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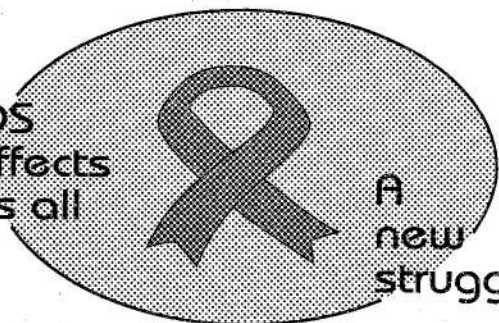
Vol. 421

PRETORIA, 31 JULY  
JULIE 2000

No. 21424

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## GENERAL NOTICE

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NOTICE 2740 OF 2000

DEPARTMENT OF TRANSPORT

### INFORMATION NOTE: IMPLEMENTATION OF THE NATIONAL ROAD TRAFFIC ACT, 1996: A GUIDELINE

Notice No. 246, published in Gazette No. 20982 of 17 March 2000, is hereby withdrawn. The following guideline is offered relating to the implementation of the National Road Traffic Act, 1996 (Act No. 93 of 1996), based on the Proclamations determining the date of coming into operation of, the said Act, the National Road Traffic Amendment Act, 1998 (Act No. 8 of 1998), the National Road Traffic Amendment Act, 1999 (Act No. 21 of 1999), and the Proclamation in terms of which certain assignments pertaining to the Road Traffic Act, 1989 (Act No. 29 of 1989), is made, as well as the notice determining the date of coming into operation of the National Road Traffic Regulations:

#### NATIONAL ROAD TRAFFIC ACT TO BE IMPLEMENTED ALONGSIDE ROAD TRAFFIC ACT

Certain sections of the National Road Traffic Act, 1996 ("the new Act"), the whole of the National Road Traffic Amendment Act, 1998, and certain sections of the National Road Traffic Amendment Act, 1999, comes into force on the same date and at the same time. The new Act therefore comes into force as amended by the said Acts, and will at the same time repeal the Road Traffic Act, 1989 (Act No. 29 of 1989) ("the old Act").

The new Act provides that any relevant provision of the old Act shall remain in force until such time as the corresponding provision of the new Act has been put into operation. The MEC's are assigned the functions and powers of the Administrator by way of a Proclamation signed by the President, with respect to those sections of the old Act that remains in force.

The old Act will remain in force with respect to the following aspects (the relevant regulations of the Road Traffic Regulations, wherever it is not expressly mentioned hereunder, made under the old Act under the sections mentioned, will remain in force as well):

- (a) The definitions of—
  - (i) "by-law";
  - (ii) "examiner for driving licences";
  - (iii) "examiner of vehicles";
  - (iv) "inspector of licences";
  - (v) "instructor";

- (vi) "peace officer";
  - (vii) "registering authority"; and
  - (viii) "traffic officer";
- contained in the old Act will remain in force.
- (b) The MEC will appoint registering authorities in terms of section 2 of the old Act.
  - (c) The MEC will appoint, register and grade, and suspend and withdraw the registration of, inspectors of licences, examiners of vehicles, examiners for driving licences and traffic officers, in terms of sections 3, 4, 5 and 6 of the old Act. A person has the right to appeal to the Minister against the decision of the MEC made in terms of the said sections, in terms of section 6A of the old Act.
  - (d) The inspector of licences, examiner of vehicles, examiner for driving licences and traffic officer, performs his or her powers and duties in terms of sections 8, 9, 10 and 11 of the old Act.
  - (e) It shall be an offence to fail to comply with the instruction or direction of, or to impersonate, an inspector of licences, examiner of vehicles, examiner for driving licences, traffic officer and peace officer, in terms of section 12 and 13 of the old Act.
  - (f) The Minister appoints the inspectorate of driving licence testing centers under section 22 of the old Act, and the powers and duties of the inspectorate, and the fees (to defray the expenditure incurred by the inspectorate in the performance of its powers and duties) is prescribed in regulations 241F and 241G of the Road Traffic Regulations made under the old Act.
  - (g) Instructors for driving licences shall be certified in accordance with regulation 250 of the Road Traffic Regulations made under the old Act.
  - (h) A department of State or a registering authority has the right to appeal against the decision of the MEC not to register it as a driving licence testing center, or to cancel or suspend its registration, under section 22A of the old Act.
  - (i) A person has the right to appeal to the MEC against a decision not to issue him or her with a driving licence or learner's licence, under section 27 of the old Act.

- (j) A person, department of State or registering authority has the right to appeal to the Minister against the decision not to register it as a testing station, or to cancel or suspend such registration, under section 59A of the old Act.
- (k) The Minister appoints the inspectorate of testing stations under section 61 of the old Act, and the powers and duties of the inspectorate, and the fees (to defray the expenditure incurred by the inspectorate in the performance of its powers and duties) is prescribed in regulations 265G and 265H of the Road Traffic Regulations made under the old Act.
- (l) An operator has the right to appeal to the Minister against a decision of the MEC not to issue, or to suspend or cancel, an operator's card, under section 80 of the old Act.
- (m) Local authorities make by-laws under section 133 of the old Act.
- (n) Apportionment of fines is done under section 151 of the old Act.

## **MAIN DIFFERENCES OF NEW ACT COMPARED TO OLD ACT**

### **Registration of motor vehicles**

- (a) The certificate issued by the manufacturer, builder or importer, and submitted upon the first registration of a vehicle, must contain a letter of authority, if applicable (please see paragraph (d)).
- (b) A motor vehicle recorded as "built up" in the register of motor vehicles, shall be recorded as built up upon each application for registration of the vehicle concerned.
- (c) A chassis or a cab and chassis shall be recorded as "under construction" in the register of motor vehicles.

### **Manufacturers, builders and importers**

- (d) The definition of manufacturers, builders and importers no longer refers to them as being in the business of selling motor vehicles. This implies that a person who manufactures, builds or imports a motor vehicle for his or her own use, is also considered to be a manufacturer, builder or importer under the National Road Traffic



Act. Manufacturers, builders and importers that are in the business of selling motor vehicles must register as such.

Manufacturers, builders who modify motor vehicles (modify is defined in the National Road Traffic Regulations as "fitting a bus body or goods body to any chassis; altering the number of passenger seats on a bus or altering the dimensions of a bus; altering the wheelbase of a vehicle, unless the vehicle is designed to enable the wheelbase to be altered; altering the axle or axle-unit position or number of axles") and importers, who are not in the business of selling motor vehicles, must apply to the inspectorate of manufacturers, builders and importers for a letter of authority with respect to every motor vehicle design or design of a motor vehicle modification (does not apply to a trailer with a gross vehicle mass not exceeding 750 kg).

A motor vehicle manufactured, modified or imported by a manufacturer, builder or importer referred to above, must present such vehicle to the South African Police Service for clearance. Certification of roadworthiness must also be obtained for such vehicle prior to registration.

#### Manufacturers of number plates

- (e) All manufacturers of number plates must register as such. All current manufacturers of number plates must apply for registration within six months from the date of commencement of the relevant parts of the new Act.

The registration of manufacturers of number plates is subject to the following conditions:

- (i) Number plates manufactured by a manufacturer of number plates shall comply with the requirements of standard specification SABS 1116: "Retro-reflective Registration Plates for Motor Vehicles", Part 2: "Registration plates (metal)" and Part 4: "Registration plates (plastics)".
- (ii) Manufacturers of number plates shall keep a register of number plates manufactured, which register shall contain—
  - (aa) the licence number brought onto the number plate concerned;
  - (bb) the date of manufacture of the number plate;
  - (cc) the chassis number of the vehicle to which the number plate concerned is fitted;
  - (dd) the acceptable identification of the person to whom the number plate concerned is sold; and

- (ee) such additional information as required by the MEC.
- (iii) The register of number plates must be put at the disposal of any traffic officer, member of the South African Police Service or any other local or provincial authority, upon request.
- (iv) Manufacturers of number plates shall only use such materials and processes in the manufacture of number plates as are approved by the South African Bureau of Standards and for which test reports are held on the premises of such manufacturer of number plates.
- (v) The registration certificate of a manufacturer of number plates shall be displayed in a conspicuous position on the premises of such manufacturer of number plates in such a manner that it is visible to members of the public.

#### Operator fitness

- (f) All owners of breakdown vehicles, and goods vehicles with a gross vehicle mass exceeding 3 500 kg, shall be registered as operators upon licensing of such vehicle. A person who is not a manager, employee or agent of the owner of such a vehicle, who has a written agreement that provides that the vehicle concerned can be operated by the said person, shall be deemed to be the operator of the vehicle for the purpose of the duties of the operator prescribed in section 49 of the new Act.

#### Regulation of the transportation of dangerous goods by road

- (g) The intention is that the regulation of the transportation of dangerous goods by road (sections 54 and 55 of the new Act) shall not come into force for at least a period of 12 months after the coming into force of the new Act.

#### Driving while under the influence of alcohol

- (h) The new Act provides for a lower maximum allowable concentration of alcohol in any specimen of blood or breath, and makes a distinction between drivers and professional drivers as follows:
  - (i) The maximum allowable concentration of alcohol in a specimen of blood for drivers is less than 0,05 gram per 100 millilitres, and for professional drivers is less than 0,02 gram per 100 millilitres; and

- (ii) the maximum allowable concentration of alcohol in a specimen of breath for drivers is less than 0,24 gram per 1 000 millilitres, and for professional drivers is less than 0,10 gram per 1 000 millilitres.

#### Rules of the road

- (i) The rules of the road that used to form part of the old Act is now contained in regulations 296 to 323 of the National Road Traffic Regulations made under the new Act. The rules of the road contained in the regulations is mostly the same as that contained in sections 89 to 117 of the old Act. There are two exceptions:
  - (i) The wording of the provision that relates to the prohibition on operating a vehicle that causes excessive noise (regulation 310) is different from that of section 103, to make prosecution in terms of this provision easier. The intention remains the same.
  - (ii) A prohibition on the use of a communication device is included in the rules of the road. This last named prohibition can be found in regulation 308A of the National Road Traffic Regulations, and includes all forms of communication device except those—
    - (aa) that allows the person to use the communication device without holding it in any way whatever, or
    - (bb) two-way radios operating in the frequency bandwidth 2 megahertz to 500 megahertz, but only for a period of 12 months from the date of commencement of regulation 308A.

#### Offences and penalties

- (j) Section 89(1) of the new Act provides that any person who contravenes or fails to comply with any provision of the said Act or with any direction, condition, demand, determination, requirement, term or request thereunder, shall be guilty of an offence. The words "this Act" is defined as "includes the regulations". **Any contravention of a provision of the new Act and the National Road Traffic Regulations is an offence under the said section.**

Section 89(6) of the new Act provides that any person convicted of an offence in terms of section 89(1) read with any other provision of the said Act (includes the regulations; see paragraph above), shall be liable to a fine or to imprisonment for a period not exceeding one year. The penalty for an offence under section 89(1) (in the case of a



contravention of a provision of the Act or regulations) does not exceed a fine or a period of imprisonment for a period of one year, unless otherwise provided in section 89 or regulation 333.

Regulation 333 of the National Road Traffic Regulations is made under section 75, which authorises the Minister to provide for penalties in the regulations, in the case of contraventions of regulations pertaining to the maximum mass of a vehicle, etc., which does not exceed a penalty of a fine or imprisonment for a period of six years.

## **TRANSITIONAL PROVISIONS**

### **References to chief executive officer, Shareholders Committee and Corporation**

- (a) The National Road Traffic Regulations have been drafted to make provision for the coming into force of the Road Traffic Management Corporation Act, 1999 (Act No. 20 of 1999). The result is that the said Regulations make reference to the chief executive officer, Shareholders Committee and Corporation (provided for in the said Act). Regulation 338 of the said Regulations provides that for the purpose of the interpretation of the Regulations, the said terms shall be interpreted to mean either Minister, MEC, Department or MEC concerned, as the case may be.

### **Reference in National Road Traffic Regulations to sections of new Act not yet in force**

- (b) Regulation 338A of the National Road Traffic Regulations provides that for the purpose of the interpretation of the said Regulations, the words "sections 3I and 3G of the Act" contained in regulation 115(2)(a), shall mean sections 11 and 9 of the old Act.

### **Determination of fees payable in the case of transactions provided for in the new Act**

- (c) The provincial traffic laws must provide for the authority to determine fees in provincial traffic regulations. Regulation 339 of the National Road Traffic Regulations provides that the fees determined by the MEC of each province before the date of commencement of the new Act, for the purpose of transactions provided for in the old Act, shall be payable also with respect to a corresponding transaction provided for in the new Act. This allows the provinces to function until such time as the provincial laws are put into operation.

**Certificates of exemption from parking issued under old Act**

- (d) According to regulation 343B of the National Road Traffic Regulations, a valid exemption certificate issued under section 137 of the old Act shall remain valid up and until a date determined in a provincial law that makes provision for such a exemption certificate, and shall from that date be dealt with in the manner prescribed in such provincial law.

**Anything done under old Act**

- (e) According to section 93(2) of the new Act, any proclamation, regulation, by-law, notice, order, prohibition, authorisation, appointment, permission, information or document made, issued, imposed, granted or furnished or given or any action taken under the old Act, shall be deemed to have been done under the corresponding provision of the new Act, if any.

Regulation 344 provides that any licence, certificate, permit, exemption, authorization, or any other thing done under the Road Traffic Regulations made under the old Act, shall be deemed to have been done under the National Road Traffic Regulations made under the new Act.

**Application made under a regulation of the old Act**

- (f) Any application made under a regulation of the old Act, which has not been disposed of at the date of commencement of the new Act, shall be deemed to be an application under the corresponding provision of the new Act.

**SECTIONS OF OLD ACT THAT WILL REMAIN IN FORCE**

Short title, No. and year of law	Sections to remain in force in terms of section 93(3) of the new Act	Description
Road Traffic Act, 1989 (Act No. 29 of 1989)	1	Definitions of— “by-law”; “examiner for driver’s licences”; “examiner of vehicles”; “inspector of licences”; “peace officer”; “registering authority”; and “traffic officer”.

Short title, No. and year of law	Sections to remain in force in terms of section 93(3) of the new Act	Description
	2	Appointment of registering authorities
	3	Appointment of officers
	4	Application for registration as inspector of licences, examiner of vehicles, examiner for driving licences or traffic officer
	5	Registration and grading of officers
	6	Suspension and withdrawal of registration of officer
	6A	Right of appeal to Minister
	8	Powers and duties of inspector of licences
	9	Powers and duties of examiner of vehicles
	10	Powers and duties of examiner for driver's licences
	11	Powers and duties of traffic officer
	12	Failure to comply with instruction or direction of inspector of licences, traffic officer, examiner of vehicles or peace officer
	13	Impersonating authorised officer or peace officer or inducing any such officer to forsake his or her duty
	22	Appointment of inspectorate of driver's licence testing centers
	22A	Right of appeal to Minister
	27	Right of appeal to Administrator

Short title, No. and year of law	Sections to remain in force in terms of section 93(3) of the new Act	Description
	59A	Right of appeal to Minister
	61	Appointment of inspectorate of testing stations
	80	Appeal to Minister
	133	Power of local authority to make by-laws
	151	Apportionment of fines

### ROAD TRAFFIC REGULATIONS MADE UNDER OLD ACT THAT WILL REMAIN IN FORCE

Title of regulations	Regulations to remain in operation	Description
Road Traffic Regulations, 1990, as amended.	1A	Manner of application for registration as inspector of licences, examiner of vehicles, examiner for driver's licences or traffic officer
	1B	Requirements for competency and registration to be complied with by applicant to be registered as inspector of licences, examiner of vehicles, examiner for driver's licences or traffic officer
	1C	Manner of registration as inspector of licences, examiner of vehicles, examiner for driver's licences or traffic officer
	1D	Change of registration particulars
	1E	Grades of examiner of vehicles and examiner for driver's licences

Title of regulations	Regulations to remain in operation	Description
	1F	Manner of suspension or cancellation of registration of officer
	241F	Powers and duties of inspectorate of driver's licence testing centers
	241G	Fee to defray expenditure incurred by inspectorate of driver's licence testing centers
	250	Duty of instructors to obtain instructor's certificates
	265G	Powers and duties of inspectorate of testing stations
	265H	Fee to defray expenditure incurred by inspectorate of testing stations
	277	Notice in terms of section 8(a) to direct that motor vehicle be taken to testing station
	439B	Officer to use prescribed forms



## SECTIONS OF THE NATIONAL ROAD TRAFFIC AMENDMENT ACT, 1999 THAT WILL COME INTO FORCE

The following sections of the National Road Traffic Amendment Act, 1999 (Act No. 21 of 1999) comes into force:

Title and no. of Act	Section	Description
National Road Traffic Amendment Act, 1999 (Act No. 21 of 1999)	1(a) (English text) 1(b) (Afrikaans text)	Insertion of definition of "authorised officer" / "gemagtigde beampte" in section 1 of the National Road Traffic Act, 1996 (hereafter referred to as the "Principal Act")
	2	Sections 3, 3A, 3B, 3C, 3D, 3E, 3F, 3G, 3H, 3I, 3J, 3K and 3L are substituted for section 3 of the Principal Act
	3	Amends section 4 of the Principal Act
	4(c)	Subsection (7) is added to section 5 of the Principal Act
	12	Amends section 18(6) of the Principal Act
	13	Amends section 19(3) of the Principal Act
	17	Sections 28, 28A, 28B, and 28C are substituted for section 28 of the Principal Act
	26	Inserts sections 51A and 51B into the Principal Act.

Title and no. of Act	Section	Description
	31(b)	Inserts paragraph (zA) into section 75(1) of the Principal Act
	31(c)	Inserts subsection (2A) into section 75 into the Principal Act
	33(b), (c) and (d)	Inserts paragraph (f) into section 78(2) of the Principal Act
	35	Inserts section 80A into the Principal Act
	38	Deletes section 92(a) of the Principal Act
	40	Short title and commencement

**THE WHOLE OF THE NATIONAL ROAD TRAFFIC AMENDMENT ACT, 1998 (ACT NO. 8 OF 1998 COMES INTO OPERATION**

**SECTIONS OF NEW ACT THAT WILL NOT COME IN FORCE**

Short title, no. and year of law	Sections not coming into operation	Description
National Road Traffic Act, 1996 (Act No. 93 of 1996)	The following definitions in section 1: "by-law"; "examiner for driving licences"; "examiner of vehicles"; "inspector of licences"; "instructor"; "peace officer"; "registering authority"; and "traffic officer".	

Short title, no. and year of law	Sections not coming into operation	Description
	3	Appointment of registering authorities
	3A	Appointment of officers
	3B	Application for registration as inspector of licences, examiner of vehicles, examiner for driving licences or traffic officer
	3C	Registration and grading of officers
	3D	Minimum requirements for registration as inspector of licences, examiner of vehicles, examiner for driving licences and traffic officer
	3E	Suspension and cancellation of registration of officer
	3F	Powers and duties of inspector of licences
	3G	Powers and duties of examiner of vehicles
	3H	Powers and duties of examiner for driving licences
	3I	Powers and duties of traffic officer
	3J	Failure to comply with instruction or direction of inspector of licences, traffic officer, examiner of vehicles or peace officer
	3K	Impersonating authorised officer or peace officer or inducing any such officer to forsake his or her duty

Short title, no. and year of law	Sections not coming into operation	Description
	3L	Approval of training center
	11	Appointment of inspectorate of driving licence testing centers
	28	Instructor to be registered
	28A	Application for registration as instructor
	28B	Registration and grading of instructors
	28C	Suspension and cancellation of registration of instructor
	41	Appointment of inspectorate of testing stations
	51A	Right of appeal to Shareholders Committee
	51B	Right of appeal to chief executive officer
	54	Transportation of certain-dangerous goods prohibited
	55	Appointment of dangerous goods inspector or inspectorate
	80A	Power of local authority to make by-law
	90	Apportionment of fines

**NATIONAL ROAD TRAFFIC REGULATIONS NOT COMING INTO FORCE**

<b>Title of regulations</b>	<b>Regulations not coming into operation</b>	<b>Description</b>
National Road Traffic Regulations published in Government Notice No. R. 225 of 17 March 2000	1B	Manner of application for registration as inspector of licences, examiner of vehicles, examiner for driving licences
	1C	Manner of registration as inspector of licences, examiner of vehicles, examiner for driving licences
	2	Grades of examiner of vehicles and examiner for driving licences
	2A	Manner of suspension or cancellation of registration of authorised officer
	2B	Requirements for approval of training centers by Shareholders Committee
	8(2)(g)	Certificate of compliance to be held by applicant for registration of a vehicle to which standard specification SABS 1398 or 1518 applies
	13(6)	Motor vehicle recorded as "allowed to convey dangerous goods"
	97	Powers and duties of inspectorate of driving licence testing centers
	98	Fee to defray expenditure incurred by inspectorate of driving licence testing centers
	114A	Application for registration as instructor
	114B	Examination and test to determine competence to act as instructor
	114C	Registration of instructor



Title of regulations	Regulations not coming into operation	Description
	114D	Cancellation or suspension of registration of instructors
	114E	Application for amendment of registration of instructor
	115(1)(f)	Driver of goods vehicle the gross vehicle mass of which exceeds 3 500 kg carrying dangerous goods or of a vehicle to which standard specification SABS 1398 or 1518 applies to obtain a professional driving permit
	116(1)(c)	Category "D" professional driving permit
	117(e)	Applicant for category "D" professional driving permit must hold training certificate
	118(2)(dA)	Application for category "D" professional driving permit must be accompanied by training certificate
	119(1)(bA)	Examiner for driving licences must ensure that applicant for category "D" professional driving permit holds a training certificate
	135	Powers and duties of inspectorate of testing stations
	136	Fee to defray expenditure incurred by inspectorate of testing stations
	147	Notice in terms of section 3F(a) or section 3I(a) of Act to direct that motor vehicle be taken to testing station
	273, 273A, 274, 274A, 275, 276, 277, 278, 279, 280, 281, 282, 283	Chapter VIII:  Transportation of dangerous goods and substances by road
	335B	Officer to use prescribed forms

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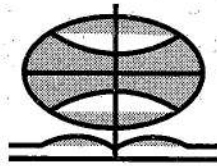


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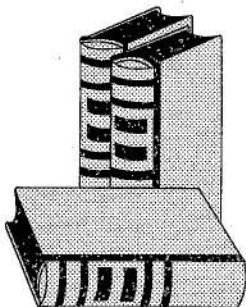
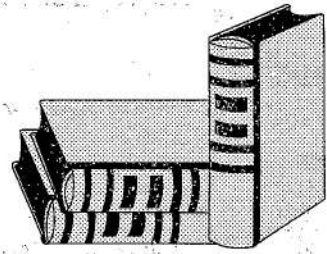
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