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CONTENTS • INHOUD*No.**Page
No. Gazette
 No.***GENERAL NOTICES****Transport, Department of***General Notices*

1353	Explanatory summary of the Administrative Adjudication of Road Traffic Offences Bill	3	23710
1354	National Road Traffic Act (93/1996): Proposed amendments of National Road Traffic Regulations	16	23710

GENERAL NOTICES

NOTICE 1353 OF 2002

DEPARTMENT OF TRANSPORT

PUBLICATION OF EXPLANATORY SUMMARY OF THE ADMINISTRATIVE ADJUDICATION OF ROAD TRAFFIC OFFENCES BILL

The Minister of Transport intends introducing the Administrative Adjudication of Road Traffic Offences Bill in the National Assembly. The explanatory summary of the Bill is hereby published in accordance with Rule 241(c) of the Rules of the National Assembly.

The Bill provides for the regulation of the composition of the Board; the appointment of sheriffs by the Minister; to prescribe an extended period for payment of infringement fine and matters connected thereto; to effect textual corrections; and to provide for matters connected thereto.

Copies of the Bill are attached for ease of reference.

Comments may be directed to:

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0001

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REPUBLIC OF SOUTH AFRICA

**ADMINISTRATIVE ADJUDICATION OF ROAD TRAFFIC OFFENCES
AMENDMENT BILL**

(As introduced)

(MINISTER OF TRANSPORT)

[B -2002]

REPUBLIEK VAN SUID-AFRIKA

**WYSIGINGSWETSONTWERP OP DIE ADMINISTRATIEWE BERECHTING VAN
PADVERKEERSMISDRYWE**

(Soos ingedien)

MINISTER VAN VERVOER

[W -2002]

GENERAL EXPLANATORY NOTE:

[] Words in bold type in square brackets indicate omissions from existing enactments.

_____ Words underlined with a solid line indicate insertions in existing enactments.

To regulate the composition of the Board; the appointment of sheriffs by the Minister; to prescribe an extended period for payment of infringement fine and matters connected thereto; to effect textual corrections; and to provide for matters connected thereto.

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

Amendment of section 1 of Act 46 of 1998

1. Section 1 of the Administrative Adjudication of Road Traffic Offences Act, 1998 (Act No. 46 of 1998) (hereinafter referred to as "the Act"), is hereby amended-

- (a) by the insertion of the following paragraph after paragraph (d) of the definition of "acceptable identification" :

"(dA) a driving licence card issued in terms of the National Road Traffic Act, 1996 (Act No. 93 of 1996);";

(b)

Amendment of section 2 of Act 46 of 1998

2. Section 2 of the Act is hereby amended-

- (a) by the substitution of paragraph (a) of the following paragraph:

"(a) to encourage the compliance with the national, **[and]** provincial and municipal laws relating to road traffic and to promote road traffic safety;" and

- (b) by the deletion of paragraph (f).

Amendment of section 5 of Act 46 of 1998

3. Section 5 of the Act is hereby amended by the substitution for subsection (2) of the following subsection:

- "(2) The prescribed procedures must be followed in respect of any procurement or contract contemplated in subsection (1)."

Amendment of section 6 of Act 46 of 1998

4. Section 6 of the Administrative Adjudication of Road Traffic Offences Act, 1998 (Act No. 46 of 1998) (hereinafter referred to as the principal Act), is hereby amended-

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

"(1) A Road Traffic Infringement Agency Board, to represent and control the agency, is hereby established, comprising—

- (a) **[three] five persons[, who are not employed by the State,]** appointed by the Minister, **[on account] who by virtue** of their commercial and technical expertise are suitably qualified to perform the functions of the Agency under this Act;
- (b) a Director of Public Prosecutions, nominated by the National Director of Public Prosecutions, in consultation with the **[Directors of Public Prosecutions] Minister;** and
- (c) the registrar of the agency."

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

"(2) **[The Minister must, prior to appointing the members contemplated in subsection (1)(a), publish the names of the persons proposed to be appointed as such members in the Gazette and invite comment on the suitability of such members for appointment]** Prior to the appointment of a person to the Board, the Minister must—

- (a) by notice in the Gazette, publish his or her intention to appoint that person and invite public comment or objections within the period specified in the notice; and
- (b) take into account any comment or objection received by him or her in accordance with such notice."

Amendment of section 9 of Act 46 of 1998

5. Section 9 of the Act is hereby amended by the substitution for subsection (1) of the following subsection:

- "(1) The board may appoint not more than **[twenty five] 25** persons as deputy registrars."

Amendment of section 12 of Act 46 of 1998

6. Section 12 of the principal Act is hereby amended by the substitution for the following section:

- "12. The Minister, after consultation with [T] the registrar, may recommend to the Minister of Justice that such sheriffs or deputy sheriffs, as may be necessary to ensure the proper performance of the agency's functions, be appointed in terms of the Sheriffs Act, 1986 (Act No. 90 of 1986)."

Amendment of section 13 of Act 46 of 1998

7. Section 13 of the Act is hereby amended by the substitution for paragraph (d) of subsection (1) of the following paragraph:

- "(d) donations received, which must be declared in the annual report contemplated in section [7(3)] 7(2);"

Amendment of section 17 of Act 46 of 1998

8. Section 17 of the Act is hereby amended-

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

"(d) specify the prescribed discount which may be obtained if the penalty is paid not later than [28] 32 days after the date of service of the infringement notice;"

- (b) by the substitution for paragraph (f) of subsection (1), before subparagraph (i) for the following paragraph:

"(f) inform the infringer that, not later than [28] 32 days after the date of service of the infringement notice, the infringer may-

- (c) by the substitution for subsection (2) for the following:

"(2) If an infringer fails to comply with an infringement notice within the period contemplated in subsection (1)(f), the issuing authority must give notice of failure, in the prescribed manner, to the agency for further action in terms of section 19."

- (d) by the substitution for subsection (3), before paragraph (a), for the following:

"(3) If an infringer complies with an infringement notice by arranging to pay the penalty in installments or by paying the penalty, as reduced by the discount contemplated in subsection (1)(d), [the issuing authority] the agency must-

- (e) by the substitution for paragraph (c) of subsection (3) for the following:

"(c) notify the infringer by registered mail in the prescribed manner that the demerit points have been recorded against his or her name in the national contraventions register in respect of the infringement in question;"

Amendment of section 18 of Act 46 of 1998

9. Section 18 of the Act is hereby amended-

- (a) by the substitution for paragraphs (b) and (c) of subsection (7), for the following paragraphs:

"(b) if the infringer does not elect to be tried in court-

- (i) that the penalty, the prescribed representations fee and the prescribed fee of the courtesy letter, if any, are payable to the agency or that the arrangements are made with the agency in the prescribed manner to pay in installments, not later than [28] 32 days after the date of service of the notification; and

- (ii) that failure to pay the penalty and fees or to make arrangements to pay in installments will result in an enforcement order being served on the infringer and that

- the infringer will become liable to pay the penalty and fees and the prescribed fee of the enforcement order; and
- (c) if the infringer elects to be tried in court, which may only be done on the advise of the representations officer, that the provisions of section 22 apply." and

(b) by the substitution for subsection 8, before paragraph (a) of the following:

- "(8) If an infringer pays the penalty and fee as contemplated in subsection (7)(b)(i), or make arrangements to pay in installments, the agency must-

Amendment of section 19 of Act 46 of 1998

10. Section 19 of the Act is hereby amended by substitution for paragraph (b), before subparagraph (i), of subsection (2) for the following:

- "(b) give notice that the infringer must, not later than **[28] 32** days after the date of service of the courtesy letter-

Insertion of section 19A and 19B of Act 46 of 1998

11. The following sections are inserted after section 19:

"Options

19A. Where an infringer exercises more than one option envisaged in article 17(1)(f), 18 (7)(b), or 19(2)(b) within 32 days, which options –

- (a) includes the option to pay fines and monies, if any, or to make arrangement to pay in installments, the matter must be concluded without considering the other options; and

- (b) In any other case includes the option to be heard in court, this option must be ignored in order to conclude the matter out of court, corresponding to the administrative process envisaged in this Act.

Payments

19B. (1) If an infringer makes a payment in terms of this Act to the agency in respect of a payment or monies that is insufficient or dishonored, the prescribed notice must be served on the infringer, informing him or her –

- (a) that the full amount owed, including the prescribed money for the notice, as stipulated in the notice, must be paid within 32 days of the notice; and
- (b) that failure to comply with a stipulation of a notice contemplated in paragraph (a) will lead to the issuing of a warrant in terms of section 21.

- (2) If an infringer who has made arrangements to pay a fine or monies, if any, in

installments, fails to pay the installments or make a payment on such an installment that is insufficient or dishonored, the prescribed notice must be served upon him or her, informing him or her –

- (a) (i) that the outstanding balance of the installment, including the monies for the notice, must be paid within seven days after the date of serving of the notice or that arrangements must be made within that time for the payment thereof; and
- (ii) that any payment intended in sub paragraph (i) must be made as arranged and that any outstanding installments must be paid as originally arranged; and
- (b) that failure to comply with a stipulation of this notice intended in paragraph (a), will lead to a warrant in respect of the total amount owed being issued to him or her in terms of section 21"

Amendment of section 20 of Act 46 of 1998

11. Section 20 of the Act is hereby amended-

- (a) by substitution for the phrase before paragraph (a) of subsection (1) for the following:

"(1) If an infringer fails to comply with the requirements of a notification contemplated in section 18(7) or a courtesy letter contemplated in section 19(2) (b) or has failed to appear in court as contemplated in section 22(3)(a), as the case may be, the registrar must, subject to subsection (2)-"

- (b) by substitution for paragraphs (a) and (b) of subsection (2) for the following:

"(a) **[an infringement notice,]** a notification contemplated in section 18(7) or a courtesy letter, as the case may be, has been served on the infringer in question;

(b) a period of at least **[28] 32** days has passed since the date of service of the said notification letter or courtesy letter, as the case may be;"

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

"(a) state that the infringer on whom it is served may, not later than **[28] 32** days after the date of service of the order, pay the penalty, representations fee and the fees of the courtesy letter, if any, and the prescribed fee of the enforcement order to the agency at the specified place and in the specified manner, and that the prescribed demerit points will be recorded in the national contraventions register; and";

- (d) by substitution of subsections (7) and (8) for the following:

"(7) An infringer on whom an enforcement order has been served may comply with it by paying the applicable penalty and fees to[-

(a) a registering authority; or

(b) a driving licence testing centre.]

the local registering authority or driving licence testing centre.

(8) A local registering authority or driving licence testing centre must update the national contraventions register and notify the agency in the prescribed manner if it has received any payment contemplated in subsection (7) and must pay over such payment to the agency after deduction of the prescribed collection fee, within the prescribed period after which the agency may charge interest at the prescribed rate.

(e) by insertion of the following after paragraph (b) of subsection (9):

"[.]and the infringer or the issuing authority, as the case may be, who applied for the revocation of an enforcement order must be informed in the prescribed manner of the result of such an application."

(f) by insertion of the following subsection:

"(10) If an enforcement order is revoked, its consequences must be cancelled and if it involves the cancellation of a disqualification to drive or use a motor vehicle-

(a) the national contraventions register must be updated; and

(b) the infringer must be informed about it in the prescribed manner and his or her drivers licence, professional driving permit or operators card must be returned or the endorsement of a drivers licence that is contained in an identity document must be cancelled, unless he or she has been disqualified otherwise."

Amendment of section 21 of Act 46 of 1998

12. Section 21 of the Act is hereby amended-

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

"(1) If an infringer on whom a notice contemplated in section 19B(1) or (2) or an enforcement order is served does not comply with the requirements of the notice contemplated in section 19B(1)(a) or (2)(a) or the provisions of the order contemplated in section 20(3)(a), the registrar may, on the prescribed conditions, issue a warrant against the infringer, which is valid until it is served by the sheriff or is cancelled by the registrar-";

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

"(a) to seize and sell movable property to defray the penalty and fees due;"

Amendment of section 22 of Act 46 of 1998

13. Section 22 of the Act is hereby amended-

- (a) by substitution of subparagraph (ii) of paragraph (a) of subsection (1) for the following:

"(ii) under section 18(1)(c) or 19(2)(b)(iii), the agency must inform the issuing authority who must cancel the infringement notice; or";

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

"and the issuing authority must **[issue]** prepare a summons in terms of the Criminal Procedure Act, 1977 (Act No. 51 of 1977).";

- (c) by substitution of subsection (2) for the following:

"(2) Once a summons has been **[issued]** prepared in terms of this section, the Criminal Procedure Act, 1977 **[(Act No. 51 of 1977)]**, applies, and-

- (a) the prosecutor must notify **[the agency and]** the issuing authority in writing in the prescribed manner of his or her reasons if he or she declines to prosecute;"

- (d) by substitution of paragraph (c) of subsection (2) for the following:

"(c) no admission of guilt may be endorsed on a summons or may be accepted."

- (e) by substitution of subsection (3) for the following:

"(3) If an infringer has been summoned to appear at criminal proceedings-

- (a) in terms of subsection (1)(a), and fails to appear or attend, the court must not, despite the provisions of section 55 of Criminal Procedure Act, 1977, issue a warrant of his or her arrest, but the clerk of the court must notify the issuing authority which must inform the agency, and the registrar must proceed to issue an enforcement order contemplated in section 20(1); and

- (b) in terms of subsection (1)(b), the case must be handled in terms of the Criminal Procedure Act, 1997."; and

- (f) by substitution of subsection (4) for the following:

"(4) Despite any other law, an infringer who has been dealt with similar [administratively] administrative procedures in terms of this Chapter, does not incur previous convictions, but may not be prosecuted again on the same facts."

Amendment of section 24 of Act 46 of 1998

14. Section 24 of the Act is hereby amended-

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

"(2) Subject to subsection (4), demerit points are incurred on the date on which the penalty and fee, if any, imposed for the infringement are paid, including when partial or dishonoured payments, or arrangements to pay in instalments, are made, an enforcement order is issued or the infringer is convicted of the offence, as the case may be."

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

"(4A) For the purpose of recording the demerit points as contemplated in subsection (3) and (4), the clerk of the court must notify the agency of the result of each prosecution and appeal."

Amendment of section 25 of Act 46 of 1998

15. Section 25 is hereby amended-

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

"(1) If a person incurs demerit points which, when added to the points previously recorded against that person in the national contraventions register and reduced as contemplated in section 28, exceeds the total contemplated in section 29(d), that person is disqualified **[in the prescribed manner]** with effect from 32 days after such excess points have been incurred, from driving or operating a motor vehicle."

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

"(a) must immediately hand in any **[driving licence]** driving licence card or professional driving permit in the prescribed manner to the issuing authority contemplated in section 26(2) for retention by such issuing authority during the disqualification period, produce any driving licence contained in an identity document to such issuing authority for endorsement as suspended or must remove the prescribed operator card and deal therewith in the prescribed manner."; and

- (c) by substitution of subsections (4) and (5) for the following:

"(4) Any person who fails to comply with the provisions of subsection (3)(a) or who drives or operates a motor vehicle during his or her disqualification

period is guilty of an offence and liable on conviction to a fine or imprisonment for a period not exceeding one year or both a fine and such imprisonment.

(5) Upon expiry of his or her disqualification period, a person referred to in subsection (3) may apply in the prescribed manner to the issuing authority to return his or her **[driving licence]** driving licence card or professional driving permit or to reissue an operator card."

Amendment of section 26 of Act 46 of 1998

16. Section 26 of the Act is hereby amended by substitution of subsection (2) for the following:

"(2) A notice referred to in subsection (1) must be sent by the agency, who must also notify the issuing authority within whose area of jurisdiction the person in question is resident."

Amendment of section 27 of Act 46 of 1998

17. Section 27 of the Act is hereby amended by substitution of subsections (1) and (2) for the following:

"(1) (a) A person who incurs demerit points resulting in a disqualification in terms of section 25 to drive or operate a motor vehicle for a third time, must immediately hand in his or her **[driving licence]** driving licence card, professional driving permit or operator card **[issued in respect of that vehicle]** in the prescribed manner to the issuing authority or must submit any driving licence contained in his or her identity document to such issuing authority.

(b) A person who fails to comply with the provisions of paragraph (a), is guilty of an offence and liable on conviction to a fine or an imprisonment for a period not exceeding one year or both a fine and such imprisonment.

(2) An issuing authority must, upon receipt of a **[driving licence]** driving licence card, professional driving permit or operator card, as the case may be, take the necessary steps to destroy such licence, permit or card, and must submit any driving licence contained in an identity document to be endorsed as cancelled.".

Amendment of section 28 of Act 46 of 1998

18. Section 28 of the Act is hereby amended by the following:

"Reduction of demerit points"

28. If demerit points have been incurred by any person, the **[issuing authority contemplated in section 26(2)]** agency must reduce the total number of points recorded in the national contraventions register against that person with one point for every three months, or such other number of points or period as prescribed, **[during which no demerit points were incurred by that person,]** except for the time the court found that the court process had been deliberately delayed by that person to obtain a reduction in points."

Amendment of section 31 of Act 46 of 1998

19. Section 31 of the Act is hereby amended by substitution of subsection (2) for the following:

"(2) The laws on prescription are not applicable to penalties and fees payable in terms of this Act, and may be collected at any time."

Amendment of section 32 of Act 46 of 1998

20. Section 32 of the Act is hereby amended by substitution of subsection (2) for the following:

"(2) Subject to section 6 of the Finance and Financial Adjustment Acts Consolidation Act, 1977 (Act No. 11 of 1997), any fine received in respect of any conviction under the national **[and]**, provincial or municipal 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."

Amendment of section 33 of act 46 of 1998

21. Section 33 of the Act is hereby amended by substitution of subsection (1) for the following:

"(1) Any person **[may,]** can, in the prescribed manner and upon payment of the prescribed fee, ascertain his or her demerit points position from the national contraventions register at the office of **[any issuing,]** local registering authority or driving licence testing centre."

Short title

22. This Bill is called the Administrative Adjudication of Road Traffic Offences Bill, 2002.

MEMORANDUM ON THE OBJECTS OF THE ADMINISTRATIVE ADJUDICATION OF ROAD TRAFFIC OFFENCES AMENDMENT BILL

PURPOSE

1. The Bill seeks to amend the Administrative Adjudication of Road Traffic Offences Act, 1998 (Act No. 46 of 1998) ("the Act"), in order to regulate the composition of the Board; the appointment of sheriffs by the Minister; to prescribe an extended period for payment of infringement fines, making representations and enforcing orders. It is proposed that the Board comprise of seven members and to remove a restriction that five of such members should not be employees of the State. The Bill further makes provision for the increase of the period of compliance with the infringement notice from 28 days to 32 days; the infringer to be informed in the prescribed manner if demerit points have been recorded against his or her name; the prosecutor to notify the issuing authority of the reasons if he or she declines to prosecute; and to provide to matters connected thereto.

CONSULTATIONS

2. Members of the Executive Council responsible for traffic or transport in the nine provinces were consulted and consensus regarding the proposed changes was reached.

IMPLICATIONS FOR PROVINCES

3. None.

FINANCIAL IMPLICATION FOR THE STATE

4. None.

PARLIAMENTARY PROCEDURE

5. The State Law Advisers and the Department of Transport are of the opinion that the Bill must be dealt with in accordance with the procedure established by section 76 of the Constitution of the Republic of South Africa, 1996 (Act No. 108 of 1996), since it falls within the functional area listed in Schedule 4 to the Constitution, namely "Road traffic regulation".

NOTICE 1354 OF 2002**DEPARTMENT OF TRANSPORT****NATIONAL ROAD TRAFFIC ACT, 1996 (ACT NO. 93 OF 1996)****PROPOSED AMENDMENTS OF NATIONAL ROAD TRAFFIC REGULATIONS**

The Minister of Transport intends to amend the regulations in the Schedule under section 75 of the National Road Traffic Act, 1996 (Act No. 93 of 1996).

Comments regarding the proposed amendments may be sent on or before 14 August 2002, to: Mr Thabo Tsholetsane at National Department of Transport, Private Bag X193, PRETORIA, 0001 or through fax no. 012 309 3134 or E-mail: tsholeta@ndot.pwv.gov.za

SCHEDULE**Definition**

1. In this Schedule "the Regulations" means the National Road Traffic Regulations published in Government Notice No. R. 225 of 17 March 2000, as amended by Government Notice No's. R. 761 of 31 July 2000, R. 941 of 22 September 2000, R.726 of 3 August 2001 and R.2116 of 5 October 2001.

Amendment of regulation 1 of Regulations

2. Regulation 1 of the Regulations is amended—

(a) by the substitution for the definition of "acceptable identification" of the following definition:

"acceptable identification" means—

- (a) a temporary identity certificate, an identity document or identity card issued in terms of the Identification Act, 1997 (Act No. 68 of 1997);
- (b) in the case of a person not permanently resident in the Republic, an identity document issued by a foreign country or a traffic register number certificate issued in terms of regulation 335;
- (c) in the case of—
 - (i) a company, a certificate of incorporation or name change issued in terms of the Companies Act, 1973 (Act No. 61 of 1973); or
 - (ii) a close corporation, a founding statement or a certificate of name change issued in terms of the Close Corporations Act, 1984 (Act No. 69 of 1984);
- (d) in the case of—
 - (i) a person carrying on a business which, for the purposes of this definition, includes farming activities; or
 - (ii) a body of persons not referred to in paragraph (c), a traffic register number certificate issued in terms of regulation 335;
- (e) a driving licence card issued in terms of regulation 108; or
- (f) except for the purposes of regulations 103 to 112, a certified copy of the applicable certificate or document referred to in paragraph (a), (b), (c), (d) or (e), and unless the registering authority or driving licence testing centre to which an application, which is required to be accompanied by acceptable identification, in terms of the Act is made, already has on file a certified copy of the applicable certificate or document referred to in paragraph (a), (b), (c), (d) or (e) and the registering authority or driving licence testing centre concerned has determined that an additional certified copy of the applicable certificate or document referred to in paragraph (a), (b), (c), (d) or (e) is not required, an additional certified copy of the applicable certificate or document referred to in paragraph (a), (b), (c), (d) or (e) and such additional certified

copy may be retained by the registering authority or driving licence testing centre whilst the certificate or document referred to in paragraph (a), (b), (c), (d) or (e) shall be returned to the applicant;"; and

- (b) by the insertion after the definition of "**pedestrian crossing**" of the following definition:

"Permanently demolished" means, in the case of a motor vehicle, the chassis of the motor vehicle has been—

- (a) compacted;
- (b) compressed;
- (c) melted;
- (d) destroyed; or
- (e) damaged;

to such an extent that it cannot be used to build any motor vehicle;".

Amendment of regulation 2 of the Regulations

3. Regulation 2 of the Regulations is amended by—

- (a) the substitution of paragraph (dA) of subregulation (3) of the following paragraph:

"(dA) grade F, if the examiner for driving licences is qualified to the satisfaction of the chief executive officer to substitute a driving licence of any code contained in an identity document, issued before 1 March 1998, in terms of section 19 of the Act and, if the examiner is specifically authorised by the MEC to replace a driving licence or international driving licence permit in terms of section 20(3), 23(4) or 24(3) of the Act; or"; and

- (b) the substitution of paragraph (f) of subregulation (4) of the following paragraph:

"(f) as a grade A, B, C, D, F or L examiner for driving licences shall, notwithstanding anything to the contrary contained in these regulations, be authorised to substitute a driving licence of any code issued before 1 March 1998 in terms of section 19 of the Act, or to, if so specifically authorised by the MEC, replace a driving licence or international driving licence permit in terms of section 20(3), 23(4) or 24(3) of the Act."

Amendment of regulation 6(1) of the Regulations

4. Regulation 6(1) of the Regulations is amended—

- (a) by the deletion in paragraph (d) after the semi-colon of the word "or";

- (b) by the insertion in paragraph (e) after the full stop of a semi-colon and the word "or"; and

- (c) by the insertion after paragraph (e) of the following paragraph:

"(f) on which the motor vehicle is deregistered in terms of regulation 26A(1)."

Amendment of regulation 7(1) of the Regulations

5. Regulation 7(1) of the Regulations is amended by the insertion in paragraph (b) after item (ii) of the following item:

"(iii) in the case of a motor vehicle referred to in regulation 6(1)(f), on the date referred to in regulation 23(2)."

Amendment of regulation 8 of the Regulations

6. Regulation 8 of the Regulations is amended—

- (a) by the substitution of paragraph (i) of subregulation (2)(d) of the following paragraph:
- “(i) if the motor vehicle concerned has been repossessed and the person who obtained the registration certificate under road traffic laws previously applicable, refuses to hand over the registration certificate to the applicant, and the provisions of regulation 11 have been complied with and such applicant submits a South African Police Service clearance of the motor vehicle;” and
- (b) by the substitution of paragraph (h) of subregulation (2) of the following paragraph:
- “(h) a South African Police Service clearance of the motor vehicle if required in terms of this Chapter.”

Amendment of regulation 9A of the Regulations

7. Regulation 9A of the Regulations is amended by the substitution of the regulation by the following regulation:

“Additional requirements for registration of deregistered motor vehicles

9A. An application for the registration of a motor vehicle referred to in regulation 6(1)(b) shall, in addition to the requirements and documents referred to in regulation 8, be accompanied by—

- (a) the deregistration certificate issued in respect of such vehicle: Provided that the provisions of this paragraph shall not apply to an applicant if the deregistration certificate is lost, destroyed or stolen and the applicant can prove that he/she is the title holder, and such applicant submits an affidavit explaining the circumstances under which the deregistration certificate was lost, destroyed or stolen;
- (b) a mass measuring certificate obtained in the manner prescribed in regulation 66; and
- (c) a South African Police Service clearance of the motor vehicle.”

Insertion of regulation 9B in the Regulations

8. The Regulations are amended by the insertion of the following regulation:

“Additional requirements for registration of motor vehicle deregistered due to not being licensed

9B. An application for the registration of a motor vehicle referred to in regulation 26A shall, in addition to the requirements and documents referred to in regulation 8, be accompanied by—

- (a) the registration certificate issued in respect of such vehicle: Provided that the provisions of this paragraph shall not apply to an applicant if the registration certificate is lost, destroyed or stolen and the applicant can prove that he/she is the title holder, and such applicant submits an affidavit explaining the circumstances under which the registration certificate was lost, destroyed or stolen;
- (b) a mass measuring certificate obtained in the manner prescribed in regulation 66; and
- (c) a South African Police Service clearance of the motor vehicle.”

Amendment of regulation 13 of the Regulations

9. Regulation 13 of the Regulations is amended by the substitution of subregulation 2B of the following subregulation:

“(2B) The registering authority shall, if authorised by the MEC, subject to the provisions of regulation 59(2), upon payment of the fees and penalties referred to in subregulation (1), and if satisfied that the application is in order, in the event that the register of motor vehicles can not be accessed immediately—

- (a) issue a manual certificate on form RC1-M as shown in Schedule 2 free of charge to

confirm to the title holder that the documentation is in order and that a registration certificate will be issued to him or her as soon as the register of motor vehicles can be updated; and

(b) act as prescribed in paragraph (2A) as soon as the register of motor vehicles can be accessed and updated, and if the registering authority is satisfied that the application is in order."

Amendment of regulation 13 of the Regulations

10. Regulation 13 of the Regulations is amended by-

(a) the substitution of paragraph (b) of subregulation (4) of the following paragraph:

"(b) the vehicle was deregistered in terms of regulation 55 as permanently unfit of use; or"; and

(b) the insertion after subregulation (7) of the following subregulation:

"(8) A motor vehicle which was deregistered in terms of regulation 55 as permanently demolished, shall not be registered."

Amendment of regulation 14 of the Regulations

11. Regulation 14 of the Regulations is amended by -

(a) the substitution of subregulation (2) with the following subregulation:

"(2) The said registering authority may, or shall if requested by the MEC to do so, upon application forward the application to the MEC for evaluation."; and

(b) the insertion after subregulation (2) of the following subregulation:

"(3) The said MEC may upon receipt of the forwarded application, appoint any registered manufacturer or importer as agent of the registering authority that received the application."

Amendment of regulation 17 of the Regulations

12. Regulation 17 of the Regulations is amended by the insertion after subregulation (3) of the following subregulation:

"(4) Where a motor vehicle record has been updated in terms of subregulation (3)(b), the record of the motor vehicle may be moved to the archive of the register on any date 5 years after the date on which such update took place."

Insertion of regulation 26A in the Regulations

13. The Regulations are amended by the insertion of the following regulation:

"Consequences of failure to licence motor vehicle"

26A. (1) If a motor vehicle is required to be licensed in terms of the provisions of this Chapter and an application for the licensing of the motor vehicle is not received within four years from the date of liability referred to in regulation 23(1)(e) and 23(2), the motor vehicle concerned shall be deregistered.

(2) If a motor vehicle is deregistered in terms of subregulation (1), the title holder thereof shall, from the date referred to in regulation 7(1)(b)(iii), be liable to register such vehicle in terms of regulations 8 and 9B and the owner shall be liable to license such vehicle as referred to in regulation 24.

(3) The deregistration of the motor vehicle in terms of subregulation (1) shall not exempt the owner of the motor vehicle concerned from the liability to licence such motor vehicle in terms of regulation

18 or from the payment of the penalties and arrear licence fees in terms of regulations 57 and 59.

(4) Where a motor vehicle is deregistered in terms of subregulation (1), the record of the motor vehicle shall be marked as such and may be moved to the archive of the register."

Amendment of regulation 35 of the Regulations

14. Regulation 35 of the Regulations is amended by the substitution of subregulation (1) with the following subregulation:

"(1) The licence number of a motor vehicle shall be displayed on a plate, to be referred to as a number plate and which complies with standard specification SABS 1116: "Retro-reflective Registration Plates for Motor Vehicles", Part 2: "Registration plates (metal)" or Part 4: "Registration plates (plastics)".

Amendment of regulation 40 of the Regulations

15. Regulation 40 of the Regulations is amended by the substitution of the term "the official in charge of the Vehicle Theft Unit of the South African Police Service" with the term "the designated officer of the South African Police Service" in subregulation (1) paragraph (c).

Amendment of regulation 44 of the Regulations

16. Regulation 44 of the Regulations is amended by replacing the expression "conduct inspections to evaluate" with the expression "conduct at least one inspection per year to evaluate" in subregulation (1) paragraph (b).

Amendment of regulation 53 of the Regulations

17. Regulation 53 of the Regulations is amended by the substitution of paragraph (a) of subregulation (1) of the following paragraph:

"(a) dispose of or deliver or trade with a motor vehicle unless -

(i) such motor vehicle, if required to be registered and licensed in terms of this Chapter, is so registered and licensed; and

(ii) the registration certificate, and if the motor vehicle is required to be licensed, the motor vehicle licence, accompanies the motor vehicle concerned; or"

Amendment of regulation 54 of the Regulations

18. Regulation 54 of the Regulations is amended by the insertion after subregulation (7) of the following subregulation:

"(8) Where a motor vehicle record has been updated in terms of subregulation (4)(b), the record of the motor vehicle may be moved to the archive of the register on any date 15 years after the date on which such update took place."

Amendment of regulation 55 of the Regulations

19. Regulation 55 of the Regulations is amended by the insertion after subregulation (4) of the following subregulation:

"(5) Where a motor vehicle record has been updated in terms of subregulation (3)(b), the record of the motor vehicle may be moved to the archive of the register on any date 5 years after the date on which such update took place."

Amendment of regulation 55 of the Regulations

20. Regulation 55 of the Regulations is amended by the substitution of the regulation by the following regulation:

"Procedure if a motor vehicle becomes permanently unfit for use as motor vehicle or has been permanently demolished

55. (1) If a motor vehicle becomes permanently unfit for use as a motor vehicle or has been permanently demolished, the owner of such motor vehicle shall—

(a) notify the title holder forthwith thereof;

(b) within three months after the date on which such motor vehicle has become permanently unfit for use or has been permanently demolished, notify the appropriate registering authority, on form CNV as shown in Schedule 2, that such motor vehicle is permanently unfit for use as a motor vehicle or has been permanently demolished; and

(c) submit the registration certificate of the motor vehicle concerned to the appropriate registering authority, if such certificate is in such owner's possession.

(2) The title holder of a motor vehicle referred to in subregulation (1) shall—

(a) within three months after the date on which such motor vehicle has become permanently unfit for use or has been permanently demolished, notify the appropriate registering authority, on form ADV as shown in Schedule 2, that such motor vehicle is permanently unfit for use as a motor vehicle or has been permanently demolished; and

(b) if the registration certificate of such motor vehicle has not been submitted by the owner under subregulation (1)(c), submit such certificate and the notification referred to in paragraph (a) to the appropriate registering authority.

(3) On receipt of a notification referred in subregulation (1)(b), (2)(a), (6)(a) or (7)(a) the registering authority shall—

(a) ensure that the notification is in order;

(b) update the particulars pertaining to the motor vehicle in the register of motor vehicles;

(c) issue an acknowledgement of receipt of the notification referred to in subregulation (1)(b) or subregulation (6)(a), on form ARN as shown in Schedule 2 to the owner; and

(d) in the case of the notification referred to in subregulation (2)(a) or subregulation (7)(a) issue a deregistration certificate on form VDC as shown in Schedule 2 to the title holder of the motor vehicle concerned.

(4) If a registering authority has in terms of subregulation (3)(c), acknowledged receipt of the notice referred to in subregulation (1)(b), the owner of the motor vehicle concerned is exempt from liability for the licensing of such motor vehicle, with effect from the first day of the month following the month in which such acknowledgement was issued: Provided that a period during which the owner of such motor vehicle was unable to notify the appropriate registering authority due to circumstances beyond his or her control, shall be disregarded.

(5) Where a motor vehicle record has been updated in terms of subregulation (3)(b), the record of the motor vehicle may be moved to the archive of the register on any date 5 years after the date on which such update took place.

(6) If a motor vehicle has been permanently demolished and the notification of such demolition has not been indicated in the notification referred to in subregulation 1(b), the owner of such motor vehicle shall, within three months after the date on which such motor vehicle has been permanently demolished—

- (a) notify the appropriate registering authority, on form CNV as shown in Schedule 2, that such motor vehicle has been permanently demolished; and
- (b) if not already, comply with all requirements of subregulation 1.

(7) If a motor vehicle has been permanently demolished and the notification of such demolition has not been indicated in the notification referred to in subregulation 2(a), the title holder of such motor vehicle shall, within three months after the date on which such motor vehicle has been permanently demolished—

- (a) notify the appropriate registering authority, on form ADV as shown in Schedule 2, that such motor vehicle has been permanently demolished; and
- (b) if not already, comply with all requirements of subregulation 2.”.

Amendment of regulation 59 of the Regulations

21. Regulation 59 of the Regulations is amended by the substitution of subregulation 2 of the following subregulation:

“(2) If a person who owes any penalties or fees in terms of the provisions of this Act to any registering authority or driving licence testing centre, applies for any transaction, the registering authority or driving licence testing centre to whom such application is made, may refuse to effect the transaction applied for or, in the case of an application for the licensing of a motor vehicle at a registering authority, refuse to issue a licence disc to the applicant, until such penalties and fees have been paid, and may apply any amount tendered in settlement of such penalties and fees due.”.

Amendment of regulation 65 of the Regulations

22. Regulation 65 of the Regulations is amended by the insertion after subregulation (2) of the following subregulation:

“(3) Where a motor vehicle record has been updated in terms of subregulation (2)(a), the record of the motor vehicle may be moved to the archive of the register on any date 5 years after the date on which such update took place.”.

Amendment of regulation 95 of the Regulations

23. Regulation 95 of the Regulations is amended by the substitution of paragraph (g) of subregulation (2) of the following paragraph:

“(g) as a grade A, B, C, D, E or F driving licence testing centre, shall notwithstanding anything to the contrary contained in these regulations, be authorised to substitute a driving licence of any code issued before 1 March 1998 in terms of section 19 of the Act, or to, if so specifically authorised by the MEC, replace a driving licence or international driving licence permit in terms of section 20(3), 23(4) or 24(3) of the Act.”.

Amendment of regulation 115 of the Regulations

24. Regulation 115 of the Regulations is amended—

- (a) by the substitution of paragraph (f) of subregulation (1) of the following paragraph:
 - “(f) a motor vehicle to which regulations 273 to 283 apply as contemplated in regulation 274; and”;
- (b) by the substitution of paragraph (a) of subregulation (2) of the following paragraph:
 - “(a) to a traffic officer, examiner of vehicles or examiner for driving licences in the

performance of his or her duties as contemplated in sections 3I, 3G and 3H of the Act, respectively.”

Amendment of regulation 138 of the Regulations

25. Regulation 138 of the Regulations is amended by the deletion of paragraph (e) of subregulation (2).

Amendment of regulation 141 of the Regulations

26. Regulation 141 of the Regulations is amended by the substitution of subregulation 2 of the following subregulation:

“(2) If the examiner of vehicles is satisfied that the motor vehicle is roadworthy and that the chassis number or engine number of the motor vehicle has not been tampered with, obliterated, mutilated or altered, the testing station shall upon payment of the appropriate fee as determined by the MEC of the province concerned, or in the case where such testing station is not under the control of a registering authority, as determined by such testing station, certify that the motor vehicle is roadworthy by—

- (a) in the case of a motor vehicle registered in the Republic, updating the particulars pertaining to such motor vehicle in the register of motor vehicles and advise the applicant that the motor vehicle is to be licensed; or
- (b) in the case of a motor vehicle not registered in the Republic, issuing the applicant with form CRW, as shown in Schedule 2.”.

Amendment of regulation 142 of the Regulations

- 27.** Regulation 142 of the Regulations is amended—
- (a) by the deletion in subregulation (1) in paragraph (d) in item (ii) after the semi-colon of the word “or”;
 - (b) by the insertion in subregulation (1) in paragraph (e) after the full stop, a semi-colon and the word “or”;
 - (c) by the insertion in subregulation (1) after paragraph (e) of the following paragraph:
 - “(f) a motor vehicle to which regulations 273 to 283 apply as contemplated in regulation 274.”;and
 - (d) by the substitution in subregulation (2) of paragraph (a) with the following paragraph:
 - “(a) motor vehicle referred to in regulation 138(2)(c) or a trailer drawn by a tractor.”.

Amendment of regulation 144 of the Regulations

- 28.** Regulation 144 of the Regulations is amended—
- (a) by the deletion in subregulation (2) of the words “Subject to the provisions of subregulation (3)”;
 - and
 - (b) by the deletion of subregulations (3), (4), (5) and (6).

Amendment of regulation 202 of the Regulations

29. Regulation 202 of the Regulations is amended by the substitution in subregulation (3) of paragraph (c) with the following paragraph:

- "(c) if, from 1 January 2000, any material or film, with a textured surface, displaying a picture or graphics is applied to a windscreen or window that covers more than one-eighth of such windscreen or window: Provided that the application of any material or film, with a textured surface, displaying a picture or graphics to a windscreen or window, shall be subject to the provisions of regulation 204(1).".

Amendment of regulation 221 of the Regulations

30. Regulation 221 of the Regulations is amended by the insertion after paragraph (e), of the following paragraph:

- "(eA) a bus, if the overall length thereof exceeds 14 metres;".

Amendment of regulation 266 of the Regulations

31. Regulation 266 of the Regulations is amended by the substitution of the regulation by the following regulation:

"Categories of, and authority conveyed by, operator card

266. (1) Operator cards are divided in the following categories:
- (a) Category "G", which authorises the operation of a goods vehicle, the gross vehicle mass of which exceeds 3 500 kilograms and a breakdown vehicle on a public road; and
 - (b) category "D", which authorises the driving of a motor vehicle to which regulations 273 to 283 apply as contemplated in regulation 274 on a public road."

Amendment of regulation 341 of Regulations

32. Regulation 341 of the Regulations is amended by the substitution for the words preceding the proviso of the following words:

- "Manufacturers of number plates are deemed to be registered in terms of section 5 of the Act until 1 August 2003;".

Insertion of regulation 343E in the Regulations

33. The Regulations are amended by the insertion of the following regulation:

"Transitional provision: Driving licences

343E. (1) Subject to section 29 of the Act, any licence, certificate, permit or authorisation issued or granted by any officer registered as a grade F examiner for driving licences prior to successful completion of an official training course for grade F examiners for driving licences, in terms of section 19, 20(3), 23(4) and 24(3) of the Act, shall be deemed to be valid for purposes of this Act.

(2) All officials registered as examiners for driving licences prior to successful completion of the official training course, must complete the prescribed training by 1 August 2003, or else all licences, certificates, permits or authorisations issued or granted after such date, will be null and void."

Short title and commencement

34. These regulations shall be called the Fifth Amendment to the National Road Traffic Regulations, and shall come into operation upon publication in the *Gazette*, except for Regulations 10 and 20 which will come into operation on 1 December 2002 and Regulation 26 which will come into operation on a date as determined by the Minister: Provided that if a date has not been determined by 1 July 2003, Regulation 26 will come into operation on 1 April 2003.