which he or she is permanently or ordinarily resident" in subsection (1) with the expression "chief executive officer";
- (b) by replacing the expression "MEC concerned" in subsection (2)(b) with the expression "chief executive officer"; and
- (c) by replacing the expression "MEC", wherever it occurs in subsections (3) and (4), with the expression "chief executive officer".

Amendment of section 28 of Act 93 of 1996

17. Section 28 of the principal Act is amended by adding the following subsection:

"(3) No person shall employ any other person as an instructor, or make use of any other person's services as an instructor, unless that other person is registered as an instructor under the laws of any province."

Insertion of section 28A in Act 93 of 1996

18. The following section is inserted in the principal Act after section 28:

"Suspension and cancellation of registration of instructor

28A. The chief executive officer may, for the period he or she deems fit, in the prescribed manner suspend or cancel the registration of an instructor if that instructor -

- (a) in the opinion of the chief executive officer is guilty of misconduct in the exercise of powers or the performance of duties; or
- (b) failed to attend an appropriate refresher course at a training centre approved by the chief executive officer within the prescribed period."

Replacement of section 29 of Act 93 of 1996

19. Section 29 of the principal Act is replaced with the following section:

"Voidness of licence issued contrary to Chapter

29. A learner's or driving licence issued contrary to this Chapter, shall be void, and upon the request of the inspectorate of driving licence testing centres, the authority which issued the licence or a traffic officer, as the case may be, the holder of such licence shall forthwith submit it or, in the case where it is contained in an identity document, that document, to the authority which issued it or the traffic officer, as the case may be, who shall cancel the licence in the prescribed manner: Provided that the traffic officer may only cancel the licence with the prior approval of the chief executive officer."

Amendment of section 38 of Act 93 of 1996

20. Section 38 of the principal Act is amended by replacing the expression "MEC concerned" with the expression "chief executive officer".

Amendment of section 39 of Act 93 of 1996

21. Section 39 of the principal Act is amended by replacing the expression "MEC" with the expression "chief executive officer".

Amendment of section 40 of Act 93 of 1996

22. Section 40 of the principal Act is amended by replacing the expression "MEC" with the expression "chief executive officer".

Insertion of Chapter VI A in Act 93 of 1996

23. The following Chapter is inserted in the principal Act after Chapter VI:

"Chapter VI A
APPEALS

Right of appeal to Shareholders Committee

51A. (1) Any person, department of State or registering authority who or which is aggrieved -

- (a) at the refusal of the chief executive officer to register or grade him or her, as the case may be, in any capacity mentioned in the definition of authorized officer, or as a driving licence testing centre, or as a testing station, or as an instructor;
- (b) at the suspension or cancellation of any such registration or grading; or
- (c) at any other decision of the chief executive officer regarding the activities of an operator.

may within 21 days after such refusal, suspension, cancellation or decision, in writing lodge an appeal with the Shareholders Committee against such refusal, suspension, cancellation or decision, and such person, department of State or registering authority shall at the same time serve a copy of the appeal on the chief executive officer.

(2) After receipt of the copy of appeal referred to in subsection (1), the chief executive officer shall forthwith furnish the Shareholders Committee with his or her reasons for the refusal, suspension, cancellation or decision, to which the appeal refers.

(3) The Shareholders Committee may after considering an appeal under subsection (1) give the decision it deems fit.

(4) An appeal referred to in subsection (1) shall include an appeal against any refusal, suspension, cancellation or decision of the chief executive officer taken in terms of the laws of any province.

Right of appeal to chief executive officer

51B. (1) Any person who is aggrieved at the refusal of the examiner for driving licences to issue or authorize the issue to him or her of a learner's or driving licence, may, within 21 days after such refusal, in writing appeal to the chief executive officer, and such person shall at the same time serve a copy of the appeal on the examiner concerned.

(2) Any person who is aggrieved at the refusal of the examiner of vehicles or a testing station to issue a roadworthy certificate in respect of a motor vehicle or to authorize the issue of such certificate to him or her, or at the conditions subject to which such certificate was issued to him or her, may within 21 days after such refusal or after the issue of the certificate subject to the conditions concerned, in writing appeal against any such refusal or conditions concerned to the chief executive officer, and such person shall at the same time serve a copy of the appeal on the examiner or the testing station.

(3) After receipt of the copy of appeal referred to in subsections (1) and (2), the examiner for driving licences or the examiner of vehicles or the testing station, as the case may be, shall forthwith furnish the chief executive officer with his or her reasons for the refusal to which such appeal refers.

(4) For the purpose of deciding an appeal under subsection (1), the chief executive officer may appoint any person to examine and test the appellant as to his or her competency to drive the class of motor vehicle concerned and may in addition require each party to the appeal to furnish such information and evidence as he or she deems expedient.

(5) For the purpose of deciding an appeal under subsection (2), the chief executive officer may -

- (a) where the appeal concerns a roadworthy certificate, cause the motor vehicle concerned to be examined and tested by an examiner of vehicles nominated by him or her, and
- (b) require each party to the appeal to furnish such information and evidence as he or she deems necessary.

(6) The chief executive officer may after considering the appeal give such decision as he or she deems fit.

(7) An appeal referred to in subsections (1) and (2), shall include an appeal against any refusal, suspension, cancellation or decision taken by any person in terms of the laws of any province.

Replacement of sections 52 and 53 of Act 93 of 1996

24. Sections 52 and 53 of the principal Act is replaced with the following sections:

"Powers and functions of chief executive officer**52.(1) The chief executive officer may -**

- (a) prepare a comprehensive research programme to effect road safety in the Republic, carry it out systematically and assign research projects to persons who, in his or her opinion, are best equipped to carry them out; or
- (b) give guidance regarding road safety in the Republic by means of the organizing of national congresses, symposiums, summer schools and study weeks, by means of mass-communication media and in any other manner deemed fit by the chief executive officer.

(2) In order to perform his or her functions properly the chief executive officer may -

- (a) finance research in connection with road safety in the Republic;
- (b) publish a periodical to promote road safety in the Republic, and pay fees for matters inserted therein;
- (c) give guidance to associations or bodies working towards the promotion of road safety in the Republic;
- (d) organise national congresses, symposiums, summer school and study weeks, and if necessary pay the costs thereof, and remunerate persons performing thereat; or
- (e) with a view to promoting road traffic safety, publish advertisements in the mass-communication media.

(3) The chief executive officer shall exercise his or her powers and perform his or her functions subject to the control and directions of the Shareholders Committee.

Delegation by chief executive officer**53.(1) The chief executive officer may, subject to such conditions as he or she may deem necessary -**

- (a) delegate to any person employed by the Corporation any power conferred upon him or her by section 52.; or
- (b) authorise any person employed by the Corporation to carry out any duty assigned to him or her by section 52.

(2) Any person to whom any power has been so delegated or who has been so authorised to carry out any duty shall exercise that power or carry out that duty subject to directions of the chief executive officer, and the chief executive officer may at any time revoke such delegation or authorisation.

(3) Any delegation or authorisation under subsection (1) shall not prevent the chief executive officer from exercising that power or carrying out that duty himself or herself."

Amendment of section 57 of Act 93 of 1996

25. Section 57 of the principal Act is amended by replacing the expression "MEC concerned" and "MEC", wherever they occur, with the expression "chief executive officer".

Amendment of section 59 of Act 93 of 1996

26. Section 59 of the principal Act is amended by replacing the expression "after consultation with the MECs", in subsection (3), with the expression "after a decision has been taken in the Shareholders Committee".

Amendment of section 75 of Act 93 of 1996

27. Section 75 of the principal Act is amended by replacing the expression "after consultation with the MECs", in subsection (1), with the expression "after a decision has been taken in the Shareholders Committee".

Amendment of section 77 of Act 93 of 1996

28. Section 77 of the principal Act is amended -

- (a) by replacing paragraph (g) of subsection (1) with the following paragraph:

"(g) the chief executive officer;" ; and

- (b) by replacing subsection (3) with the following subsection:

"(3) Any institution or person referred to in subsection (1) shall in the prescribed manner and at the prescribed intervals furnish the Shareholders Committee, or any person or body designated by the Shareholders Committee, with the prescribed information recorded in a register or record of such institution or person, and the chief executive officer shall from the information so furnished compile or cause to be compiled such register as he or she may deem fit."

Amendment of section 78 of Act 93 of 1996

29. Section 78 of the principal Act is amended -

- (a) by replacing paragraph (b) of subsection (2) with the following paragraph:
"(b) any person authorised thereto by the Minister, the MEC concerned, the Shareholders Committee or the chief executive officer to demand such furnishing."
- (b) by -
 - (i) deleting the word "and" at the end of paragraph (d) of subsection (2);
 - (ii) inserting the word "and" at the end of paragraph (e) of subsection (2); and
 - (iii) inserting the following paragraph after paragraph (e) of subsection (2):
"(f) an inspectorate," and
- (c) by adding the word "or it" after the words "him or her" in the proviso to subsection (2).

Replacement of section 79 of Act 93 of 1996

30. Section 79 of the principal Act is replaced with the following section:

"Cognisance of information in records

79. The Minister, MEC, Shareholders Committee or chief executive officer may, in exercising a discretion or taking a decision in terms of this Act or any other law, take cognisance of the information contained in a register or record contemplated in section 77."

Insertion of section 80A in Act 93 of 1996

31. The following section is inserted after section 80 of the principal Act:

Power of local authority to make by-laws

80A. (1) Subject to the provisions of any law in relation to the procedure to be followed in the making, approval and promulgation of any by-law by a local authority, any local authority may with the concurrence of the Premier make by-laws not inconsistent with the provisions of this Act or the laws of the province, in respect of -

- (a) the safety of traffic on any public road, the duty of any user of such road and the use of any such road by any vehicle;
- (b) subject to the provisions of the Business Act, 1991, (Act No. 71 of 1991), and any regulation or by-law made thereunder in relation to the restriction, regulation or control of the carrying on of the business of street vendor, pedlar or hawker, the stopping and parking of any vehicle on any public road or portion thereof, including by-laws relating to the installation, regulation, supervision, maintenance and control of parking meters and parking places;
- (c) the appointment and licensing of parking attendants and the withdrawal of any such licence;
- (d) the driver or conductor of, or other person providing a service involving a vehicle plying for hire or a vehicle which transports or conveys passengers for a tariff;
- (e) subject to the provisions of the Business Act, 1991, (Act No. 71 of 1991), and any regulation or by-law made thereunder in relation to the restriction, regulation or control of the carrying on of the business of street vendor, pedlar or hawker, any public road which is not to be used by any vehicle, either generally or at specific times;
- (f) the relative position on the public road of traffic of differing speeds and classes;
- (g) the place where and time when a vehicle may not turn so as to face in the

- opposite direction to that in which it was proceeding or where it may only so turn under specified conditions;
- (h) the loading and off-loading of any vehicle on a public road;
 - (i) the rules as to priority of entry of certain motor vehicles into a main thoroughfare;
 - (j) the use of a hooter, bell or other warning device and the conditions under which any such warning device may be used within any specified area, whether at all times or during specified periods;
 - (k) the appointment of an advisory traffic control board consisting of no fewer than three members to advise the local authority on all questions of traffic control;
 - (l) the use of any public road by traffic in general;
 - (m) the limitation of age of drivers of vehicles drawn by animals;
 - (n) any form or token which a local authority may deem expedient for the purposes of any by-law, and the nature and extent of any information to be furnished for the purpose of any such form;
 - (o) the enabling of any local authority in the event of any person or failing to do anything required of him or her under any by-law to do such act and to recover the expenses thereof from the person in default;
 - (p) the mass of any goods which or the number of passengers who or animals which may be conveyed in a pedal cycle;
 - (q) the regulation, restriction, prohibition or control of the parking upon public roads of vehicles owned, kept or used by dealers or which have been placed in their custody or under their control in the course of any dealer's business carried on by them; and
 - (r) any other matter in regard to which a local authority may make by-laws under this Act.

(2) The power to make by-laws for any purpose referred to in subsection (1), shall include the power to restrict or prohibit any matter or thing in relation to that purpose, either absolutely or conditionally.

(3) Any by-law under subsection (1) may be made to apply generally throughout the area of the local authority or within any specified part thereof or to any specified category of vehicle or person.

(4) Any by-law made under this section may provide for penalties for a contravention thereof, and may also provide for different penalties in case of successive or continuous breaches, but no penalty may exceed a fine or imprisonment for a period of six months."

Amendment of section 83 of Act 93 of 1996

32. Section 83 of the principal Act is amended by replacing the expression "Minister" with the expression "Shareholders Committee".

Repeal of section 90 of Act 93 of 1996

33. Section 90 of the principal Act is repealed.

Repeal of section 92 of Act 93 of 1996

34. Section 92 of the principal Act is amended by deleting paragraph (a).

Amendment of Schedule of Act 93 of 1996

35. The Schedule to the principal Act is amended by replacing the expression "Section 7A, 14 and 26" in the first line of the third column with the expression "The whole".

Short title and commencement

36. This Act is called the National Road Traffic Amendment Act, 1998, and comes into operation on a date fixed by the President by Proclamation in the *Gazette*.

DRAFT PROVINCIAL BILLS

SCHEDULE D

A handwritten signature in dark ink, appearing to be a stylized name, possibly "C. M. S.", located in the lower-middle section of the page.

BILL

To amend the Northern Province Road Traffic Act, 1997, so as to repeal all provisions except those relating to fees; to amend the provisions relating to fees so as to transfer certain functions to the Road Traffic Management Corporation; and to provide for incidental matters.

BE IT ENACTED by the provincial legislature of the Northern Province, as follows: —

Amendment of section 1 of Act 5 of 1997

1. Section 1 of the Northern Province Road Traffic Act, 1997 (hereinafter referred to as the principal Act), is amended —

- (a) by relacing the definition of "by-law" with the following definition:
"by-law" means a by-law contemplated in section 27;
- (b) by replacing the definition of "examiner for driving licences" with the following definition:
"examiner for driving licences" means an examiner for driving licences registered in terms of Chapter I;
- (c) by replacing the definition of "examiner of vehicles" with the following definition:
"examiner of vehicles" means an examiner of vehicles registered in terms of Chapter I;
- (d) by replacing the definition of "inspector of licences" with the following definition:
"inspector of licences" means an inspector of licences registered in terms of Chapter I;
- (e) by replacing the definition of "registering authority" with the following definition:
"registering authority" means a registering authority appointed under the National Road Traffic Act, 1996;
- (f) by replacing the expression "appointed" in the definition of "traffic officer" with the expression "registered"; and
- (g) by replacing the definition of "traffic warden" with the following definition:
"traffic warden" means a traffic warden registered under Chapter I;

Repeal of sections 2 and 3 of Act 5 of 1997

2. Sections 2 and 3 of the principal Act are repealed.

Amendment of section 4 of Act 5 of 1997

3. Section 4 of the principal Act is amended by replacing the expression "MEC", in subsection (1), with the expression "chief executive officer".

Amendment of section 5 of Act 5 of 1997

4. Section 5 of the principal Act is amended by replacing the expression "MEC", in subsection (1), with the expression "chief executive officer".

Repeal of sections 6 to 13 of Act 5 of 1997

5. Sections 6 to 13 of the principal Act are repealed.

Amendment of section 14 of Act 5 of 1997

6. Section 14 of the principal Act is amended by replacing the expression "MEC," in sub-section (1), with the expression "chief executive officer".

Amendment of section 15 of Act 5 of 1997

7. Section 15 of the principal Act is amended by replacing the expression "MEC" with the expression "chief executive officer".

Repeal of sections 16 to 18 of Act 5 of 1997

8. Sections 16 to 18 of the principal Act are repealed.

Repeal of sections 20 to 24 of Act 5 of 1997

9. Sections 20 to 24 of the principal Act are repealed.

Amendment of section 25 of Act 5 of 1997

10. Section 25 of the principal Act is amended by deleting paragraphs (a) to (f) of sub-section (1).

Repeal of section 26 of Act 5 of 1997

11. Section 26 of the principal Act is repealed.

Replacement of section 27 of Act 5 of 1997

12. Section 27 of the principal Act is replaced with the following section:

"Local authority may determine fees

27. A local authority may, by special resolution, determine the fees to be charged for any purpose for which it may make by-laws under the National Road Traffic Act, 1996."

Repeal of sections 28 to 30 of Act 5 of 1997

13. Sections 28 to 30 of the principal Act are repealed.

Repeal of sections 34 to 40 of Act 5 of 1997

14. Sections 34 to 40 of the principal Act are repealed.

Repeal of section 42 of Act 5 of 1997

15. Section 42 of the principal Act is repealed.

Amendment of section 43 of Act 5 of 1997

16. Section 43 of the principal Act is amended by inserting the expression "or chief executive officer, as the case may be," after the expression "MEC", wherever it occurs.

Short title and commencement

17. This Act is called the Northern Province Road Traffic Amendment Act, 1998, and comes into operation on a date fixed by the Premier by Proclamation in the *Provincial Gazette*.

BILL

To amend the Northern Cape Road Traffic Act, 1997, so as to repeal all the provisions except those relating to fees; to amend the latter remaining provisions so as to transfer certain functions to the Road Traffic Management Corporation; and to provide for incidental matters.

BE IT ENACTED by the Provincial Legislature of the Northern Cape Province, as follows: —

Amendment of section 1 of Act 3 of 1997

1. Section 1 of the Northern Cape Road Traffic Act, 1997 (in this Act called the principal Act), is amended -

- (a) by replacing the definition of "by-law" with the following definition:

"by-law" means a by-law contemplated in section 27:"

- (b) by replacing the definition of "examiner for driving licences" with the following definition:

"examiner for driving licences" means an examiner for driving licences registered in terms of section 5:"

- (c) by replacing the definition of "examiner of vehicles" with the following definition:

"examiner of vehicles" means an examiner of vehicles registered in terms of section 5:"

- (d) by replacing the definition of "inspector of licences" with the following definition:

"inspector of licences" means an inspector of licences registered in terms of section 5:"

- (e) by replacing the definition of "registering authority" with the following definition:

"registering authority" means a registering authority appointed under the National Road Traffic Act, 1996:"

- (f) by replacing the expression "appointed and registered under section 3", in the definition of "traffic officer", with the expression "registered in terms of section 5"; and

- (g) by replacing the definition of "traffic warden" with the following definition:

"traffic warden" means a traffic warden registered in terms of section 5:"

Repeal of sections 2 and 3 of Act 3 of 1997

2. Sections 2 and 3 of the principal Act are repealed.

Amendment of section 4 of Act 3 of 1997

3. Section 4 of the principal Act is amended by replacing the expression "MEC" in sub-section (1), with the expression "chief executive officer".

Amendment of section 5 of Act 3 of 1997

4. Section 5 of the principal Act is amended by replacing the expression "MEC" with the expression "chief executive officer".

Repeal of sections 6 to 13 of Act 3 of 1997

5. Sections 6 to 13 of the principal Act are repealed.

Amendment of section 14 of Act 3 of 1997

6. Section 14 of the principal Act is amended by replacing the expression "MEC", in sub-section (1), with the expression "chief executive officer".

Amendment of section 15 of Act 3 of 1997

7. Section 15 of the principal Act is amended by replacing the expression "MEC" with the expression "chief executive officer".

Repeal of sections 16 to 18 of Act 3 of 1997

8. Sections 16 to 18 of the principal Act are repealed.

Repeal of sections 20 to 24 of Act 3 of 1997

9. Sections 20 to 24 of the principal Act are repealed.

Amendment of section 25 of Act 3 of 1997

10. Section 25 of the principal Act is amended by deleting paragraphs (a) to (f) of sub-section (1).

Repeal of section 26 of Act 3 of 1997

11. Section 26 of the principal Act is repealed.

Replacement of section 27 of Act 3 of 1997

12. Section 27 of the principal Act is replaced with the following section:

"Local authority may determine fees

27. A local authority may, by special resolution, determine the fees to be charged for any purpose in respect of which it may make by-laws under the National Road Traffic Act, 1996."

Repeal of sections 28 to 30 of Act 3 of 1997

13. Sections 28 to 30 of the principal Act are repealed.

Repeal of sections 34 to 40 of Act 3 of 1997

14. Sections 34 to 40 of the principal Act are repealed.

Repeal of section 42 of Act 3 of 1997

15. Section 42 of the principal Act is repealed.

Amendment of section 43 of Act 3 of 1997

16. Section 43 of the principal Act is amended by inserting the expression "or chief executive officer, as the case may be," after the expression "MEC", wherever it occurs.

Short title and commencement

17. This Act is called the Northern Cape Road Traffic Amendment Act, 1998, and comes into operation on a date fixed by the Premier by Proclamation in the *Provincial Gazette*.

BILL

To amend the Mpumalanga Road Traffic Act, 1998, so as to repeal all the provisions except those relating to fees; to amend the provisions relating to fees so as to transfer certain functions to the Road Traffic Management Corporation; and to provide for incidental matters.

BE IT ENACTED by the Provincial Legislature of the Mpumalanga Province, as follows:-

Amendment of section 1 of Act ...

1. Section 1 of the Mpumalanga Road Traffic Act, 1998 (hereinafter referred to as the principal Act), is amended -

- (a) by replacing the definition of "by-law" with the following definition:

"by-law" means a by-law contemplated in section 27;"

- (b) by replacing the definition of "examiner for driving licences" with the following definition:

"examiner for driving licences" means an examiner for driving licences registered in terms of Chapter I;"

- (c) by replacing the definition of "examiner of vehicles" with the following definition:

"examiner of vehicles" means an examiner of vehicles registered in terms of Chapter I;"

- (d) by replacing the definition of "inspector of licences" with the following definition:

"inspector of licences" means an inspector of licences registered in terms of Chapter I;"

- (e) by replacing the definition of "registering authority" with the following definition:

"registering authority" means a registering authority appointed under the National Road Traffic Act, 1996;"

- (f) by replacing the word "appointed", in the definition of "traffic officer", with the word "registered"; and

- (g) by replacing the definition of "traffic warden" with the following definition:

"traffic warden" means a traffic warden registered under Chapter I;"

Repeal of sections 2 and 3 of Act ...

2. Sections 2 and 3 of the principal Act are repealed.

Amendment of section 4 of Act ...

3. Section 4 of the principal Act is amended by replacing the expression "responsible Member", in subsection (1), with the expression "chief executive officer".

Amendment of section 5 of Act ...

4. Section 5 of the principal Act is amended by replacing the expression "responsible Member", in subsection (1), with the expression "chief executive officer".

Repeal of sections 6 to 13 of Act ...

5. Sections 6 to 13 of the principal Act are repealed.

Amendment of section 14 of Act ...

6. Section 14 of the principal Act is amended by replacing the expression "responsible Member", in subsection (1), with the expression "chief executive officer".

Amendment of section 15 of Act ...

7. Section 15 of the principal Act is amended by replacing the expression "responsible Member" with the expression "chief executive officer".

Repeal of sections 16 to 18 of Act ...

8. Sections 16 to 18 of the principal Act are repealed.

Repeal of sections 20 to 24 of Act ...

9. Sections 20 to 24 of the principal Act are repealed.

Amendment of section 25 of Act ...

10. Section 25 of the principal Act is amended by deleting paragraphs (a) to (f) of subsection (1).

Repeal of section 26 of Act ...

11. Sections 26 of the principal Act is repealed.

Replacement of section 27 of Act ...

12. Section 27 of the principal Act is replaced with the following section:

"Local authority may determine fees

27. A local authority may, by special resolution, determine the fees to be charged for any purpose in respect of which it may make by-laws under the National Road Traffic Act, 1996."

Repeal of sections 28 to 30 of Act ...

13. Sections 28 to 30 of the principal Act are repealed.

Repeal of sections 33 to 39 of Act ...

14. Sections 33 to 39 of the principal Act are repealed.

Repeal of section 41 of Act ...

15. Section 41 of the principal Act is repealed.

Amendment of section 42 of Act ...

16. Section 42 of the principal Act is amended by inserting the expression "or chief executive officer, as the case may be", after the expression "responsible Member", wherever it occurs.

Short title and commencement

17. This Act is called the Mpumalanga Road Traffic Amendment Act, 1998, and comes into operation on a date fixed by the Premier by Proclamation in the *Provincial Gazette*.

BILL

To amend the North-West Road Traffic Act, 1997, so as to repeal all provisions except those relating to fees; to amend the provisions relating to fees so as to transfer certain functions to the Road Traffic Management Corporation; and to provide for incidental matters.

BE IT ENACTED by the Provincial Legislature of the North-West Province, as follows:-

Amendment of section 1 of Act 11 of 1997

1. Section 1 of the North-West Road Traffic Act, 1997 (hereinafter called the principal Act), is amended-

- (a) by replacing the definition of "by-law" with the following definition:

"by-law" means a by-law contemplated in section 19(5) or 27;"

- (b) by replacing the definition of "examiner for driving licences" with the following definition:

"examiner for driving licences" means an examiner for driving licences registered in terms of section 5;"

- (c) by replacing the definition of "inspector of licences" with the following definition:

"inspector of licences" means an inspector of licences registered in terms of section 5;"

- (d) by replacing the definition of "registering authority" with the following definition:

"registering authority" means a registering authority appointed under the National Road Traffic Act, 1996;"

- (e) by replacing the expression "appointed under section 3(1)(a)", in the definition of "traffic officer", with the expression "registered under section 5"; and

- (f) by replacing the definition of "traffic warden" with the following definition:

"traffic warden" means a traffic warden registered under section 5."

Repeal of sections 2 and 3 of Act 11 of 1997

2. Sections 2 and 3 of the principal Act are repealed.

Amendment of section 4 of Act 11 of 1997

3. Section 4 of the principal Act is amended by replacing the expression "responsible Member", in subsection (1), with the expression "chief executive officer".

Amendment of section 5 of Act 11 of 1997

4. Section 5 of the principal Act is amended by replacing the expression "responsible Member", wherever it occurs, with the expression "chief executive officer".

Repeal of sections 6 to 13 of Act 11 of 1997

5. Sections 6 to 13 of the principal Act are repealed.

Amendment of section 14 of Act 11 of 1997

6. Section 14 of the principal Act is amended by replacing the expression "responsible Member", in subsection (1), with the expression "chief executive officer".

Amendment of section 15 of Act 11 of 1997

7. Section 15 of the principal Act is amended by replacing the expression "responsible Member" with the expression "chief executive officer".

Repeal of sections 16 to 18 of Act 11 of 1997

8. Sections 16 to 18 of the principal Act are repealed.

Repeal of sections 20 to 24 of Act 11 of 1997

9. Sections 20 to 24 of the principal Act are repealed.

Amendment of section 25 of Act 11 of 1997

10. Section 25 of the principal Act is amended by deleting paragraphs (a) to (f) of subsection (1).

Repeal of section 26 of Act 11 of 1997

11. Section 26 of the principal Act is repealed.

Replacement of section 27 of Act 11 of 1997

12. Section 27 of the principal Act is replaced with the following section:

"Local authority may determine fees

27. A local authority may, in consultation with the responsible Member, by special resolution, determine the fees to be charged for any purpose in respect of which it may make by-laws under the National Road Traffic Act, 1996."

Repeal of sections 28 to 30 of Act 11 of 1997

13. Sections 28 to 30 of the principal Act are repealed.

Repeal of sections 40 to 45 of Act 11 of 1997

14. Sections 40 to 45 of the principal Act are repealed.

Repeal of section 47 of Act 11 of 1997

15. Section 47 of the principal Act is repealed.

Amendment of section 48 of Act 11 of 1997

16. Section 48 of the principal Act is amended by inserting the expression "or chief executive officer, as the case may be," after the expression "responsible Member", wherever it occurs.

Short title and commencement

17. This Act is called the North-West Road Traffic Amendment Act, 1998, and comes into operation on a date fixed by the Premier by Proclamation in the *Provincial Gazette*.

BILL

To amend the Free State Provincial Road Traffic Act, 1998, so as to repeal all the provisions except those relating to fees; to amend the provisions relating to fees so as to transfer certain functions to the Road Traffic Management Corporation; and to provide for incidental matters.

BE IT ENACTED by the Provincial Legislature of the Free State Province, as follows:-

Amendment of section 1 of Act 2 of 1998

1. Section 1 of the Free State Provincial Road Traffic Act, 1998 (hereinafter called the principal Act), is amended -

- (a) by replacing the definition of "by-law" with the following definition:

"by-law" means a by-law contemplated in section 27;
- (b) by replacing the definition of "examiner for driving licences" with the following definition:

"examiner for driving licences" means an examiner for driving licences registered under Chapter II;
- (c) by replacing the definition of "examiner of vehicles" with the following definition:

"examiner of vehicles" means an examiner of vehicles registered under Chapter II;
- (d) by replacing the definition of "inspector of licences" with the following definition:

"inspector of licences" means an inspector of licences registered under Chapter II;
- (e) by deleting the definition of "Premier";
- (f) by deleting the words "and appointed" in the definition of "traffic officer"; and
- (g) by deleting the definition of "traffic warden".

Repeal of sections 2 and 3 of Act 2 of 1998

2. Sections 2 and 3 of the principal Act are repealed.

Amendment of section 4 of Act 2 of 1998

3. Section 4 of the principal Act is amended by replacing the expression "MEC", in subsection (1), with the expression "chief executive officer".

Amendment of section 5 of Act 2 of 1998

4. Section 5 of the principal Act is amended by replacing the expression "MEC", in subsection (1), with the expression "chief executive officer".

Repeal of sections 6 to 13 of Act 2 of 1998

5. Sections 6 to 13 of the principal Act are repealed.

Amendment of section 14 of Act 2 of 1998

6. Section 14 of the principal Act is amended by replacing the expression "MEC", in subsection (1), with the expression "chief executive officer".

Amendment of section 15 of Act 2 of 1998

7. Section 15 of the principal Act is amended by replacing the expression "MEC" with the expression "chief executive officer".

Repeal of sections 16 to 18 of Act 2 of 1998

8. Sections 16 to 18 of the principal Act are repealed.

Repeal of sections 20 to 24 of Act 2 of 1998

9. Sections 20 to 24 of the principal Act are repealed.

Amendment of section 25 of Act 2 of 1998

10. Section 25 of the principal Act is amended by deleting paragraphs (a) to (e) of subsection (1).

Repeal of section 26 of Act 2 of 1998

11. Section 26 of the principal Act is repealed.

Replacement of section 27 of Act 2 of 1998

12. Section 27 of the principal Act is replaced with the following section:

"Local authority may determine fees

27. A local authority may, by special resolution, determine the fees to be charged for any purpose in respect of which it may make by-laws under the National Road Traffic Act, 1996."

Repeal of sections 28 to 30 of Act 2 of 1998

13. Sections 28 to 30 of the principal Act are repealed.

Repeal of sections 34 and 40 of Act 2 of 1998

14. Sections 34 and 40 of the principal Act are repealed.

Repeal of section 42 of Act 2 of 1998

15. Section 42 of the principal Act is repealed.

Amendment of section 43 of Act 2 of 1998

16. Section 43 of the principal Act is amended by inserting the expression "or chief executive officer, as the case may be", after the expression "MEC", wherever it occurs.

Short title and commencement

17. This Act is called the Free State Provincial Road Traffic Amendment Act, 1998, and comes into operation on a date fixed by the MEC by Proclamation in the *Provincial Gazette*.

BILL

To amend the Western Cape Road Traffic Act, 1998, so as to repeal all the provisions except those relating to fees; to amend the provisions relating to fees so as to transfer certain functions to the Road Traffic Management Corporation; and to provide for incidental matters.

BE IT ENACTED by the Provincial Legislature of the Western Cape Province, as follows:-

Amendment of section 1 of Act 14 of 1998

1. Section 1 of the Western Cape Road Traffic Act, 1998 (hereinafter called the principal Act), is amended -

- (a) by replacing the definition of "by-law" with the following definition:

"by-law" means a by-law contemplated in section 27;"
- (b) by replacing the definition of "examiner for driving licences" with the following definition:

"examiner for driving licences" means an examiner for driving licences registered in terms of Chapter I;"
- (c) by replacing the definition of "examiner of vehicles" with the following definition:

"examiner of vehicles" means an examiner of vehicles registered in terms of Chapter I;"
- (d) by replacing the definition of "inspector of licences" with the following definition:

"inspector of licences" means an inspector of licences registered in terms of Chapter I;"
- (e) by replacing the definition of "registering authority" with the following definition:

"registering authority" means a registering authority appointed under the National Road Traffic Act, 1996;"
- (f) by replacing the word "appointed", in the definition of "traffic officer", with the word "registered"; and
- (g) by replacing the definition of "traffic warden" with the following definition:

" traffic warden" means a traffic warden registered under Chapter I;"

Repeal of sections 2 and 3 of Act 14 of 1998

2. Sections 2 and 3 of the principal Act are repealed.

Amendment of section 4 of Act 14 of 1998

3. Section 4 of the principal Act is amended by replacing the expression "Provincial Minister", in subsection (1), with the expression "chief executive officer".

Amendment of section 5 of Act 14 of 1998

4. Section 5 of the principal Act is amended by replacing the expression "Provincial Minister", in subsection (1), with the expression "chief executive officer".

Repeal of sections 6 to 13 of Act 14 of 1998

5. Sections 6 to 13 of the principal Act are repealed.

Amendment of section 14 of Act 14 of 1998

6. Section 14 of the principal Act is amended by replacing the expression "Provincial Minister", in subsection (1), with the expression "chief executive officer".

Amendment of section 15 of Act 14 of 1998

7. Section 15 of the principal Act is amended by replacing the expression "Provincial Minister" with the expression "chief executive officer".

Repeal of sections 16 to 18 of Act 14 of 1998

8. Sections 16 to 18 of the principal Act are repealed.

Repeal of sections 20 to 24 of Act 14 of 1998

9. Sections 20 to 24 of the principal Act are repealed.

Amendment of section 25 of Act 14 of 1998

10. Section 25 of the principal Act is amended by deleting paragraphs (a) to (f) of subsection (1).

Repeal of section 26 of Act 14 of 1998

11. Section 26 of the principal Act is repealed.

Replacement of section 27 of Act 14 of 1998

12. Section 27 of the principal Act is replaced with the following section:

"Local authority may determine fees

27. A local authority may, by special resolution, determine the fees to be charged for any purpose in respect of which it may make by-laws under the National Road Traffic Act, 1996."

Repeal of sections 28 to 30 of Act 14 of 1998

13. Sections 28 to 30 of the principal Act are repealed.

Repeal of sections 34 to 40 of Act 14 of 1998

14. Sections 34 to 40 of the principal Act are repealed.

Repeal of section 42 of Act 14 of 1998

15. Section 42 of the principal Act is repealed.

Amendment of section 43 of Act 14 of 1998

16. Section 43 of the principal Act is amended by inserting the expression "or chief executive officer, as the case may be", after the expression "responsible Member", wherever it occurs.

Short title and commencement

17. This Act is called the Western Cape Road Traffic Amendment Act, 1998, and comes into operation on a date fixed by the Premier by Proclamation in the *Provincial Gazette*.

BILL

To amend the Gauteng Provincial Road Traffic Act, 1997, so as to repeal all provisions except those relating to fees; to amend the remaining provisions so as to transfer certain functions to the Road Traffic Management Corporation; and to provide for incidental matters.

BE IT ENACTED by the Provincial Legislature of the Province of Gauteng, as follows:-

Amendment of section 1 of Act 10 of 1997

1. Section 1 of the Gauteng Provincial Road Traffic Act, of 1997 (hereinafter called the principal Act), is amended -

- (a) by replacing the definition of "examiner for driving licences" with the following definition:

"examiner for driving licences" means an examiner for driving licences registered in terms of section 5";

- (b) by replacing the definition of "examiner of vehicles" with the following definition:

"examiner of vehicles" means an examiner of vehicles registered in terms of section 5";

- (c) by replacing the definition of "inspector of licences" with the following definition:

"inspector of licences" means an inspector of licences registered in terms of section 5";

- (d) by deleting the definition of "inspectorate of driving licence testing centres";

- (e) by deleting the definition of "inspectorate of testing stations";

- (f) by deleting the definition of "owner";

- (g) by replacing the definition of "registering authority" with the following definition:

"registering authority" means a registering authority appointed under the National Road Traffic Act, 1996";

- (h) by replacing the definition of "reserve traffic officer" with the following definition:

"reserve traffic officer" means a reserve traffic officer registered under section 5";

- (i) by replacing the definition of "reserve traffic warden" with the following definition:

"reserve traffic warden" means a reserve traffic warden registered under section 5";

- (j) by replacing the expression "appointed under section 3" in the definition of "traffic officer" with the expression "registered under section 5"; and

- (k) by replacing the definition of "traffic warden" with the following definition:

"traffic warden" means a traffic warden registered under section 5";

Repeal of sections 2 and 3 of Act 10 of 1997

2. Sections 2 and 3 of the principal Act are repealed.

Amendment of section 4 of Act 10 of 1997

3. Section 4 of the principal Act is amended -

- (a) by replacing paragraph (g) of subsection (1) with the following paragraph:

"(g) reserve traffic warden"; and

- (b) by replacing the expression "MEC", in the words following paragraph (g) of subsection (1), with the expression "chief executive officer".

Amendment of section 5 of Act 10 of 1997

4. Section 5 of the principal Act is amended by replacing the expression "MEC", wherever it occurs, with the expression "chief executive officer".

Repeal of sections 6 to 13 of Act 10 of 1997

5. Sections 6 to 13 of the principal Act are repealed.

Amendment of section 14 of Act 10 of 1997

6. Section 14 of the principal Act is amended by replacing the expression "MEC", in subsection (1), with the expression "chief executive officer".

Amendment of section 15 of Act 10 of 1997

7. Section 15 of the principal Act is amended by replacing the expression "MEC" with the expression "chief executive officer".

Repeal of sections 16 to 18 of Act 10 of 1997

8. Sections 16 to 18 of the principal Act are repealed.

Repeal of sections 20 to 24 of Act 10 of 1997

9. Sections 20 to 24 of the principal Act are repealed.

Amendment of section 25 of Act 10 of 1997

10. Section 25 of the principal Act is amended by deleting paragraphs (a) to (f) of subsection (1).

Repeal of section 26 of Act 10 of 1997

11. Section 26 of the principal Act is repealed.

Replacement of section 27 of Act 10 of 1997

12. Section 27 of the principal Act is replaced with the following section:

"Local authority may determine fees

27. A local authority may, by special resolution, determine the fees to be charged for any purpose in respect of which it may make by-laws under the National Road Traffic Act, 1996."

Repeal of sections 28 to 30 of Act 10 of 1997

13. Sections 28 to 30 of the principal Act are repealed.

Repeal of section 34 to 40 of Act 10 of 1997

14. Sections 34 to 40 of the principal Act are repealed.

Repeal of section 42 of Act 10 of 1997

15. Section 42 of the principal Act is repealed.

Amendment of section 43 of Act 10 of 1997

16. Section 43 of the principal Act is amended by replacing the figure "26" in subsection (1)(a) with the figure "25".

Short title and commencement

17. This Act is called the Gauteng Provincial Road Traffic Amendment Act, 1998, and comes into operation on a date fixed by the Premier by Proclamation in the *Provincial Gazette*.

BILL

To amend the Eastern Cape Road Traffic Act, 1997, so as to repeal all provisions except those relating to fees; to amend the provisions relating to fees so as to transfer certain functions to the Road Traffic Management Corporation; and to provide for incidental matters.

BE IT ENACTED by the Provincial Legislature of the Eastern Cape Province, as follows:-

Amendment of section 1 of Act...

1. Section 1 of the Road Traffic Act, 1997 (Eastern Cape), (hereinafter called the principal Act), is amended -

- (a) by replacing the definition of "by-law" with the following definition:

"by-law" means a by-law contemplated in section 27:"

- (b) by replacing the definition of "examiner for driving licences" with the following definition:

"examiner for driving licences" means an examiner for driving licences registered in terms of Chapter II:"

- (c) by replacing the definition of "examiner of vehicles" with the following definition:

"examiner of vehicles" means an examiner of vehicles registered in terms of Chapter II:"

- (d) by replacing the definition of "inspector of licences" with the following definition:

"inspector of licences" means an inspector of licences registered in terms of Chapter II:"

- (e) by replacing the definition of "registering authority" with the following definition:

"registering authority" means a registering authority appointed under the National Road Traffic Act, 1996:"

- (f) by replacing the expression "appointed", in the definition of "traffic officer", with the expression "registered"; and

- (g) by replacing the definition of "traffic warden" with the following definition:

"traffic warden" means a traffic warden registered under Chapter II:"

Repeal of sections 2 and 3 of Act ...

2. Sections 2 and 3 of the principal Act are repealed.

Amendment of section 4 of Act ...

3. Section 4 of the principal Act is amended by replacing the expression "MEC", in subsection (1), with the expression "chief executive officer".

Amendment of section 5 of Act ...

4. Section 5 of the principal Act is amended by replacing the expression "MEC", wherever it occurs, with the expression "chief executive officer".

Repeal of sections 6 to 13 of Act ...

5. Sections 6 to 13 of the principal Act are repealed.

Amendment of section 14 of Act ...

6. Section 14 of the principal Act is amended by replacing the expression "MEC" with the expression "chief executive officer".

Amendment of section 15 of Act ...

7. Section 15 of the principal Act is amended by replacing the expression "MEC" with the expression "chief executive officer".

Repeal of sections 16 to 18 of Act ...

8. Sections 16 to 18 of the principal Act are repealed.

Repeal of sections 20 to 24 of Act

9. Sections 20 to 24 of the principal Act are repealed.

Amendment of section 25 of Act ...

10. Section 25 of the principal Act is amended by deleting paragraphs (a) to (f) of subsection (1).

Repeal of section 26 of Act ...

11. Section 26 of the principal Act is repealed.

Replacement of section 27 of Act ...

12. Section 27 of the principal Act is replaced with the following section:

"Local authority may determine fees

27. A local authority may, by special resolution, determine the fees to be charged for any purpose in respect of which it may make by-laws under the National Road Traffic Act, 1996."

Repeal of sections 28 to 30 of Act ...

13. Sections 28 to 30 of the principal Act are repealed.

Repeal of sections 34 to 40 of Act ...

14. Sections 34 to 40 of the principal Act are repealed.

Repeal of section 42 of Act ...

15. Section 42 of the principal Act is repealed.

Amendment of section 43 of Act ...

16. Section 43 of the principal Act is amended by inserting the words "or chief executive officer, as the case may be," after the expression "MEC", wherever it occurs.

Short title and commencement

17. This Act is called the Eastern Cape Road Traffic Amendment Act, 1998 and comes into operation on a date fixed by the Premier by Proclamation in the *Provincial Gazette*.

BILL

To amend the KwaZulu-Natal Road Traffic Act, 1997, so as to repeal all provisions except those relating to fees; to amend the remaining provisions to transfer certain functions to the Road Traffic Management Corporation; and to provide for incidental matters.

BE IT ENACTED by the Provincial Legislature of the Province of KwaZulu-Natal, as follows:-

Amendment of section 1 of Act 7 of 1997

1. Section 1 of the KwaZulu-Natal Road Traffic Act, 1997 (hereinafter called the principal Act), is amended -

- (a) by replacing the definition of "examiner for driving licences" with the following definition:

"examiner for driving licences" means an examiner for driving licences registered under Chapter I;

- (b) by replacing the definition of "examiner of vehicles" with the following definition:

"examiner of vehicles" means an examiner of vehicles registered under Chapter I;

- (c) by replacing the definition of "inspector of licences" with the following definition:

"inspector of licences" means an inspector of licences registered under Chapter 1;

- (d) by replacing the word "appointed", in the definition of "traffic officer", with the word "registered";

- (e) by replacing the definition of "Minister" with the following definitions:

"MEC means the member of the Executive Council appointed in terms of section 132(2) of the Constitution to whom the administration of this Act has been assigned"; and

"Minister means the Minister of Transport in the National Government"; and

- (f) by replacing the definition of "registering authority" with the following definition:

"registering authority" means a registering authority appointed under the National Road Traffic Act, 1996.

Repeal of sections 2 and 3 of Act 7 of 1997

2. Sections 2 and 3 of the principal Act are repealed.

Amendment of section 4 of Act 7 of 1997

3. Section 4 of the principal Act is amended by replacing the expression "Minister", in the words following upon subsection (1)(f), with the expression "chief executive officer".

Amendment of section 5 of Act 7 of 1997

4. Section 5 of the principal Act is amended by replacing the expression "Minister" in subsection (1) with the expression "chief executive officer".

Repeal of sections 6 to 13 of Act 7 of 1997

5. Sections 6 to 13 of the principal Act are repealed.

Amendment of section 14 of Act 7 of 1997

6. Section 14 of the principal Act is amended by replacing the expression "Minister" in subsection (1) with the expression "chief executive officer".

Amendment of section 15 of Act 7 of 1997

7. Section 15 of the principal Act is amended by replacing the expression "Minister" with the expression "chief executive officer".

Repeal of sections 16 to 18 of Act 7 of 1997

8. Sections 16 to 18 of the principal Act are repealed.

Repeal of sections 20 to 24 of Act 7 of 1997

9. Sections 20 to 24 of the principal Act are repealed.

Amendment of section 25 of Act 7 of 1997

10. Section 25 of the principal Act is replaced with the following section:

"Power of MEC to make regulations

25(1) The MEC may make regulations, not inconsistent with the regulations of this Act or the National Road Traffic Act, 1996, in respect of any matter contemplated, required or permitted to be prescribed under this Act and generally for the better carrying out of the provisions or objects of this Act or the National Road Traffic Act, 1996, and in particular, but without prejudice to the generality of the foregoing provisions, with respect to -

- (a) the fees that may or are to be charged for any purpose under this Act, or in respect of any registration, application, authorisation or examination or the issue of any document or copy of such document, referred to in the National Road Traffic Act, 1996, or the regulations issued under that Act; and
- (b) the fees that may or are to be charged in respect of the registration and licensing of motor vehicles as contemplated in the National Road Traffic Act, 1996.
- (2) The power to make regulations for any purpose referred to in subsection (1), shall include power to restrict or prohibit any matter or thing in relation to that purpose either absolutely or conditionally.
- (3) Any regulation under this section may be made to apply generally throughout the province or within any specified part thereof or to any specified category of vehicle or person.
- (4) A regulation made under subsection (1) may provide for penalties for a contravention thereof and also for different penalties in the case of successive or continuous contraventions, but no penalty shall exceed a fine or imprisonment for a period of one year.
- (5) Before the MEC makes any regulation under this section, he or she may, if he or she deems it expedient, cause a draft of the proposed regulation to be published in the Provincial Gazette together with a notice calling upon all interested persons to lodge in writing, and within a period stated in the notice, but not less than four weeks from the date of publication of the notice, any objections or representations which they would like to raise or to make, with the Director-General for submission to the MEC; Provided that, if the MEC thereafter decides to alter the draft regulations as a result of any objections or representations submitted with regard thereto, it shall not be necessary so to publish the alterations before making the regulations."

Repeal of section 26 of Act 7 of 1997

11. Section 26 of the principal Act is repealed.

Replacement of section 27 of Act 7 of 1997

12. Section 27 of the principal Act is replaced with the following section:

"Local authority may determine fees

27. A local authority may, by special resolution, determine the fees to be charged for any purpose in respect of which it may make by-laws under the National Road Traffic Act, 1996."

Repeal of sections 28 to 30 of Act 7 of 1997

13. Sections 28 to 30 of the principal Act are repealed.

Amendment of section 33 of Act 7 of 1997

14. Section 33 of the principal Act is replaced with the following section:

"MEC may authorise certain refunds

- 33(1)** The MEC may, if he or she is satisfied that any amount paid by a person was in excess of the amount properly chargeable under this Act, authorise a refund of such amount or of any part thereof to such person, subject to Treasury instructions.
- (2)** The MEC shall not authorise any refund under this section unless the claim therefor is received by the registering authority or the Provincial Administration within three years after the date of the payment concerned.
- (3)** The MEC may, in his or her discretion and where he or she is satisfied that in the circumstances it will be fair and reasonable to do so, waive all or part of the fees payable by a person under this Act."

Repeal of section 34 to 40 of Act 7 of 1997

15. Sections 34 to 40 of the principal Act are repealed.

Repeal of section 42 of Act 7 of 1997

16. Section 42 of the principal Act is repealed.

Amendment of section 43 of Act 7 of 1997

17. Section 43 of the principal Act is amended by replacing the expression "Minister", wherever it occurs in subsections (1) and (2), with the expression "MEC or chief executive officer as the case may be".

Short title and commencement

18. This Act is called the KwaZulu-Natal Road Traffic Amendment Act, 1998, and comes into operation on a date fixed by the Premier by Proclamation in the *Provincial Gazette*.

1

**ADMINISTRATIVE ADJUDICATION OF
ROAD TRAFFIC OFFENCES
DRAFT AMENDMENT BILL, 1998**

Schedule E

BILL

To amend the Administrative Adjudication of Road Traffic Offences Act, 1998, so as to further regulate the apportionment of penalties; to repeal section 6 of the Finance and Financial Adjustment Acts Consolidation Act, 1977, according to which a traffic fine must be paid to the local authority in whose area of jurisdiction the relevant offence was committed; and to provide for incidental matters.

BE IT ENACTED by the Paliament of the Republic of South Africa, as follows:-

Replacement of section 32 of Act 46 of 1998

1. Section 32 of the Administrative Adjudication of Road Traffic Offences Act, 1998 (Act No. 46 of 1998), replaced with the following section:

"Apportionment of penalties

32. (1) Any penalty received by the agency in terms of this Act must be paid over monthly, after deduction of an amount equal to the discount contemplated in section 17(1)(d), to the issuing authority under whose authority the infringement notice was issued, and if it was not issued under the authority of such authority, to the issuing authority within whose area of jurisdiction the infringement was committed.

(2) Any fine received in respect of any conviction under the national and provincial laws relating to road traffic, must be paid over monthly to the issuing authority under whose authority the infringement notice was issued, and if it was not issued under the authority of such authority, to the issuing authority within whose area of jurisdiction the infringement was committed."

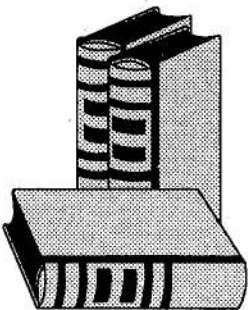
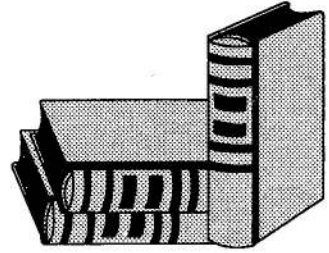
Repeal of section 6 of Act 11 of 1977

2. Section 6 of the Finance and Financial Adjustments Acts Consolidation Act, 1977 (Act No. 11 of 1977), is repealed.

Short title and commencement

3. This Act is called the Administrative Adjudication of Road Traffic Offences Amendment Act, 1998 and comes into operation on a date to be fixed by the President by Proclamation in the *Gazette*.

Where is the largest amount of meteorological information in the whole of South Africa available?



Waar is die meeste weerkundige inligting in die hele Suid-Afrika beskikbaar?

CONTENTS

No.	Page No.	Gazette No.
GENERAL NOTICE		
Transport, Department of General Notice		
2434 Road Traffic Management Corporation Draft Bill, 1998: For comments.....	1	19381
