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GENERAL NOTICE

Transport, Department of

General Notice

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GENERAL NOTICE

NOTICE 1820 OF 2002

DEPARTMENT OF TRANSPORT

NATIONAL ROAD TRAFFIC ACT, 1996 (ACT NO. 93 OF 1996)

PROPOSED AMENDMENT OF NATIONAL ROAD TRAFFIC REGULATION

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

Comments regarding the proposed amendments may be sent on or before 15 October 2002, to: Mr J Motsatsing at National Department of Transport, Private Bag X193, PRETORIA, 0001 or by fax no. (012) 324 4211 or E-Mail: motsatsj@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 Notices No. R. 761 of 31 July 2000, R. 941 of 22 September 2000, R. 726 of 3 August 2001, R. 2116 of 5 October 2001 and R. 779 of 4 June 2002.

Amendment of regulation 142 of the Regulations

2. Regulation 142 of the regulations is amended by the substitution of paragraph (bA) of subregulation (1) for the following paragraph:

"(bA) a motor vehicle to which regulation 273 to 283 apply as contemplated in regulation 274: Provided that this provision shall become effective to motor vehicles with a gross vehicle mass of 3 500 kilogram and under, as from 1 December 2001 on the date of licencing of the motor vehicle as contemplated in regulation 23."

Amendment of regulation 265 of the Regulations

3. Regulation 265 of the regulations is amended by the substitution of paragraph (c) of subregulation (1) for the following paragraph:

"(c) motor vehicle to which regulations 273 to 283 apply as contemplated in regulation 274: Provided that this provision shall become effective to motor vehicles with

a gross vehicle mass of 3 500 kilograms and under, as from 1 December 2001 on the date of licencing of the motor vehicle as contemplated in regulation 23.”.

Amendment of regulation 276 of the Regulations

4. Regulation 276 of the Regulations is amended by the insertion of the expression ‘(1)’ at the beginning of the regulation and by the insertion of the following subregulation after the current regulation:

“(2) The dangerous goods listed in code of practice SABS 0232-1 “Transportation of Dangerous Goods – Emergency information systems” are exempt from the provisions of these Regulations with regard to quantity or in its entirety, or the quantities of a multiload as determined by the factor, as indicated in that Code of Practice, and for the purpose of the Act, one litre of a substance, is equal to one kilogram of a substance.”.

Amendment of regulation 280 of the Regulations

5. Regulation 280 of the Regulations is amended by –

(a) the deletion of the words “referred to in regulation 274(1), in subregulation (2); and

(b) the substitution of subregulation (3) for the following subregulation:

“(3) Each approved institution shall submit a syllabus for the training of the drivers referred to in subregulation (1) to the Minister for approval, and resubmit such syllabus for approval, 90 days after the relevant legislation or SABS specifications have been amended.

Amendment of regulation 281 of the Regulations

6. Regulation 281 of the Regulations is amended by in subregulation (2) –

(a) adding the word “and” at the end of paragraph (a); and

(b) deleting paragraph (b).

Amendment of regulation 282 of the Regulations

7. Regulation 282 of the Regulations is substituted for the following regulation:

“Dangerous goods inspectors

282. (1) A dangerous goods inspector shall be appointed by the Minister.

(2) The minimum requirements for appointment as a dangerous goods inspector shall be that the applicant-

(a) has obtained a qualification as determined by the Minister;

- (b) is, in the opinion of the Minister, a fit and proper person; and
- (c) has undergone training in relation to the laws, policy and operational requirements applicable to the transportation of dangerous goods.

(3) A certificate of appointment shall be issued to a dangerous goods inspector appointed under subsection (1), and that inspector shall carry the certificate with him or her in the course of his or her duties."

Amendment of regulation 283 of the Regulations

8. Regulation 283 is substituted for the following regulation:

"Powers, duties and functions of dangerous goods inspectorate and dangerous goods inspectors

283. (1) The dangerous goods inspectorate shall-

- (a) evaluate consignors, consignees and operators to determine their compliance with the provisions of the Act and the standard specifications;
- (b) conduct investigations into the procedures followed by a person or body of persons in relation to the requirements for the transportation of dangerous goods;
- (c) keep a data base of:
 - (i) every incident that must be reported in terms of SABS 0231 "Transportation of dangerous goods - Operational requirements for road vehicles";
 - (ii) dangerous goods regulated under these Regulations and exempt quantities thereof;
 - (iii) routes frequently used for the transportation of dangerous goods;
 - (iv) operators transporting dangerous goods; and
 - (v) offences and infringements related to the transportation of dangerous goods;
- (d) advise the Minister on matters related to the transportation of dangerous goods;
- (e) assist traffic officers in the execution of their powers and duties in respect of the transportation of dangerous goods; and
- (f) keep abreast with international developments concerning the transportation of dangerous goods.

(2) A dangerous goods inspector employed by the dangerous goods inspectorate may enter any motor vehicle on or in which any substance suspected to be dangerous goods is or is suspected to be transported, or enter any premises on or in which any other operation or activity relating to such transport with or in connection with any such substance is or is suspected to be carried out, and may, subject to the provisions of the Act—

- (a) inspect or search the vehicle or premises, or examine, or extract, take and remove samples of, or direct an approved authority to examine, extract or remove, any substance found in or upon such premises, or any packaging, receptacles, unit loads, bulk containers and bulk transportation equipment or other objects so found which is or is suspected to be used, or destined or intended for use, for, in or in connection with the transport of dangerous goods, or for, or in connection with any other operation or activity with or in connection with the transport of dangerous goods, or open or direct an approved authority to open any packagings, receptacles, unit loads, bulk containers and bulk transportation equipment suspected to contain such dangerous goods;
 - (b) detain a vehicle which is on reasonable grounds suspected of not complying with these regulations, for the purposes of exercising any of the powers of a dangerous goods inspector under this regulation;
 - (c) demand from the driver, operator or any person in charge of the vehicle or premises, to produce any document prescribed under these regulations;
 - (d) demand any information regarding any substance or packagings, receptacles, unit loads, bulk containers, bulk transportation equipment or other objects from any person in whose possession or charge it is or from the operator or person in charge of the vehicle or premises;
 - (e) weigh, count, measure, mark or seal, or direct an approved authority to weigh, count, measure, mark or seal, any substance or packagings, receptacles, unit loads, bulk containers, bulk transportation equipment or other objects or lock, secure, seal or close any door or opening giving access to it;
 - (f) examine or make copies of, or take extracts from, any book, statement or document found in or on the vehicle or premises and which refers or is suspected to refer to the substance, packagings, receptacles, unit loads, bulk containers, bulk transportation equipment or other objects;
 - (g) demand from the operator or any person in charge of the vehicle or premises or from any person in whose possession or charge such book, statement or document, an explanation of any entry therein;
 - (h) inspect any operation or process carried out in or upon the vehicle or premises in connection with any activity referred to in paragraph (a);
 - (i) demand any information regarding the operation or process referred to in paragraph (viii) from the operator or person in charge of the vehicle or premises or from any person carrying out or in charge of the carrying out of such operation or process; and
 - (j) seize any substance, book, statement or document or other packagings, receptacles, unit loads, bulk containers, bulk transportation equipment or other objects which appears to provide proof of a contravention of any provision of this Act.
- (3) If a dangerous goods inspector intends to exercise or perform any power, duty or function under these regulations in the presence of any persons affected thereby,

he or she shall, on demand, produce the appointment certificate issued to him or her under regulation 282.

(4) Notwithstanding the provisions of this regulation, a dangerous goods inspector or an approved authority shall not open dangerous goods packages, or unload or decant dangerous goods unless—

- (a) the operator was duly notified;
- (b) such unloading, decanting or opening of packages is authorised by the local authority concerned; and
- (c) a qualified person supervises the unloading, decanting or opening of packages;

(5) If the dangerous goods inspectorate finds after an investigation in terms of these Regulations, that an operator has committed an offence in terms of these Regulations or does not comply with these Regulations, it must request the MEC concerned to act in terms of section 50 of the Act, providing reasons for the request.”.

Insertion of regulation 283A in the Regulations.

9. The following regulation is inserted after regulation 283 in the Regulations:

“Powers, duties and functions of traffic officers in relation to dangerous goods

283A. (1) A traffic officer may enter any motor vehicle on or in which any substance suspected to be dangerous goods is or is suspected to be transported, or enter any premises on or in which any other operation or activity relating to such transport with or in connection with any such substance is or is suspected to be carried out, and may, subject to the provisions of the Act—

- (a) demand from the driver, operator or any person in charge of the vehicle or premises, to produce any document prescribed under these regulations;
- (b) demand any information regarding any substance or packagings, receptacles, unit loads, bulk containers, bulk transportation equipment or other objects from any person in whose possession or charge it is or from the operator or person in charge of the vehicle or premises;
- (c) determine the quantity or volume of any dangerous goods;
- (d) examine or make copies of, or take extracts from, any book, statement or document found in or on the vehicle or premises and which refers or is suspected to refer to the substance, packagings, receptacles, unit loads, bulk containers, bulk transportation equipment or other objects.

(2) Notwithstanding the provisions of this regulation, a traffic officer or an approved authority shall not open dangerous goods packages, or unload or decant dangerous goods unless—

- (a) the operator was duly notified;

- (b) such unloading, decanting or opening of packages is authorised by the local authority concerned;
- (c) a qualified person supervises the unloading, decanting or opening of packages; and
- (d) the dangerous goods inspectorate is notified.”

Insertion of regulation 283B in the Regulations

10. The following regulation is hereby inserted after regulation 283A:

“Presumption regarding the transportation of dangerous goods and the quantity of such goods

283B. Where in any prosecution for an alleged contravention of any provision in this Act, it is alleged that dangerous goods, as listed in SABS 0228: The identification and classification of dangerous substances, were transported and that such goods were in excess of the exempt quantity, as stipulated in “SABS 0232-1: Transportation of dangerous goods – Emergency information system”, —

- “(a) any document or a copy or extract out of any document, purporting to have been issued by the consignor of such goods or operator of such vehicle, stating the nature of goods and the quantity thereof; or
- (b) any extract from the packaging of any goods transported, identifying or marking, such goods as dangerous goods, and any UN number reflected on such packaging,

shall be presumed, in absence of evidence to the contrary, to be *prima facie* proof that such goods were dangerous goods and the quantity of such goods was in excess of the exempt quantity.”

Short title and commencement

11. These regulations are called the Sixth Amendment of the National Road Traffic Regulations, and shall come into operation on date of publication.

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