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# ROAD TRAFFIC AND TRANSPORT LEGISLATION UPDATE

Augustus 2019

# LATEST AMENDMENTS AND POLICIES

- **The NLTA Amendment Bill was accepted by the National Assembly in April 2018 and is before the National Assembly Portfolio Committee on Transport - *National Land Transport A/B [B7D-16 (s76)] – Transport***
- **The AARTO Amendment Bill was accepted by Parliament in February 2019 – on President’s desk for signature**
- **The National Transport Policy was published for comment in February 2018 – have not been published again**
- **The Economic Regulation of Transport Bill was republished for comment in October 2018 – no further published document – latest version of Bill in Parliamentary list - May 2019**

# LATEST AMENDMENTS AND POLICIES

- **The Draft Road Infrastructure Policy was published for comment in March 2018 – In Cabinet Approval process**
- **The 25<sup>th</sup> draft NRT Regulation Amendment was published for comment on 20 April 2018 - In comment process**
- **Notice No. 661 was published on 15 May 2019 for comment– It proposes a raise in the Abnormal Load Fees - Gazette 42459 – comments until 12 June 2019**
- **The Exemption Notice for the Container height was published in December 2018 – to be discussed today by DOT and Industry**
- **The Cross-border Road Transport Agency has published a notice on 25 March 2019. The notice amends the cross-border fees for permits.**

# **AARTO LEGISLATION - IMPLEMENTATION**

- **The AARTO Bill has been discussed in detail over the last year as part of an NCOP process where hearings were held in the 9 Provinces**
- **The bill has been accepted by Parliament and is currently with the President for his signature and proclamation of the implementation date**
- **RTIA Registrar – 2020 implementation – a six month period will be allowed to ensure readiness by issuing authorities and industry**
- **Regulations will be published to accommodate amendments to Bill – RTIA Registrar indicated this is planned for end of June 2019**
- **Various new aspects like rehabilitation programs and habitual infringer provisions will also be addressed in the regulations**
- **It is assumed that the existing penalties will be raised as it has remained the same since 2008 – last available draft Regulations show penalty value as R 100 for a unit (existing value – R 50)**

# WHO IS PROSECUTED?

- **Section 1 definition of Owner** – person who uses and enjoys motor vehicle – Declaration on application form to licence motor vehicle
- **Section 1 definition of Title holder** – person who gives permission to sell vehicle – financial institution/cash buyer
- **Section 73 of NRTA presumption on driver of motor vehicle:**
  - **Presumes Owner drove/parked vehicle, if driver unknown**
  - **Corporate body – Presumes Director or Servant drove vehicle as part of duty or to further interest of company**
  - **Brackenfell Trailer Hire case – presumption does not apply to trailer owner for moving offences, but applies for parking offences**

# NRTA - PROXY LEGISLATION

- **Reg 336. Proxy and representative**
  - (1) **A person carrying on a business or a body of persons, referred to in paragraph (a)(ii), (iii) or (iv) of the definition of “appropriate registering authority” in regulation 1 , shall identify one proxy and one representative in respect of each branch of such business or body of persons.**
  - (2) **For the purposes of section 332(11) of the Criminal Procedure Act, 1977, the proxy or representative, as the case may be, identified in terms of subregulation (1), is deemed to be a director as defined in section 332 (10) of that Act.**
  
- **“appropriate registering authority” means—**
  - (a) **subject to the provisions of paragraphs (b), (c) and (d), in relation to any matter referred to in these regulations—**
    - (i) **in relation to a person, the registering authority in whose area of jurisdiction such person permanently resides;**
    - (ii) **in relation to a person carrying on a business, which for the purposes of these regulations includes farming activities, the registering authority in whose area of jurisdiction such business is situated: **Provided that every branch of such business shall be deemed to be a separate business;****
    - (iii) **in relation to a body of persons which has a fixed address, the registering authority in whose area of jurisdiction such address is: **Provided that every branch of such body shall be deemed to be a separate body of persons; or****
    - (iv) **in relation to a body of persons which does not have a fixed address, the registering authority in whose area of jurisdiction the proxy or representative of such body permanently resides: **Provided that every branch of such body shall be deemed to be a separate body of persons;****

# **NRTA - PROXY LEGISLATION**

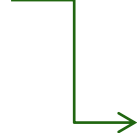
- **The legislation relates to juristic persons who are owners/operators of motor vehicles**
- **There is no definition of a “proxy” or a “representative” in the legislation but the CPA requires that the person who appears in court on behalf of the company must be a director or employee of the company**
- **The provisions of the different acts allocate duties and liability to owners, operators, directors or servants of companies**
- **The responsibility to allocate duties and the management of liability remains with the owner or directors of a company – the legislation stipulates the duties but not the manner in which it must be managed**
- **No specific duties for a proxy in legislation**
- **Drivers will be nominated by the proxy if they commit a traffic offence and be responsible to pay the fines**

# GENERAL INFORMATION ON AARTO

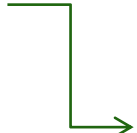
- **RTIA - Road Traffic Infringement Agency (to be changed to authority) - Responsible for representations, payment arrangements, courtesy letters, enforcement orders and administration of rehabilitation programmes**
- **Issuing Authority – responsible for enforcement of infringements, payments, nominations and responding to representation requests from RTIA**
- **Commissioner of Oaths – Required to sign AARTO 07, 08 and 14 - Affirmation or affidavit**
- **Service fees for notices - R 60 / R100 – *R 40 for email* (may be increased)**
- **Discounts - 50% - pay in 32 days**
- **Calculation of days – Interpretation Act - Exclude first day and includes last day of stated time period**



**Infringement  
Notice**



**Courtesy  
letter**



**Enforcement  
Order**



**Warrant**

**AARTO  
PROCESS**

- **Each process valid for 32 days**
- **Time limits to respond**
- **Re-submission in 21 days if no receipt is received**

# SERVICE OF DOCUMENTS

**Actual collection date NOT recorded on NCR – presumed date is recorded**

- **Serving by registered mail:**
- **\*Presume mail is received 10 days after date on notice from Post office**
- **\*Last know address used**
  - **+ NaTIS address**
  - **+AARTO 07 address**
- **+Address on AARTO 01 or 02**

- **Must notify of address change with authorities within 21 days(COP)**
- **Failure to notify is an infringement**
- **Reg 32A of NRT Regs – require proof of address**

- **Amendment bill adds electronic service as an option of service – email/WhatsApp/text**
- **Presumption is also applicable to electronic service**

# 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.**

- **Most representations relate to late or no service – this provision allows for re-service**
- **Representations only worthwhile if the option to pay the discount has expired**

## **DUTY OF OWNER IN RELATION TO DRIVER - SECTION 17(5)**

- **Duty on owner before vehicle is driven to collect information on driver**
- **Must nominate driver on AARTO 07**
- **Owner commits offence if he allows someone to drive/control his vehicle without obtaining the following information of the driver:**
  - **Full names**
  - **Acceptable identification (Copy of ID, passport, driving licence for NDC purposes)**
  - **Residential address**
  - **Postal address**
  - **New amendment – email and business address required as well**

# Infringement Notice – AARTO 01, 02 03 and 31

## Pay in 32 days

- 50 % discount -
- Demerit points recorded

## Pay in instalments

- No discount, pay less per month over 6/12 months – AARTO 04
- Demerit points recorded on first payment

## Make representation

- To RTIA – AARTO 08 – minor infringements
- ~~May be accepted/rejected/referred to court~~

- Proxy receives Operator charges and prosecutions with cameras– AARTO 03
- Proxy's driving licence does not receive points

## Court

- Choose to appear in court
- **AARTO 10 – Appeals Procedure after AARTO 08**

## Nominate driver

- AARTO 07 - To issuing authority
- Commissioner of Oaths must sign

## Does not act on notice

- Courtesy letter issued

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

# 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**

- **Appeals on Tribunal decisions – Magistrate’s Court**
- **Review of Tribunal decisions – Magistrate’s Court designated by Minister ito PAJA**

# Courtesy letter AARTO 12

**Pay in 32 days**

- No discount – Service fee R60/R 100
- Demerit points recorded

**Pay in instalments**

- No discount, pay less per month over 6/12 months – AARTO 04
- Demerit points recorded on first payment

**Make representation**

- To RTIA – AARTO 08 – minor infringements
- May be accepted/ rejected/referred to court

**Service fee:**  
 R 40- Email ?  
 R60 – Registered mail  
 R 100 – Personal Service  
 Representation fee – R 200

**Court**

- Choose to appear in court
- AARTO 10 – Appeals Procedure

**Nominate driver**

- Not available

**Does not act on notice**

- Enforcement order issued

## Enforcement Order – AARTO 13

**Pay in 32  
days**

- No discount – Service fee R60/R 100 x 2

**Request  
revocation**

- AARTO 14
- Commissioner of Oaths

**Representation  
Nomination  
Court**

- Not available

**Demerit  
Points**

- Recorded on issue of EO

**NaTIS Block**

- All vehicle licences
- Driving licence and PrDP

**Does not act  
on notice**

- EO does not expire or prescribe



# DEMERIT POINTS

Sec 24 to 29

- **May not drive or use vehicle while suspended – Offence if not complied with – sec 25**
- **Must hand licence/disc in - suspended – sec 25**
- **Failure – One year additional suspension**
- **Third disqualification = Cancel licence – Sec 27**
- **Re-apply for learner's and driving licence**

**DP for drivers and operator card  
and licence disc of corporate  
owned vehicle without OP card**

- **Maximum of 12  
points - Reg 24**

**1 Point = 3  
months**

- **Every point over 12 points = 3  
months disqualification to drive –  
Sec 25**

**Reduction of  
points**

- **1 point every 3 months - if no  
further points are obtained – Sec 26**

# 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
- 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**

# **OPERATOR CHARGES – Sec 49**

**Section 49 and 51 of National Road Traffic Act**

**Vehicle control - Sec 49(d)  
Driver Control - Sec 49 (c)**

**Control dangerous goods transport - Sec 49(f)  
Control loading of vehicles - Sec 49(g)**

**Information on proxy,  
address, etc. - Sec 49(a)  
OP Card display - Sec 49(b)**

**Presumption:  
Owner committed  
offence if he cannot  
prove:**

- \*reasonable action  
to avoid offence**
- \*not employee's job**
- \* did not connive  
with employee**

# EXAMPLE – DRIVER AND OPERATOR POINTS

Driver: 2008 Regulations	Operator: 2008 Regulations	Driver: Draft Regulations	Operator: Draft Regulations
No PrDP – <b>Sec 32</b> – R 1250 + 4 DP	<b>Sec 49(c)</b> – R 1250 + 4 DP	R 3000 + 5 DP	R 3000 + 5 DP
Stop lamp not in working order – <b>Reg 169</b> – R 500 + 1 DP	<b>Sec 49(d)</b> – R 1250 + 4 DP	R 1000 + - DP	R 1000 + 1 DP
No contour marking – <b>Reg 192A</b> – R 500 + 1 DP	<b>Sec 49(d)</b> – R 1250 + 4 DP	R 1000 + - DP	R 1000 + 1 DP
Driver did not stop sign – <b>Sec 58</b> - R 500 + 1 DP	No action against OP	R 2000 + 3 DP	No action against OP
Overloaded 25% Arrested – Court fine + 6 DP	<b>Sec 49(g)</b> – R 1250 + 4 DP	Arrested – Court fine + - DP	Director/proxy summoned – Court – fine – 6 DP
13 DP - Disqualified – 3 months	16 DP – OP card suspended 1 year	8 DP – No disqualification yet	13 DP – OP card suspended – 3 months

# Proxies

Responsible  
for  
management  
of notices

Negligence  
– results in  
block on  
licences

Knowledge  
on  
legislation

Procedures  
for failure  
to comply  
with  
legislation

## Infringements to Proxy on AARTO 03 -

- Driver not licensed/PrDP
- Roadworthiness of vehicle
- Overloading
- Dangerous goods
- Speeding
- Parking
- Red traffic signal offences

# Drivers

**Driver  
infringements  
– Operator  
charged**

**13+  
Demerit  
points – not  
allowed to  
drive**

**DP in private  
capacity – also  
contribute to  
total points**

**Address  
details  
required on  
regular  
basis**

**Driver needs to complete AARTO 27 - Permission to check DP**

**New drivers need to submit AARTO 28 – Statement of DP**

**Cannot pay penalties on behalf of driver**

**Must nominate driver for speed, red traffic light and parking infringements**

**Driver should refuse to drive unroadworthy/overloaded vehicle**

# Subcontractors

Operator cards may be suspended – cannot fulfil contract requirements

Subcontractors must control drivers, loading, etc.

Contracts must require submission of regular point statements

Contractor must provide loading instructions

Consignor/ consignee responsibilities to be extended  
Mass determination  
Declaration with mass loads



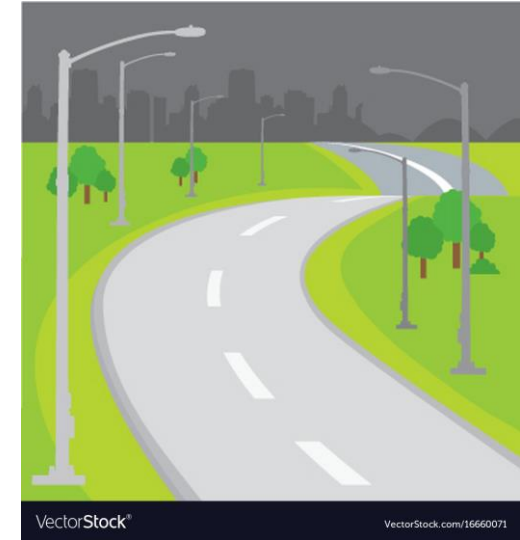
# **NATIONAL ROAD TRAFFIC LEGISLATION AND RELATED MATTERS**

**2018/2019**



# COURT CASES ON NATIONAL ROAD TRAFFIC ACT IN 2019

- **Definition of *public road***
  - *Mount Edgecombe case*
  
- **Scope of *owner presumption***
  - *Brackenfell Trailer case*



# COURT CASES: PUBLIC ROAD PROVISIONS

## ▪ Definition of *public road*

“**public road**” means any road, street or thoroughfare or any other place (whether a thoroughfare or not) which is commonly used by the public or any section thereof or to which the public or any section thereof has a right of access, and includes—

- (a) the verge of any such road, street or thoroughfare;
- (b) any bridge, ferry or drift traversed by any such road, street or thoroughfare; and
- (c) any other work or object forming part of or connected with or belonging to such road, street or thoroughfare;

## ▪ Section 69 Presumption

Where in any prosecution in terms of this Act it is alleged that an offence was committed on a public road, the road concerned shall, in the absence of evidence to the contrary, be presumed to be a public road.

## ▪ Section 57

(3)(b) A local authority may in writing authorise any other person or body to display or cause to be displayed within its area of jurisdiction and in the prescribed manner any road traffic sign approved by it prior to the display of such sign.

# **MOUNT EDGECOMBE COUNTRY CLUB V SINGH AND OTHERS**

- **THE SUPREME COURT OF APPEAL OF SOUTH AFRICA MOUNT EDGECOMBE COUNTRY CLUB ESTATE MANAGEMENT ASSOCIATION II (RF) NPC – CASE No.323/2018**
- **Summary: Whether roads within a private housing estate public roads as defined in the National Road Traffic Act 93 of 1996 - whether conduct rules ordaining a speed limit of 40 km/h within the estate unlawful.**
- **Description of area:**
  - **estate, which is situated in and around a golf course, 890 freehold and sectional title residential units, extensive common property, including open areas, dams, ponds and rivulets, as also facilities for various sporting activities, such as squash, bowling, tennis and fishing, network of roads and pathways for the use of motorised vehicles, pedestrians and golf carts, common facilities on the estate include a club house and a venue for conferences, corporate events and weddings.**
  - **Ruled that these roads are not public roads**

# COURT CASES: OWNER PRESUMPTIONS

## **Sec 73. Presumption that owner drove or parked vehicle**

(1) Where in any prosecution in terms of the common law relating to the driving of a vehicle on a public road, or in terms of this Act, it is necessary to prove who was the driver of such vehicle, it shall be presumed, in the absence of evidence to the contrary, that such vehicle was driven by the owner thereof.

(2) Whenever a vehicle is parked in contravention of any provision of this Act, it shall be presumed, in the absence of evidence to the contrary, that such vehicle was parked by the owner thereof.

(3) For the purposes of subsections (1) and (2) and section 88 it shall be presumed, in the absence of evidence to the contrary, that, where the owner of the vehicle concerned is a corporate body, such vehicle was driven or parked, as contemplated in those subsections, or used as contemplated in that section by a director or servant of the corporate body in the exercise of his or her powers or in the carrying out of his or her duties as such director or servant or in furthering or endeavouring to further the interests of the corporate body.

# BRACKENFELL TRAILERS AND OTHERS V MINISTER OF TRANSPORT

- HIGH COURT WESTERN CAPE – CASE NUMBER 20825/2017 AND 22046/2018
- Ruling on the application of section 73 of the NRTA
- Presumption that owner drove or parked vehicle –
- Ruling determines that section 73(1) relating to driving a vehicle does not apply to a trailer owner
- Ruling determines that section 73(2) relating to the parking of a vehicle does relate to a trailer owner
- Section 17(5) of the AARTO Act will have an impact on this interpretation as it requires the owner of a motor vehicle (includes trailer) to know at all times who is driving or in control of the vehicle

# COURT CASES – PASSING A CYCLIST

- *Regulation 298*
- THE GAUTENG LOCAL DIVISION, JOHANNESBURG, CASE NO 2016 17635
- Jacob Charewa v RAF – 11 July 2018
- Driver should be aware of possible wind rush or tail-end vortex that may affect cyclist
- Driver should not pass within 1.5 m
- Speed at which truck passes cyclist must be considered
- If wind rush of motor vehicle causes injury to cyclist the driver of the motor vehicle is negligent
- RAF had to pay for cyclist injuries

# SUMMARY - COURT CASES ON NATIONAL ROAD TRAFFIC ACT IN 2018/2019

## ■ **Definition of public road**

- *Mount Edgecombe case*
- *Significantly impacts on the application of the NRTA, as it limits its applicability and some estates and other bodies who own roads within the scope this case creates for private roads may not be aware that they need extensive rules and contractual enforcement measures to ensure safety on those roads*

## ■ **Scope of owner presumption**

- *Brackenfell Trailer case*
- *Interesting interpretation of responsibility of trailer owner*
- *Hampers prosecution for traffic departments*
- *Creates a loophole in controlling vehicles that commit offences*
- *Ruling in process of appeal by Minister and DOT*

## ■ **Passing of cyclist**

- *If wind rush from vehicle causes cyclist to fall the motorist is negligent, even if motorist did not actually make contact with driver*
- *Court indicated 1.5 m clearance is prudent and even more if cyclist is a child*

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

- General DRAFT regulation amendment – covers wide range of aspects
- Published for comment on 20 April 2018
- DOT received comprehensive comments and are still processing it – 25<sup>th</sup> Amendment still a few months from final publication
- Draft of Afrikaans also published
- Amendments to forms – published on 24 April 2018
- Possible complete Afrikaans set to be published shortly



# 25<sup>TH</sup> DRAFT NRT REGULATION AMENDMENT: MICRODOTS

- **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 NRT REGULATION AMENDMENT: DRIVING LICENCES

- Amendment to the application of a learner's licence – do not need to be tested if already in possession of driving licence for same class
- A new provision is included – **Reg 104A** -that compels an examiner of driving licences to report any person who use an unauthorized aid in learner test
- 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 NRT REGULATION AMENDMENT: TESTING STATIONS AND RWC REQUIREMENTS

- 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**
- 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 NRT REGULATION AMENDMENT: ABNORMAL VEHICLES

- 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.

Various provisions on application and issue procedure for abnormal per



# 25<sup>TH</sup> DRAFT NRT REGULATION AMENDMENT: MOTOR TRICYCLES

- **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 NRT REGULATION AMENDMENT: DANGEROUS GOODS

*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: RULES OF THE ROAD

## 298AA. Passing of pedal cycle

- 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 person is turning right or sufficient lanes

**Already law in Western Cape – 2013 Cycle Regulations – allows crossing the no-overtaking line while passing – Not in National NRTA**

# 25<sup>TH</sup> DRAFT NRT AMENDMENT: RULES OF THE ROAD

## **“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: CONSIGNORS AND CONSIGNEES

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: CONSIGNORS AND CONSIGNEES

## **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 requirements listed in Reg 330C

- **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.

# **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
- Act amendment required to empower Minister to make provisions – Bill published in 2012 – not in Parliamentary process 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)

# 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 3 500 kg

# **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**
  
- Amendments have not been withdrawn or processed

# NATIONAL LAND TRANSPORT ACT

- Amendment Bill – 2016 – In final Parliamentary process
- Adds provisions for e-hailing, non-motorised transport, general act clean-up and update
- Regulations published on colour coding and branding of minibus taxi-type services – 18 August 2017 - apply to new vehicles first registered after Feb 2018 - Allows for advertising on taxis

# ROAD ACCIDENT BENEFIT SCHEME BILL (RABS)

- Amends the RAF Act
- Has been unsuccessful in Parliamentary process in two attempts to pass – legal challenge will follow if accepted – on Parliamentary Bill list of May 2019
- Bill provides for a system of ‘no-fault compensation’ for road accident victims - drivers who are the cause of accidents may also claim i.e. drunk drivers and other negligent drivers to benefit from the system.
- Bill removes motorists’ right claim from the road accident fund through independent lawyers
- Does not allow persons to claim additional damages from the guilty party
- Exclusion of liability of owner, driver and employer of driver

*35. No civil action for damages in respect of bodily injury or death of any person caused by or arising from a road accident shall lie against—*

*(a) the owner or driver of a vehicle involved in the road accident; or*

*(b) the employer of the driver.*



# GENERAL INFO: 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) – Notwithstanding any other provision** - 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 cards – **Reg 145 and 267**

# CONCLUSION

- **Various amendments were due for publication during 2018 that did not materialise –Perhaps end of 2019**
- **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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