

# **ROAD TRAFFIC AND TRANSPORT LEGISLATION UPDATE**

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# LATEST AMENDMENTS AND POLICIES

- The NLTA Amendment Bill was accepted by the National Assembly in April 2018 and is in the NCOP process at the moment
- The AARTO Amendment Bill was accepted by Parliament in September 2017 and is due to be finalised by May 2018 in the NCOP
- The National Transport Policy was published for comment in February 2018
- The Economic Regulation of Transport Bill was published for comment in February 2018

# LATEST AMENDMENTS AND POLICIES

- The Road Infrastructure Policy was published for comment in March 2018
- The National Transport Policy was published for comment in Feb 2018
- The 25<sup>th</sup> draft NRT Regulation Amendment was published for comment on 20 April 2018
- The Cross-border Road Transport Regulations was published for comment in March 2018 - new tariffs for permits
- RTMC Regulations amended – Raised the NaTIS fee from R42 to R72 per vehicle licence fee

# DRAFT NATIONAL TRANSPORT POLICY

- Published for comment in February 2018
- A few extracts from the policy of interest
  - Roads
  - Road traffic law enforcement
  - Funding of road traffic management
  - Adjudication of road traffic offences
  - Improvement of road user skills, knowledge and attitude
  - Incident management/ engineering
  - International harmonisation
  - Non-motorised transport

# DRAFT NATIONAL TRANSPORT POLICY – ROADS: STRATEGIC OBJECTIVES

- To optimise current capacity and maintain and develop the road network;
- To improve road traffic safety, enhance road traffic discipline, protect the capital investment in the road system, and enhance administrative and economic order in the field of road traffic and transport;
- To optimise road transport law enforcement and promote and implement efficient, integrated, and coordinated road traffic management systems in the country, involving the role-players in all functional areas of road traffic management;
- To enhance the quality, productivity and cost-effectiveness of road freight transport services by providing transport customers with a safe, secure, reliable and cost- competitive system;

# DRAFT NATIONAL TRANSPORT POLICY – ROADS: STRATEGIC OBJECTIVES

- To advance **human resource development** and expand participation in the freight industry through the creation and growth of entrepreneurial opportunities, training and skills development;
- To promote seamless integration and **harmonisation** of standards with neighbouring member states;
- To actively promote the movement of the appropriate type of freight from **road to rail**; and
- To encourage, promote and plan for the use of **Non-Motorised Transport (NMT)** where appropriate.

# DRAFT NATIONAL TRANSPORT POLICY – ROADS: POLICY

A National **Road Transport Demand Management Guideline** will be developed considering the following principles:

- Adopt the ‘**user pays**’ principle where appropriate, on the understanding that it will not be universally applied and the impact on vulnerable sectors of society will be considered in its design;
- **Reduce** the demand for travel by **single occupancy vehicles**;
- **Diversify** transportation options;
- **Integrate** land use and transport planning;
- Integrate **NMT** philosophy in spatial development strategies;
- Encourage more efficient **Heavy Goods Vehicle (HGV) movements**;
- Cover **congestion mitigation** in urban areas through a broad based approach that is aligned with National Land Transport Act;
- Incorporate **mode switching** (including a shift to pipelines where relevant) to encourage energy efficiency and environmentally sustainable development; and
- Address **road to rail** demand shifts and inter-modalism at the national level.

# DRAFT NATIONAL TRANSPORT POLICY – ROAD TRAFFIC LAW ENFORCEMENT

- **Autonomy** of the provincial and local governments with regard to **traffic control**, as well as the need for regional, provincial, national and international coordination and **harmonisation**, and for mutual support between traffic services, are emphasised.
- Coordination and harmonisation in traffic control will be achieved through the Minister and Members of Executive Council/Committee of Transport Officials (MINMEC/COTO) consultative structure.
- Provinces will facilitate the establishment of liaison structures between the provincial, metropolitan, regional and local levels of government.
- **International** level, the coordination and **harmonisation** is the responsibility of the national DoT, and will be achieved through the structures established for this purpose.



# DRAFT NATIONAL TRANSPORT POLICY – ROAD TRAFFIC LAW ENFORCEMENT

- **Lack of trained professionals** in the road traffic safety management disciplines and relevant the training and support will be provided to provinces, metropolitans and other local authorities in order to maintain a minimum level of skilled personnel.
- A national **performance incentive scheme** for traffic authorities, with performance incentive funds linked to the achievement of certain pre-set standards and targets, will be introduced under the auspices of the appropriate consultative structure.
- The Government will implement more effective measures to detect and **prosecute corrupt activity** on the behalf of law enforcement officials and complicit parties.
- The feasibility and impact of legislating the **configuration of Bakkies and trucks to promote safety** (e.g. through the use of canopies and safety harnesses) will be investigated.

# DRAFT NATIONAL TRANSPORT POLICY – FUNDING FOR ROAD TRAFFIC MANAGEMENT

- The respective roles and responsibilities of national, provincial and local governments in **financing traffic management** will be clearly demarcated - balanced funding policy
- **Spending priorities** must be re- evaluated in the road and road traffic environment
- Additional and **innovative funding strategies** for traffic management functions will be investigated and introduced -
  - allocation of a percentage of the **roads budget for traffic control** purposes.
  - introduction of a **traffic management levy to vehicle licence fees and fuel sales** will be investigated.
  - **Fine collection procedures** relating to traffic fines, penalties for non-payment, **confiscation of movable property** and **demerit systems** will be improved and fully implemented.
- The desirability of **apportioning traffic fines and bails to road traffic management funds** instead of fines accruing to individual authorities and general state or provincial revenue funds will be explored

# DRAFT NATIONAL TRANSPORT POLICY – ADJUDICATION OF TRAFFIC OFFENCES

- The **decriminalisation** of certain traffic offences to ensure that the process of adjudicating traffic offences will be brief, strict and decisive. The feasibility of decriminalising all traffic offences except reckless, negligent and inconsiderate driving, will be investigated;
- **Standardisation of the requirements** set by Attorneys-General in respect of the utilisation of technological aids in traffic control; and
- In respect of **criminal offences**, receiving support from the judiciary to overcome problems experienced with the prosecution of operators, the standardisation of fines and other arrangements made by the judiciary, and the possible introduction of dedicated **special traffic courts** as a general procedure, and the introduction of the **compulsory attendance of traffic schools as a form of sanction.**

# DRAFT NATIONAL TRANSPORT POLICY – IMPROVEMENT OF ROAD USERS SKILLS, KNOWLEDGE AND ATTITUDES

- Resources will be made available for the enhancement of road user knowledge, skills and attitudes.
- All categories of road users will systematically be exposed to a purposeful programme targeted at enhancing their knowledge, skills and attitudes, at promoting their voluntary compliance with the law, and at developing community ownership and participation in enhancing road traffic quality.
- The driver demerit system should be fully rolled-out.
- Traffic control programmes will be supported by well researched promotional and motivational programmes, so as to create the necessary public understanding of their responsibilities
- Aggressive and effective enforcement, education, engineering interventions, and evaluation at all levels of government and for all relevant transport agencies, is required and will be managed.

# DRAFT NATIONAL TRANSPORT POLICY – INCIDENT MANAGEMENT/ENGINEERING

- The Government will **implement an incident management system** on all national roads.
- The highest **design standards** on South African roads will be maintained in order to ensure road safety.
- **Traffic operations management** will ensure road traffic quality and the orderly flow of traffic at acceptable levels of service. Road authorities will annually conduct a traffic quality audit of the road networks under their control, consisting of a systematic evaluation of all traffic quality and service level related aspects of the network.

# DRAFT NATIONAL TRANSPORT POLICY – INTERNATIONAL HARMONISATION

- The Government will support the formulation and implementation of the **SADC** Transport and Communications Protocol. Every opportunity will be taken to base policies and standards on international norms, particularly those of the United Nations.
- The Government will pursue **harmonisation** and integration of the regulatory regimes between the country and the rest of the region with a view to enhancing seamless cross border movements.

# DRAFT NATIONAL TRANSPORT POLICY – ROAD INFRASTRUCTURE

- **Innovative ways of securing finance** for the development of road infrastructure will be explored. These include Build-Operate-Transfer (BOT) or Fund-Rehabilitate-Operate-Maintain (FROM) contracts that enable the Government to obtain financing from private sources rather than the fiscus.
- Other rural, inter-city and urban road infrastructure will be the **responsibility of provincial and local authorities**, and will be funded from a variety of tax sources.
- Increased attention will be given to the provision and maintenance of the **lowest order roads**, both in rural and in urban areas.
- The DoT will **eliminate un-proclaimed roads**.
- **Rural Transport Infrastructure** will include all transport-related infrastructure, ranging from proclaimed district or feeder roads, to village-level roads and non-motorized infrastructure such as tracks, trails, paths and footbridges.
- The system of **classifying roads** will be made more coherent. Factors such as traffic volumes and urbanisation should be considered in determining the appropriate classification.



# DRAFT NATIONAL TRANSPORT POLICY – NON-MOTORISED TRANSPORT

- Adequate and **sustainable funding** for the promotion, implementation and development of NMT will be made available. NMT modes will be endorsed and the use thereof facilitated.
- **Infrastructure and maintenance standards** will be developed and must recognise NMT as an essential mode of transport.
- **Traffic legislation** must be developed to recognising NMT as an alternative mode of transport including being a feeder to other modes of transport.
- **Marginalised groups** should be empowered including the promotion of SMMEs through NMT.
- Measures will be developed and implemented in order to **reduce** the number of traffic **fatalities** of vulnerable non-motorised road users. Corresponding measures should be developed and implemented to ensure security for non-motorised road users.
- The NMT will be integrated into the **formal transport system** through transport and spatial development strategies and planning, and be explicitly considered in land passenger transport.



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

**B 38 of 2015**

# AARTO LEGISLATION

- The AARTO Bill has been discussed in detail over the last few months due to the NCOP hearings that were taking place
- The legislation has undergone some major changes since the 2015 bill. The bill was discussed on 8 May 2018 in the NCOP
- The most significant change is the replacement of the option to elect to appear in court has been removed from the legislation and replaced with an Appeals Tribunal process.
- Draft Regulations will need to be published to accommodate amendments to Bill
- Various aspects like rehabilitation programs and habitual infringers will be addressed in the regulations

# AARTO BILL – 2015/ 2017

## General amendments -

- Amends the term *Agency* to *Authority*
- Distinction between minor/major infringement are deleted
- National Offences Register – existing wording refers to *National Contraventions Register*
- All references to a warrant and sheriffs are deleted
- All provisions relating to court procedures are deleted
- Funds for Authority – Adds penalties issued on behalf of issuing authority - **sec 13**

# AARTO BILL – 2015/ 2017 - DEFINITIONS

- *Date of service – corrected* (changed from *signed for* to *received*)
- *Electronic service* means service by means of an electronic communication as defined in the Electronic Communications Act, 2005 (Act No. 36 of 2005)
- *Habitual infringer* means an infringer, operator or a juristic person who, in terms of section 25, incurs demerit points resulting in a disqualification more than two times
- *Infringement* – adds - *any other state institution declared by the Minister by regulation to be an issuing authority*
- *Issuing authority* – allows the Minister to add issuing authorities by regulation
- *Tribunal* means the Appeals Tribunal established by section 29A

## AARTO BILL – 2015/ 2017

- AARTO Bill extends application to transport offences as well – will include NLTA, CBRTA, SANRAL, etc.
- RTIA will administer prescribed rehabilitation programmes for habitual infringers”
- **Section 17(5)**

The owner or operator of a motor vehicle who permits any person to drive such vehicle or otherwise to exercise any control over such vehicle, without having ascertained the full names, acceptable identification and residential and, postal and where applicable business and e-mail address of an infringer, such person is liable for the prescribed penalty and fees.

# AARTO BILL – 2015/ 2017

- **Section 18**

In the event a representation is successful as a result of prescribed procedures not being complied with, that infringement notice may be served again on that infringer in the prescribed manner within 40 days from the date that the representation was finalised, provided that such notice must not be served later than 180 days from the date the infringement was committed.

- If infringer's representation is rejected – the person may appeal to the Appeals Tribunal – no court process
- If appeal is rejected the person may lodge a case in the High Court

# AARTO BILL – 2015/ 2017

## ■ Section 25

- Person, operator or a juristic person who is not an operator may incur demerit points
- must within a period of 32 days hand in any driving licence card , professional driving permit, motor vehicle licence disc, operator card or any other permit, card or licence issued in terms of road traffic and transport legislation, where applicable, in the prescribed manner to the relevant issuing authority contemplated in section 26(2) for retention by such issuing authority during the disqualification period

# AARTO BILL – 2015/ 2017

- In the event that a person, operator or a juristic person who is not an operator,
  - fails to comply with the instruction, or
  - drives or operates a motor vehicle during his or her disqualification period, his or her licence, permit, card or licence issued in terms of any road traffic and transport legislation

is suspended for a further one year for every subsequent driving or operation and such person 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



# AARTO BILL – 2015/ 2017

- **Section 29A** – Appeals Tribunal
- Appointed by President
- Functions – **sec 29B**
  - The Tribunal may—
    - adjudicate on any matter brought to it by an infringer aggrieved by a decision taken by the representation officer in terms of this Act;
    - hear appeals or review any decision of the representation officer that may in terms of this Act be referred to it; and
    - make any ruling or order necessary or incidental to the performance of its functions in terms of this Act.
- The appeal or review referred to in subsection (1)(b) must be lodged with the Tribunal within 30 days of receipt of the reasons for the decision, and lodged in the manner and on payment of fees, as prescribed by the Minister.

**Sections 29C to 29J** – functioning of Tribunal

# AARTO BILL – 2015/ 2017

- **Sec 30** - methods of service “as prescribed”- will be detailed in regulations and will allow for electronic service
  - 10 day service presumption states that service notice will be considered served 10 days after the infringer is notified
  - Will be extended to electronic service methods
  - **Sec 32** – apportionment of fines
- Issuing authority receives discounted amount on infringement notices
- RTIA receives moneys on courtesy letters

# **NATIONAL ROAD TRAFFIC LEGISLATION**

**2016/2017/2018**



# 25<sup>TH</sup> DRAFT NATIONAL ROAD TRAFFIC REGULATION AMENDMENT

- General regulation amendment – covers wide range of aspects
- Published for comment on 20 April 2018
- Draft of Afrikaans also published
- Amendments to forms – published on 24 April 2018

# 25<sup>TH</sup> DRAFT NATIONAL ROAD TRAFFIC REGULATION AMENDMENT

- microdot” means a microdot – particle with a diameter smaller than 1.8 mm, which bears a unique optically readable microdot identifier of which the content and structure complies with SANS 534 – 1 “Vehicle Security - Whole of vehicle marking Part 1: Microdot systems” and is legible with equipment that magnifies the text 60 times
- New definitions for microdot fitter, fitment centre, fitment centre, fitment centre proprietor, and production facility
- Reg 51A Manufacturers of microdots to be approved
- No person shall manufacture, import, sell or distribute microdots unless he or she is approved by the Department to manufacture, import, sell or distribute microdots and is registered as such in the register of manufacturers of microdots.
- Reg 51A to S regulates the application, approval, suspension of microdot fitment centres, proprietors, manufacturers

# 25<sup>TH</sup> DRAFT NATIONAL ROAD TRAFFIC REGULATION AMENDMENT

- Amendment to the application of a learner's licence ??
- A new provision is included – **reg 104A** -that compels an examiner of driving licences to report any person who use an unauthorized aid
- The Management Representative must suspend person from applying for a learner's licence – appeals procedure included
- **Reg 108B** – new provision allows the MEC to cancel a licence that was obtained contrary to the provisions of the legislation
- **Reg 117** – Amendment to allow the MEC to exempt an applicant for a PRDP from the provisions of **reg 117(c)(iv)** where violence was an element of the crime

# 25<sup>TH</sup> DRAFT NATIONAL ROAD TRAFFIC REGULATION AMENDMENT

- The regulations regulating the registration and operation of testing stations are cleaned up and amended – **reg 128 to 137B**
- The specific offences that will disqualify a person from owning a testing station is listed – **reg 128**

# 25<sup>TH</sup> DRAFT NATIONAL ROAD TRAFFIC REGULATION AMENDMENT

- Several provisions on lamps are proposed to be amended –
  - **Reg 161A** -Daytime running lamps may be used with or without the rear lamps on
  - **Reg 176** -Medical doctor may only use red lamp in emergency situation
- Amendment to **reg 232** – changes the mass of a person from 68 kg to 71 kg for calculating the number of persons that may sit in a vehicle – adds 48 kg to a 16-seater



# 25<sup>TH</sup> DRAFT NATIONAL ROAD TRAFFIC REGULATION AMENDMENT

- **Reg 8A** - Manner of application for first registration of a motor vehicle by manufacturer, importer or builder not required to register in terms of this Act
- **Reg 8B** - Procedure after receipt of application for first registration of a vehicle manufactured, imported or built for own use by an MIB not required to register as such
- **Reg 25(7)(e) and reg 59(3)** to be deleted – remove the provisions that allows the authority to block licence disc

# 25<sup>TH</sup> DRAFT NATIONAL ROAD TRAFFIC REGULATION AMENDMENT

- **New Regulations on Exemptions added – Reg 249A to 249M**
- **249A. Definitions**
- **For the purposes of regulation 249B to 294M—**
- **“exemption” means an exemption granted by the Minister in writing in terms of section 81(1) of the Act.**
- **“exemption permit” means an authorisation granted by the MEC of the province concerned, in writing in terms of section 81(2) of the Act.**
- **“principle approval” means an authorisation granted by the Minister in writing in terms of section 81(1) of the Act.**

# 25<sup>TH</sup> DRAFT NATIONAL ROAD TRAFFIC REGULATION AMENDMENT

- **249B. Non-compliant motor vehicle to be issued with principle approval, exemption or exemption permit**
- (1) No person shall operate on a public road a motor vehicle, that due to such vehicle's original design does not comply with the provisions of this Act, without a principle approval, exemption or exemption permit.
- (2) No person shall operate on a public road a motor vehicle issued with a principle approval, exemption or exemption permit, contrary to any condition of such issued principle approval, exemption or exemption permit.
- **249C. Period of validity of principle approval**
- A principle approval issued for the importation or manufacturing of a motor vehicle, shall be valid for a period not exceeding 12 months from the date of issue.
- Provisions for the application, issue and suspension of approvals and permits

# 25<sup>TH</sup> DRAFT NATIONAL ROAD TRAFFIC REGULATION AMENDMENT

- **250A. Persons not to be carried with a motor tricycle for reward**
  - (1) No person shall on a public road carry any person for reward on a motor tricycle.
  - (2) No person shall be issued with an operating licence to carry any person for reward on a motor tricycle

This must be dealt with in the NLTA. The Minister does not have the authority to make this regulation under the NRTA.

# 25<sup>TH</sup> DRAFT NATIONAL ROAD TRAFFIC REGULATION AMENDMENT

- **“designated area”** means an area specifically designated for the offloading or loading in a safe manner by a person trained in the specific dangerous goods to be loaded or offloaded or by a person in the supervision of a person trained in the specific dangerous goods to be loaded or offloaded;”;
- **“multiload”** replaced by : **“mixed load”** means more than one type or hazard class of dangerous goods or substances carried together;”;
- **“Transport emergency card”** new definition - means a card which is generated in accordance with SANS 10232-4, listing the hazards and emergency information for a material being transported for use by the driver during an incident, or by the emergency services;

# 25<sup>TH</sup> DRAFT NATIONAL ROAD TRAFFIC REGULATION AMENDMENT

*New provision – copied from the Guideline on Mass measuring -*

## **283C. Overloaded dangerous goods vehicle**

(1) The driver or operator of a motor vehicle transporting dangerous goods shall forthwith, after being informed that his or her motor vehicle has been detained because it is overloaded, make arrangements at his or her own costs for the said motor vehicle to proceed under official escort to a designated area in order to transfer the excess load to another vehicle that complies with the provisions of Chapter VIII.

(2) After the load has been corrected, the motor vehicle must be escorted back to the mass-measuring bridge where it must be re-weighed to ensure that it is within the legal limits.

(3) The driver or operator shall not dump any excess dangerous goods on the premises of the mass-measuring bridge or any place except at a designated area.

# 25<sup>TH</sup> DRAFT NRT AMENDMENT

## **298AA. Passing of pedal cycle**

- (1) Subject to the provisions of regulation 296 and 298, the driver of a motor vehicle intending to pass a person riding on a pedal cycle proceeding in the same direction on a public road shall pass to the right thereof at a distance of one comma two metres from such person riding such pedal cycle and shall not again drive on the left side of the roadway until safely clear of the pedal cycle so passed: Provided that, in the circumstances as aforesaid, passing on the left of such pedal cycle shall be permissible if the person driving the passing vehicle can do so with safety to himself or herself, the person riding on the pedal cycle, other traffic or property which is or may be on such road and—
  - (a) the pedal cycle being passed is turning to its right or the person riding on it thereof has signalled his or her intention of turning to his or her right;
  - (b) such road is a public road in an urban area and—
    - (i) is restricted to vehicles moving in one direction; and
    - (ii) the roadway is of sufficient width for two or more lines of moving vehicles including pedal cycles;

# 25<sup>TH</sup> DRAFT NRT AMENDMENT

## **298AA. Passing of pedal cycle (cont)**

- (c) such road is a public road in an urban area and the roadway is of sufficient width for two or more lines of moving vehicles moving in each direction;
- (d) the roadway of such road is restricted to vehicles moving in one direction and is divided into traffic lanes by appropriate road traffic signs; or
- (e) he or she is driving in compliance with the directions of a traffic officer or is driving in traffic which is under the general direction of such officer, and in accordance with such direction:

Provided further that in no event shall any passing referred to in paragraph (a), (b), (c) or (d) be done by driving on the shoulders of the roadway or on the verge of the public road concerned.”.



# 25<sup>TH</sup> DRAFT NRT AMENDMENT

## “318A. Convoys on public road

(1) No person shall operate on a public road a goods vehicle the gross vehicle mass of which exceeds 3 500 kilograms forming part of a convoy of motor vehicles: Provided that the provision of this regulation shall not apply to a motor vehicle as contemplated in regulation 318, a convoy of motor vehicles for a funeral or a wedding.

(2) The MEC of the province concerned, may exempt any person from complying with the provisions of subregulation (1).”.

### **Reg 318. Convoys on public road**

*(1) No person shall operate on a public road a motor vehicle forming part of a convoy of motor vehicles which are being delivered to a motor dealer or other person—*

*(a) between the hours of 18h00 on a Friday or, in the case where such Friday is a public holiday, the Thursday immediately preceding such Friday, and 06h00 on a Monday, or in the case where such Monday is a public holiday, the Tuesday immediately succeeding such Monday; or*

*(b) between the hours of 18h00 on the day immediately preceding Christmas Day and 06h00 on the day immediately succeeding the Day of Goodwill, to the extent to which such hours do not already fall within a period contemplated in paragraph (a).*

*(2) In a prosecution for a contravention of subregulation (1), it shall, in the absence of evidence to the contrary, be presumed that the motor vehicle concerned was in the process of being delivered to a motor dealer or other person.*

# 25<sup>TH</sup> DRAFT NRT AMENDMENT

New reg **330AA**

“**consignee**” means—

- (a) a person who is named or otherwise identified as the intended consignee of more than 500 000 kilograms of goods in a month in the goods declaration for the consignment and who actually receives such goods after they are transported by road; and
- (b) a consignee as contemplated in regulation 273;

“**consignor**” means—

- (a) a person who is named or otherwise identified as the consignor of goods in the goods declaration relating to the transportation of more than 500 000 kilograms of goods in a month by road or engages an operator of a vehicle, either directly or indirectly or through an agent or other intermediary, to transport the goods by road or has possession of, or control over, the goods immediately before the goods are transported by road or loads a vehicle with the goods, for transport by road, at a place where goods are stored in bulk or temporarily held but excludes a driver of the vehicle, or any person responsible for the normal operation of the vehicle during loading; and
- (b) a consignor as contemplated in regulation 273;

# 25<sup>TH</sup> DRAFT NRT AMENDMENT

## **330C. Goods declaration to be carried on a motor vehicle**

A person operating on a public road a goods vehicle the gross vehicle mass of which exceeds 3 500 kilograms, and which carries goods shall be in possession of a declaration containing the following information—

- (a) the licence number of each vehicle in the combination of vehicles;
- (b) the nature and quantity of goods transported;
- (c) the contact particulars of the operator or in the case of a combination of vehicles, of every operator in the combination of vehicles;
- (d) if applicable, the particulars of the consignor and consignee of the load or in the case of loads collected at and delivered to more than one consignor and consignee, the particulars of every consignor or consignee;

# 25<sup>TH</sup> DRAFT NRT AMENDMENT

## **330C. Goods declaration to be carried on a motor vehicle**

- .....
- (e) the name, residential and postal address of every natural person or in the case of a juristic person, the responsible director or member, if applicable consignor or consignee, an agent or operator listed in the declaration;
  - (f) particulars of the written agreement between the consignor and operator for the transportation of goods stating—
    - (i) the nature of the agreement;
    - (ii) the loading instructions; and
    - (iii) the responsibilities of the parties; and
  - (g) if applicable, the schedule of insurance as contemplated in regulation 330D.”.

# 25<sup>TH</sup> DRAFT NRT AMENDMENT

**330D. Consignor or Consignee to make sure that the operator has insured the goods transported for damages that may occur due to an incident**

A consignor or consignee of goods shall not offer goods for transport or accept goods that has been transported on a public road unless such transportation is fully insured for any damages that may occur as a result of an incident.

# 25<sup>TH</sup> DRAFT NRT AMENDMENT

## **331A. Records and information required for investigations**

- A member of the South African Police Service may request a registering authority, a testing station or a driving licence testing centre to submit original records held by them in terms of section 77 of the Act.
- Procedure for securing evidence and requirements for copies to be kept
- The member of the South African Police Service shall furnish to the registering authority, a testing station or a driving licence testing centre as the case maybe, with SAPS 13(b) acknowledgement of receipt for such documents before he or she take possession of the requested documents.
- The Special Investigations Unit may also request copies – procedure to obtain prescribed

# 25<sup>TH</sup> DRAFT NRT AMENDMENT

- **Reg 335.** - Traffic Register Number Certificate
- Issued for foreigners who wish to register motor vehicle or obtain driving licence
- Issued as acceptable identification
- “(6) The traffic register number shall be valid during the validity period of the document submitted in terms of subregulation (1)(b)(i).”
- Various forms are amended or added to the legislation

# **RECAP ON 22<sup>TH</sup> AMENDMENT TO THE NATIONAL ROAD TRAFFIC REGULATIONS NOT IN FORCE YET**

- Regulation amendment was published on 31 October 2014
- Many provisions were published without an implementation date at the time
- None of the provisions are implemented yet



## **National Road Traffic Regulation Provisions that still require implementation dates (Not in force yet)**

- Provisional driving licences - Reg 107 to 107C
- Registration of driving schools - Reg 114G - 114Q
- 10 year old vehicles – RWC every 2 years -Reg 138(1)
- Driving hours for truck and bus drivers - Reg 272A - 272E
- Parking regulations for disabled persons - Reg 305A - 305D
- Display of licence number plates -Reg 35(2)(a)

# 22ND AMENDMENT: DRIVING LICENCES – NOT IN FORCE YET

- **Reg 107** – Some provisions moved to Bill
- Provisional driving licence -suspended for 24 months if the holder in 12 months after obtaining such licence is-
  - guilty of committing any six traffic related offences;
  - guilty of driving under the influence of intoxicating liquor drug having narcotic effect, or with an alcohol in blood or breath;
  - exceeded the prescribed speed limit;
  - operated a motor vehicle which exceeded the number of persons on any seat of the vehicle for which the seating capacity is provided for;
  - not completed the provisional driving licence log, on all trips undertaken within a driving time of a minimum of 60 hours
  - Log book must be completed
  - Must have red letter **P** on back vehicle

# **22<sup>ND</sup> AMENDMENT: REQUIREMENTS TO BE MET FOR REGISTRATION OF A DRIVING SCHOOL —REG 114G TO Q**

- Physical address or access to a training facility approved by the Department;
- Municipal area in which the driving school will be operated;
- Use of vehicles which have dual controls for the purposes of training applicants;
- The applicant must be a registered instructor;
- Tax clearance certificate;
- Two years experience as a registered instructor;
- Filing system;
- Proof ownership of all the vehicles which will be used for training of the applicants;
- All the vehicles which will be used for training of applicants must be registered, licensed and roadworthy; and
- All vehicles which will be used for training of applicants must be clearly marked with a letter “L” in a legible manner on the rear window and the sides doors of the vehicle.

# 22ND AMENDMENT: - RWCS

- **Reg 138(1)(k)** -Roadworthy certification – periodic testing for all vehicles older than 10 years - **Not in force yet**
- Calculated from date of first registration
- Vintage cars exempt
- Test must be repeated every 24 months

# SPEED GOVERNORS

- **Reg 215** – Requirement that all new minibuses, midibuses and buses and goods vehicles with GVM of more than 3500 GVM first registered after 1 December 2016 must be fitted with speed governor – speed must be restricted to reg 293 limit
- No grace/tolerance in legislation
- Not optional – all manufacturers must comply
- Note - 11 Nov 2016 amendment to **reg 293**
  - 80 km/h – goods vehicles over 9000 kg GVM
  - 100 km/h – buses, minibuses (NLTA) and goods vehicles over 3500 kg

# 17TH AMENDMENT: DRIVING HOURS - DEFINITIONS

- "driving time" means any period of time that the driver of a motor vehicle contemplated in the regulations occupies the drivers' seat of such motor vehicle, whilst such motor vehicle is being operated on a public road or occupies the drivers' seat of such motor vehicle, whilst the engine is running;
- "resting period" means the period of time that the driver of a motor vehicle contemplated in the regulations is required to rest or taking time off driving, after exceeding the prescribed driving time, within the prescribed maximum driving time in a period of 24 hours;

# 22ND AMENDMENT: DRIVING HOURS

- Power to make regulations for driving hours – to be included in Bill
- **Reg 272A**- Apply to drivers of goods vehicles over 3 500 kg GVM and buses
- Log books required
- Driving times limited
- Rest periods enforced
- The operator or owner of a motor vehicle shall furnish to the driver of such motor vehicle a logbook - **reg 272C**.

# **Draft National Road Traffic Bills and Regulations – No progress yet**

- 28 Jan 2015 - Draft NRTA Amendment Bill In process
- 28 Jan 2015 - Number plates Regulations Reg 27,35
- 11 May 2015 - Licence retesting on card renewal Reg 107
- 11 May 2015 - Lower general speed limits Reg 292



# **NRTA AMENDMENT BILL, 2017 - DRAFT**

- Additional definitions and provisions for driving schools, ECE regulations, model regulations, incidents, various inspectorates
- Provisions on body builders, embossers, manufacturers of number plates also added or amended
- Manufacturers of microdots, reflective sheeting and blank number plates
- Emergency vehicles and emergency services – collective term for SAPS, ambulances, fire services, rescue vehicles, emergency medical response, civil protection and disaster management
- NaTIS officer definition added

# NRTA AMENDMENT BILL, 2017 - DRAFT

- *Standard* defined as code of practice, compulsory motor vehicle specification, standard, or adopted by the ISO
- *Supplier of blank number plate, microdots and reflective sheeting*
- *Weighbridge facility* defined as weighbridge used to determine tare of vehicle
- Amendments to -
  - *motor vehicle* – will exclude pedal cycle type vehicles with engine with speed up to 45 km/h
  - *pedal cycle* – will include exclude pedal cycle type vehicles with engine with speed up to 25 km/h, driving school, inspectorates

# NRTA AMENDMENT BILL, 2017 - DRAFT

- **Sec 3A** – NaTIS officer added as authorised officer
- Vested interest of law enforcement officials addressed –
  - vehicle examiner or spouse/partner may not have interest in motor repair business
  - traffic officer, traffic warden or NaTIS officer or spouse/partner may not have interest in road transport business
  - traffic wardens added to sec 3D – minimum requirements for registration
  - reasons for suspension of traffic officers, examiners of vehicles and driving licences extended to add the vested interest provisions and previous convictions
- **Sec 3L and 3M** – Registration, grading and suspension of training centres

# **NRTA AMENDMENT BILL, 2017 - DRAFT**

- Minister to appoint inspectorates for various organisations
- **Sec 5A** added to require registration of –
  - Manufactures of blank number plates
  - Manufactures of reflective sheeting for number plates
  - Suppliers of blank number plates
  - Suppliers of reflective sheeting for number plates
  - Embossers or sellers of number plates

# NRTA AMENDMENT BILL, 2017 - DRAFT

- Driving licence testing centre provisions – allows for a mobile driving licence testing facility
- The MEC of a province must appoint provincial inspectorates and the Minister will prescribe the powers of the inspectorates
- Provision for provisional driving licences – **sec 13 and 14**
- **Section 15** – Disqualification from driving – drug or alcohol addiction with certificate from medical practitioner – disqualification to get or hold licence
- **Sec 15A** added – Person may surrender licence or request different licence for which he qualifies
- Use of unauthorised aids – offence – learner’s and driving licences
- Foreign licences still subject to **sec 15** disqualifications
- Amendment to **sec 23** – foreign licences– restricts acceptance of foreign licence to countries that signed conventions

# NRTA AMENDMENT BILL, 2017 - DRAFT

- **Sec 28 to 28C** – amendments to provisions for instructors – bill does not have clear definition of an instructor
- Driving school provisions copied from 22<sup>nd</sup> amendment to Bill – See **sec 28D to 28H**
- **Sec 29** amended – specifically states that licence issued contrary to the legislation is void
- **Sec 30** – offence to use someone else's licence
- **Sec 31** – obligation on operator/ owner to ensure driver is licensed before driving vehicle

# NRTA AMENDMENT BILL, 2017 - DRAFT

- **Sec 58 and 60** – removes **authorised persons** from provisions on disobeying speed limits and road signs
- amended to refer to emergency vehicles instead of the individual emergency services – see definitions

- Note new par (c):

*in a case where such vehicle is approaching an intersection, the driver of such vehicle shall stop at the intersection and proceed only when it is safe to do so whilst a traffic signal is displaying a steady or flashing red light or is a stop sign.*

# NRTA AMENDMENT BILL, 2015 - DRAFT

- **Sec 62A** - Response to road accidents to be made compulsory
- **Incident defined as:** “incident” means an extraordinary condition or event which results in a reduction in road capacity or creates a hazard for road users for a sustained period of time, which includes a minor accident, shoulder or lane obstruction, rail or aviation accident, a leakage or spilled load;
- Zero alcohol limit proposed for all drivers –**section 65**
- All limits deleted from sec **65(2) and (5)** – 2-hour presumption amended to accommodate amendment – any alcohol in a person’s system within 2 hours after driving a vehicle will be considered as the alcohol in his system while driving



# NRTA AMENDMENT BILL, 2015 - DRAFT

- Provisions for parking for persons with a disability amended to remove limitation to specific authority– See **sec 80**
- **Sec 81** is amended to allow for more specific provisions in controlling abnormal vehicles – **25<sup>th</sup> amendment draft regulations**
- Power for Minister to make regulations for the application for an exemption – draft regulations to be published – more formal process than existing provisions

# 11 NOV 2016 – NRTA 24<sup>TH</sup> REGULATION AMENDMENT

- **Amendment to Regulation 293**
- **The addition of the following vehicles in the provision for special speed limits**
  - (iv) (aa) a goods vehicle the gross vehicle mass of which exceeds 3 500 kilograms but does not exceed 9 000 kilograms; or
    - (bb) a combination of motor vehicles consisting of a goods vehicle, being the drawing vehicle, and one or two trailers of which the sum of the gross vehicle mass of the goods vehicle and of the trailer or trailers exceeds 3 500 kilograms but does not exceed 9 000 kilograms.
- **100-sign must be displayed at the back of vehicle**

# **NATIONAL LAND TRANSPORT ACT**

- **Act 9 of 2009**
- **Amendment Bill – 2016**



# **NATIONAL LAND TRANSPORT BILL (NLTA), 2016**

- The NLTA, 5 of 2009 came into operation on 8 December 2009 (some provisions on contracting on 31 August 2009)
- New developments and corrections to the existing act required that some amendments had to be made
- Bill was approved by Portfolio Committee in April 2018

# NATIONAL LAND TRANSPORT BILL (NLTA), 2016

- Bill caters for non-motorised transport and accessible transport

## ▪ National Land Transport Bill, 2016

- **‘non-motorised transport’** means transport by any mode other than a motor vehicle including, but not limited to, walking, cycling and animal-drawn vehicles and motorised or non-motorised wheelchairs‘
- **‘Accessible and non-motorised transport’**
  - **10A.** (1) The Minister and all MECs and planning authorities must take steps in performing their functions under this Act to promote accessible transport and non-motorised transport.
  - (2) For the purposes of this section, **“accessible transport”** means transport that is accessible to all persons in the area, including, but not limited to, targeted categories of passengers, pedestrians and cyclists to their intended destinations in a safe and convenient manner, and in relation to infrastructure means the design of facilities that are usable by all people to the greatest extent possible, with or without the need for adaptation or specialised design.

# **NATIONAL LAND TRANSPORT BILL (NLTA), 2016**

- Contracting arrangements for public transport (PT) services are being changed
- The National, Provincial and Municipal functions are specified more clearly
- The provisions on vested interest are added – members of the SAPS, metro police and traffic officers may not have an interest in the Public Transport industry, i.e. may not hold OLs

# **NATIONAL LAND TRANSPORT BILL (NLTA), 2016**

- Taxi recapitalisation process - new vehicle must not have a capacity of more than 20% larger than the replaced vehicle - removed: the Regulations may prescribe that 2 permits must be surrendered for one operating licence (OL)
- Applications for temporary OLs are streamlined
- Applications for new OLs - the new vehicle must fall into the same category or a new application must be launched
- Temporary replacement of vehicles allowed if vehicle has been sold, stolen or destroyed
- Code of conduct for operators or drivers to be prescribed

# **NATIONAL LAND TRANSPORT BILL (NLTA), 2016**

- **OLs may be withdrawn or suspended if traffic offences are committed or where the operator does not comply with code of conduct (if prescribes such a code)**
- **OL function may be assigned to municipalities: referred to as Municipal Regulatory Entities**
- **Before rationalising services on a route, a planning authority (municipality) must first negotiate with operators on the route and eliminate illegal operations**



# **NATIONAL LAND TRANSPORT BILL (NLTA), 2016**

- Not permitted to “expropriate” OLs: Authority should offer operators alternative services or impose a moratorium on new OLs
- Staff services: An OL is not required unless staff are charged a fare
- The existing act also states that an OL is not required where no fare (direct or indirect) is charged
- Requirements for charter services (organised parties) will be tightened due to abuse of charter OLs

# NATIONAL LAND TRANSPORT BILL (NLTA), 2016

- ‘**electronic hailing service**’ or ‘e-hailing service’ means a public transport service operated by means of a motor vehicle, which—
  - (a) is available for hire by hailing while roaming;
  - (b) may stand for hire at a rank, and
  - (c) is equipped with an electronic e-hailing technology-enabled application,as contemplated in section 66A;”.

# **THE ECONOMIC REGULATION OF TRANSPORT BILL, 2018**

- The purpose of the Bill, is to promote the economic growth and welfare of South Africa by promoting an effective, efficient and productive transport sector
- to establish two parallel, independent, but integrated regulatory agencies
- The Bill will repeal certain provisions of selected Acts, primarily to bring an end to specialized sector regulators
- The Bill proposes the establishment of the
  - Transport Economic Regulator, and
  - Transport Economic Council
- Will be established as a state organ responsible to the Minister.

# **THE ECONOMIC REGULATION OF TRANSPORT BILL, 2018**

- **The Regulator will be the primary technical, administrative and enforcement regulator under the Act, responsible for carrying out education, research, price control approval, investigation of complaints and enforcement of the Act.**
- **The Council will be the primary adjudicative entity, reviewing decisions of the Regulator when an affected party applies for such a review; and reviewing the decisions of regulated entities when a user of a facility or service provided or licensed by a regulated entity considers that its rights have been adversely affected.**

# THE ECONOMIC REGULATION OF TRANSPORT BILL, 2018

“service” means any activity involved in the transportation of persons or goods within the transport sector;

“tariff” means any charge, fee, toll or other amount that may be imposed by a regulated entity for the use of, or access to, any transport service or facility;

## **Application of Act**

(1) Subject to any exemptions contemplated in subsections (6) to (9), this Act applies to—

(a) the following entities:

(i) National Ports Authority;

(ii) [Transnet, and specifically its operating divisions that are engaged in the transportation of freight by rail and the operation of port terminals][Transnet, but only to the extent that any of its operating divisions engages in—(a) transportation of freight by rail; or (b) operating port terminals][A division of Transnet engaged in transporting freight by rail];

(iii) [A division of Transnet engaged in operating port terminals];

(iv) The Airports Company of South Africa;

(v) The Air Traffic and Navigation Services Company;

(vi) The Passenger Rail Agency of South Africa;

(vii) SANRAL

# THE ECONOMIC REGULATION OF TRANSPORT BILL, 2018

## **Provision on conflict of acts**

In respect of any matter arising under this Act, the provisions of this Act prevail in the case of an inconsistency between any provision of this Act, and a provision of—

- (a) the South African National Roads Agency Limited and National Roads Act, 1998 (Act No. 7 of 1998);
- (b) the National Road Traffic Act, 1996 (Act No. 93 of 1996);
- (c) the National Land Transport Act, 2009 (Act No. 5 of 2009);
- (d) the National Ports Act, 2005 (Act No. 12 of 2005);
- (e) the Legal Succession to the South African Transport Services Act, 1989 (Act No. 9 of 1989);
- (f) the Air Traffic and Navigation Services Act, 1993 (Act No. 45 of 1993); or
- (g) the Airports Company Act, 1993 (Act No. 44 of 1993).

# CROSS-BORDER ROAD TRANSPORT ACT

# CROSS-BORDER ROAD TRANSPORT ACT

- Draft - Cross -Border Road Transport Act, 1998 (Act 4 Of 1998): Permit Tariff Fee Regulations, 2018 – published for comment
- Raises the permit fees of all CBRT permits



# LICENCE DISC – 21 DAY GRACE

- Applicable to all vehicles – may transport goods and persons
- **Reg 23(3)** – licence disc, reg 145 – RWC, Reg 267 – OP card
- **Reg 23(3)** - motor vehicle referred to in subregulation (1), may, during a period of 21 days after the date referred to in that subregulation, be operated on a public road while the licence number allocated to such motor vehicle and the licence disc issued in respect of such motor vehicle prior to the date on which the motor vehicle licence and licence disc became null and void, are displayed
- Also applicable to roadworthy certificates and operator card – **reg 145 and 267**

# MODIFICATIONS TO VEHICLES

- **Reg 31 - (1)** When a motor vehicle **is altered or reconstructed** in such a manner and to such an extent that the motor vehicle licence or licence disc issued in respect of such motor vehicle **no longer correctly describes such vehicle**, such licence and licence disc shall become null and void on the date of the completion of such alteration or reconstruction and liability for the licensing of such motor vehicle shall arise on that date.
- **Reg 43. Manufacturers, builders or importers not required to register must comply with conditions**
  - (1) Any manufacturer, any builder **who modifies motor vehicles**, or any importer, who is not required to be registered in terms of these regulations, shall apply to the inspectorate of manufacturers, builders and importers **for a letter of authority on form ALA** as shown in Schedule 2, in respect of every motor vehicle or every motor vehicle modification, except in respect of a trailer with a gross vehicle mass not exceeding 750 kilograms or a motor vehicle referred to in regulation 21(1) (c), (d), (e), (f), (g) or (h).
  - (2) Notwithstanding anything to the contrary contained in these regulations, a motor vehicle contemplated in subregulation (1), **shall not be registered** unless such manufacturer, builder or importer holds a **letter of authority** for such motor vehicle.
  - (3) Any motor vehicle manufactured, modified or imported by a manufacturer, builder or importer referred to in subregulation (1) shall be presented to the **South African Police Service** for clearance of such motor vehicle and a certification of roadworthiness shall be obtained for every such a motor vehicle prior to registration.
- **See definitions of manufacturers, builders and importers**

# LED LAMPS

- LED lamps
- Confusion on extra set of head lamps and spot lamps
- **Reg 185** – No lamps allowed other than the prescribed lamps
- Additional set of lamps on vehicle **reg 159**–head lamps – not spot lamps
- Single lens bar fitted to centre of vehicle is not legal



# CONCLUSION

- **Various amendments are due for publication during 2018**
- **AARTO amendments will have the most drastic impact on traffic authorities and transport industry**
- **Provisions in the draft policies have a long process ahead and final White Papers, draft legislation and final legislation need to be in place before these provisions will become law**
- **All amendments will be communicated via our UPDATE service – please inform our office if you do not wish to receive them**

**THANK YOU**

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