



REPUBLIC OF SOUTH AFRICA

# GOVERNMENT GAZETTE

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## STAATSKOERANT

VAN DIE REPUBLIEK VAN SUID-AFRIKA

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PRESIDENT'S OFFICE

No. 1892.

22 November 1996

It is hereby notified that the President has assented to the following Act which is hereby published for general information:—

No. 93 of 1996: National Road Traffic Act, 1996.

KANTOOR VAN DIE PRESIDENT

No. 1892.

22 November 1996

Hierby word bekend gemaak dat die President sy goedkeuring gegee het aan die onderstaande Wet wat hierby ter algemene inligting gepubliseer word:—

No. 93 van 1996: Nasionale Padverkeerswet, 1996.

# ACT

To provide for road traffic matters which shall apply uniformly throughout the Republic and for matters connected therewith.

*(English text signed by the President.)*  
*(Assented to 12 November 1996.)*

**B**E IT ENACTED by the Parliament of the Republic of South Africa, as follows:—

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## CHAPTER I

*Interpretation of Act***Definitions**

1. In this Act, unless the context otherwise indicates—

- (i) "ambulance" means a motor vehicle specially constructed or adapted for the conveyance of sick or injured persons to or from a place for medical treatment and which is registered as an ambulance; (i) 5
- (ii) "articulated motor vehicle" means a combination of motor vehicles consisting of a truck-tractor and a semi-trailer; (xv)
- (iii) "breakdown vehicle" means a motor vehicle designed or adapted solely for the purpose of recovering or salvaging motor vehicles and which is registered as a breakdown vehicle; (lxvii) 10
- (iv) "bridge" includes a culvert and a causeway; (vii)
- (v) "builder" means any person who, for the purposes of his or her business of selling motor vehicles, manufactures or assembles motor vehicles in whole or in part from used components, or modifies motor vehicles using new or used components; (v) 15
- (vi) "bus" means a motor vehicle designed or adapted for the conveyance of more than 16 persons (including the driver, if any); (x)
- (vii) "by-law" means a by-law issued under the laws of a province; (lxxv) 20
- (viii) "combination of motor vehicles" means two or more motor vehicles coupled together; (xxvii)
- (ix) "Convention" means the International Convention relative to Motor Traffic (Paris, 1926), the United Nations Convention on Road Traffic (Geneva, 1949), or the United Nations Convention on Road Traffic (Vienna, 1968); (xxviii) 25
- (x) "cross", or any like expression, means to move on a public road in a direction which intersects the normal course of travel of traffic on such road; (xxxix)
- (xi) "dangerous goods" means the commodities, substances and goods listed in the standard specification of the South African Bureau of Standards SABS 0228 "The identification and classification of dangerous substances and goods"; (xvii) 30
- (xii) "Department" means the Department of Transport; (xi)
- (xiii) "department of State" means a department as defined in section 1(1) of the Public Service Act, 1994 (Proclamation No. 103 of 1994); (lxi) 35
- (xiv) "Director-General" means the Director-General: Transport; (xiii)
- (xv) "driver" means any person who drives or attempts to drive any vehicle or who rides or attempts to ride any pedal cycle or who leads any draught, pack or saddle animal or herd or flock of animals, and "drive" or any like word has a corresponding meaning; (ii) 40
- (xvi) "driving licence" means a driving licence referred to in Chapter IV; (iii)
- (xvii) "driving licence testing centre" means a driving licence testing centre referred to in Chapter IV; (iv)
- (xviii) "edge of the roadway" means the boundary between the roadway and the shoulder, which is indicated by an appropriate road traffic sign, or in the absence of such sign— 45
  - (a) in the case of a road with a bituminous or concrete surface, the edge of such surface; or
  - (b) in the case of any other road, the edge of the improved part of the road intended for vehicular use; (xxvi) 50

- (xix) "examiner for driving licences" means an examiner for driving licences registered and appointed in terms of the laws of any province; (lxix)
- (xx) "examiner of vehicles" means an examiner of vehicles registered and appointed in terms of the laws of any province; (xxxviii)
- (xxi) "fire-fighting vehicle" means a motor vehicle designed or adapted solely or mainly for fighting fires and which is registered as a fire-fighting vehicle; (vi) 5
- (xxii) "freeway" means a public road or a section of a public road which has been designated as a freeway by an appropriate road traffic sign; (xii)
- (xxiii) "goods" means any movable property; (xviii) 10
- (xxiv) "gross combination mass", in relation to a motor vehicle which is used to draw any other motor vehicle, means the maximum mass of any combination of motor vehicles, including the drawing vehicle, and load as specified by the manufacturer thereof or, in the absence of such specification, as determined by the registering authority; (viii) 15
- (xxv) "gross vehicle mass", in relation to a motor vehicle, means the maximum mass of such vehicle and its load as specified by the manufacturer thereof or, in the absence of such specification, as determined by the registering authority; (ix)
- (xxvi) "identity document" means an identity document as defined in section 1 of the Identification Act, 1986 (Act No. 72 of 1986); (xxi) 20
- (xxvii) "importer" means any person who, for the purpose of his or her business of selling motor vehicles, imports new or used motor vehicles into the Republic; (xxv)
- (xxviii) "inspector of licences" means an inspector of licences appointed in terms of the laws of any province; (xxii) 25
- (xxix) "instructor" means any person registered as such in terms of the laws of any province; (xxiii)
- (xxx) "international driving permit" means an international driving permit issued in terms of a Convention or recognised thereunder; (xxiv) 30
- (xxxi) "kerb line" means the boundary between the shoulder and the verge or, in the absence of a shoulder, the part between the edge of the roadway and the verge; (li)
- (xxxii) "learner's licence" means a learner's licence referred to in Chapter IV; (xxix) 35
- (xxxiii) "local authority" means a transitional metropolitan substructure, transitional local council or local government body contemplated in section 1(1) of the Local Government Transition Act, 1993 (Act No. 209 of 1993); (xlviii)
- (xxxiv) "manufacturer" means a person who, for the purpose of his or her business of selling motor vehicles, manufactures or assembles new motor vehicles; (lxxvi) 40
- (xxxv) "MEC" means a member of the Executive Council appointed in terms of section 149 of the Constitution of the Republic of South Africa, 1993 (Act No. 200 of 1993), and who is responsible for road traffic matters, or any other person authorised by him or her to exercise any power or perform any duty or function which such MEC is empowered or obliged to exercise or perform in terms of this Act; (xxxi) 45
- (xxxvi) "medical practitioner" means any person registered as such in terms of the Medical, Dental and Supplementary Health Service Professions Act, 1974 (Act No. 56 of 1974); (xvi) 50
- (xxxvii) "Minister" means the Minister of Transport, or any other person authorised by him or her to exercise any power or perform any duty or function which such Minister is empowered or obliged to exercise or perform in terms of this Act; (xxxii) 55
- (xxxviii) "motor cycle" means a motor vehicle which has two wheels and includes any such vehicle having a side-car attached; (xxxiv)
- (xxxix) "motor dealer" means any person who is engaged in the business of buying, selling, exchanging or repairing motor vehicles required to be registered and licensed in terms of this Act or of building permanent structures onto such vehicles and who complies with the prescribed conditions; (xxxv) 60

- (xl) "motor quadrucycle" means a motor vehicle, other than a tractor, which has four wheels and which is designed to be driven by the type of controls usually fitted to a motor cycle; (xxxvi)
- (xli) "motor tricycle" means a motor vehicle, other than a motor cycle or a tractor, which has three wheels and which is designed to be driven by the type of controls usually fitted to a motor cycle; (xxxiii) 5
- (xlii) "motor vehicle" means any self-propelled vehicle and includes—
- (a) a trailer; and
- (b) a vehicle having pedals and an engine or an electric motor as an integral part thereof or attached thereto and which is designed or adapted to be propelled by means of such pedals, engine or motor, or both such pedals and engine or motor, but does not include—
- (i) any vehicle propelled by electrical power derived from storage batteries and which is controlled by a pedestrian; or
- (ii) any vehicle with a mass not exceeding 230 kilograms and specially designed and constructed, and not merely adapted, for the use of any person suffering from some physical defect or disability and used solely by such person; (xxxvii) 10 15
- (xliii) "operate on a public road" or any like expression, in relation to a vehicle, means to use or drive a vehicle or to permit a vehicle to be used or driven on a public road, or to have or to permit a vehicle to be on a public road; (xlii) 20
- (xliv) "operator" means the person responsible for the use of a motor vehicle of any class contemplated in Chapter VI, and who has been registered as the operator of such vehicle; (xli) 25
- (xlv) "owner", in relation to a vehicle, means—
- (a) the person who has the right to the use and enjoyment of a vehicle in terms of the common law or a contractual agreement with the title holder of such vehicle;
- (b) any person referred to in paragraph (a), for any period during which such person has failed to return that vehicle to the title holder in accordance with the contractual agreement referred to in paragraph (a); or
- (c) a motor dealer who is in possession of a vehicle for the purpose of sale, and who is registered as such in accordance with the regulations under section 4, and "owned" or any like word has a corresponding meaning; (xiv) 30 35
- (xlvi) "park" means to keep a vehicle, whether occupied or not, stationary for a period of time longer than is reasonably necessary for the actual loading or unloading of persons or goods, but does not include any such keeping of a vehicle by reason of a cause beyond the control of the person in charge of such vehicle; (xlvii) 40
- (xlvii) "peace officer" means a traffic officer and also a traffic warden appointed in terms of the laws of any province; (lxxxii) 45
- (xlviii) "pedal cycle" means any bicycle or tricycle designed for propulsion solely by means of human power; (lxxii)
- (xlix) "prescribe" means prescribe by regulation; (lxxix)
- (l) "prescribed territory" means—
- (a) the Kingdom of Lesotho, the Kingdom of Swaziland, the Republic of Angola, the Republic of Botswana, the Republic of Malawi, the Republic of Mozambique, the Republic of Namibia, the Republic of Zambia and the Republic of Zimbabwe; and
- (b) any other state or territory declared by the Minister by notice in the *Gazette* to be a prescribed territory; (lxxviii) 50 55
- (li) "professional driver" means the driver of a motor vehicle in respect of which an operator is registered; (xlix)
- (lii) "professional driving permit" means a professional driving permit referred to in Chapter IV; (l)
- (liii) "province" means a province established by section 124 of the Constitution of the Republic of South Africa, 1993; (li) 60

- (liv) "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; 5
- (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; (xl)
- (lv) "registering authority" means a registering authority appointed as such in accordance with the laws of any province; (liv) 10
- (lvi) "registration plate" means a prescribed plate on which the registration number or motor trade number of a motor vehicle is displayed; (lv)
- (lvii) "regulation" means a regulation under this Act; (lvi)
- (lviii) "repealed ordinance" means an ordinance or any provision of an ordinance repealed by the Road Traffic Act, 1989 (Act No. 29 of 1989); (xix) 15
- (lix) "rescue vehicle" means a motor vehicle designed or adapted solely for the purpose of rescuing persons, and which is owned or controlled by a department of State, a local authority or a body approved by the MEC concerned and is registered as a rescue vehicle; (liii) 20
- (lx) "road traffic ordinance" means the Road Traffic Ordinance, 1966 (Ordinance No. 21 of 1966), of the former Transvaal, Natal, the Orange Free State and the Cape of Good Hope, respectively; (xliii)
- (lxi) "road traffic sign" means a road traffic sign prescribed under section 56; (xliv) 25
- (lxii) "roadway" means that portion of a road, street or thoroughfare improved, constructed or intended for vehicular traffic which is between the edges of the roadway; (lvii)
- (lxiii) "roadworthy", in relation to a vehicle, means a vehicle which complies with the relevant provisions of this Act and is otherwise in a fit condition to be operated on a public road; (xlv) 30
- (lxiv) "roadworthy certificate", in relation to a motor vehicle, means a certificate issued in terms of section 42; (xlvi)
- (lxv) "semi-trailer" means a trailer having no front axle and so designed that at least 15 per cent of its tare is super-imposed on and borne by a vehicle drawing such trailer; (xxx) 35
- (lxvi) "shoulder" means that portion of a road, street or thoroughfare between the edge of the roadway and the kerb line; (lviii)
- (lxvii) "sidewalk" means that portion of a verge intended for the exclusive use of pedestrians; (lxv) 40
- (lxviii) "South African Bureau of Standards" means the South African Bureau of Standards referred to in section 2(1) of the Standards Act, 1993 (Act No. 29 of 1993); (lxiv)
- (lxix) "stop" means the bringing to a standstill of a vehicle by the driver thereof; (lxiii) 45
- (lxx) "tare", in relation to a motor vehicle, means the mass of such vehicle ready to travel on a road and includes the mass of—
- (a) any spare wheel and of all other accessories and equipment supplied by the manufacturer as standard for the particular model of motor vehicle concerned; 50
- (b) anything which is a permanent part of the structure of such vehicle;
- (c) anything attached to such vehicle so as to form a structural alteration of a permanent nature; and
- (d) the accumulators, if such vehicle is self-propelled by electrical power, 55
- but does not include the mass of—
- (i) fuel; and
- (ii) anything attached to such vehicle which is not of the nature referred to in paragraph (b) or (c); (lxvi) 60
- (lxxi) "testing station" means a testing station registered in terms of section 39; (lxx)
- (lxxii) "this Act" includes the regulations; (xx)

- (lxxiii) "title holder", in relation to a vehicle, means—
- (a) the person who has to give permission for the alienation of that vehicle in terms of a contractual agreement with the owner of such vehicle; or
  - (b) the person who has the right to alienate that vehicle in terms of the common law, and who is registered as such in accordance with the regulations under section 4; (lxviii) 5
- (lxxiv) "tractor" means a motor vehicle designed or adapted mainly for drawing other vehicles and not to carry any load thereon, but does not include a truck-tractor; (lxxiii) 10
- (lxxv) "traffic officer" means a traffic officer appointed in terms of the laws of any province and any member of the Service as defined in section 1 of the South African Police Service Act, 1995 (Act No. 68 of 1995), and for the purposes of Chapters V, IX and X and sections 74 and 78 of this Act includes a peace officer; (lxxiv) 15
- (lxxvi) "trailer" means a vehicle which is not self-propelled and which is designed or adapted to be drawn by a motor vehicle, but does not include a side-car attached to a motor cycle; (lix)
- (lxxvii) "Transnet Limited" means the company floated and incorporated in terms of section 2 of the Legal Succession to the South African Transport Services Act, 1989 (Act No. 9 of 1989); (lxxi) 20
- (lxxviii) "truck-tractor" means a motor vehicle designed or adapted—
- (a) for drawing other vehicles; and
  - (b) not to carry any load other than that imposed by a semi-trailer or by ballast, but does not include a tractor; (lxxx) 25
- (lxxix) "urban area" means that portion of the area of jurisdiction of a local authority which has by actual survey been subdivided into erven or is surrounded by surveyed erven, and includes the public roads abutting thereon; (lxii) 30
- (lxxx) "vehicle" means a device designed or adapted mainly to travel on wheels or crawler tracks and includes such a device which is connected with a draw-bar to a breakdown vehicle and is used as part of the towing equipment of a breakdown vehicle to support any axle or all the axles of a motor vehicle which is being salvaged other than such a device which moves solely on rails; (lxxvii) and 35
- (lxxxi) "verge" means that portion of a road, street or thoroughfare, including the sidewalk, which is not the roadway or the shoulder. (lx) 40

## CHAPTER II

40

### *Application of Act and minimum requirements*

#### **Application of Act**

2. This Act shall apply throughout the Republic: Provided that any provision thereof shall only apply to those areas of the Republic in respect of which the Road Traffic Act, 1989 (Act No. 29 of 1989), did not apply before its repeal by section 93, as from a date fixed by the Minister by notice in the *Gazette*. 45

#### **Minimum requirements for registration as inspector of licences, examiner of vehicles, examiner for driving licences and traffic officer**

3. (1) (a) In each province there shall be—
- (i) one or more registering authorities; and 50
  - (ii) persons registered as inspectors of licences, examiners of vehicles, examiners for driving licences and traffic officers in accordance with the laws of that province.

(b) Inspectors of licences, examiners of vehicles, examiners for driving licences and traffic officers registered and, where applicable, graded in terms of the laws of one province shall be deemed to be so registered and graded for the purposes of the laws of any other province.

(c) The powers and duties of inspectors of licences, examiners of vehicles, examiners for driving licences and traffic officers shall be as provided by the laws of the province concerned. 5

(2) The minimum requirements for registration as an inspector of licences, an examiner of vehicles, an examiner for driving licences or a traffic officer, as the case may be, shall be that the applicant— 10

(a) has obtained an appropriate diploma at a training centre approved by the Minister; and

(b) is a fit and proper person to be registered as such; and

(c) in the case of a traffic officer, has undergone training in relation to the laws applicable to the transportation of dangerous goods: 15

Provided that a person appointed before—

(i) 1 January 1992 in terms of a repealed ordinance or section 3(1) of the Road Traffic Act, 1989 (Act No. 29 of 1989); or

(ii) the commencement of this Act in terms of any road traffic law contemplated in section 229 of the Constitution of the Republic of South Africa, 1993 (Act 20 No. 200 of 1993),

as an inspector of licences, an examiner of vehicles, an examiner for driving licences or a traffic officer, as the case may be, shall be deemed to have complied with the provisions of this subsection.

(3) The diploma referred to in subsection (2)(a) shall— 25

(a) in the case of an examiner of vehicles, indicate the classes of motor vehicles he or she is qualified to inspect, examine and test; or

(b) in the case of an examiner for driving licences, indicate the codes of learner's licences and driving licences for which a person may be examined and tested by such examiner. 30

(4) The MEC concerned shall grade an examiner of vehicles or an examiner for driving licences as prescribed.

### CHAPTER III

#### *Registration and licensing of motor vehicles, manufacturers, builders and importers* 35

##### **Registration and licensing of motor vehicles**

4. (1) The registration and licensing system of motor vehicles for each province shall be as prescribed.

(2) No person shall, subject to this Act, operate on a public road any motor vehicle which is not registered and licensed by virtue of this Chapter. 40

##### **Registration of manufacturers, builders and importers**

5. (1) Every manufacturer, builder or importer shall apply in the prescribed manner to the MEC concerned for registration as a manufacturer, builder or importer.

(2) If the MEC is satisfied that an applicant referred to in subsection (1) complies with the qualifications for competency as prescribed for the specific category in respect of which application is made, he or she shall register such applicant on the conditions and in the manner prescribed. 45

(3) The MEC may, in the prescribed manner, alter the conditions referred to in subsection (2).

(4) The MEC may, in the prescribed manner, suspend for such period as he or she may deem fit, or cancel, the registration of a manufacturer, builder or importer. 50

(5) Every manufacturer, builder or importer shall, in the prescribed manner, register every motor vehicle manufactured, built or imported by him or her, before he or she distributes or sells such vehicle.

**Right of appeal to Minister**

6. (1) Any person who is aggrieved at the refusal of the MEC to register him or her as a manufacturer, builder or importer or at the suspension or cancellation of his or her registration as a manufacturer, builder or importer or at the conditions on which he or she is so registered may, within 21 days after such refusal, suspension or cancellation, or notification of the conditions on which he or she is so registered, in writing appeal to the Minister against such refusal, suspension, cancellation or conditions, and such person shall at the same time serve a copy of the appeal on the MEC. 5

(2) After receipt of the copy of the appeal referred to in subsection (1), the MEC shall forthwith furnish the Minister with his or her reasons for the refusal, suspension, cancellation or conditions to which such appeal refers. 10

(3) The Minister may after considering the appeal give such decision as he or she may deem fit.

**Appointment of inspectorate of manufacturers, builders and importers**

7. (1) The Minister may appoint a person, an authority or a body as an inspectorate of manufacturers, builders and importers. 15

(2) The powers and duties of the inspectorate contemplated in subsection (1) in relation to the registration and inspection of manufacturers, builders and importers shall be as prescribed.

(3) The Minister may, in order to defray the expenditure incurred by or on behalf of that inspectorate for the purposes of performing its functions, prescribe fees to be paid in respect of inspections carried out by it in terms of this Act. 20

**CHAPTER IV***Fitness of drivers***Application for registration of driving licence testing centre** 25

8. (1) A department of State or registering authority desiring to operate a driving licence testing centre shall in the prescribed manner apply to the MEC in whose province that centre will be operated, for the registration of that testing centre.

(2) A driving licence testing centre may, on the prescribed conditions, be registered and graded to test applicants for learners' licences only. 30

**Registration and grading of driving licence testing centre**

9. On receipt of an application referred to in section 8 the MEC shall, if satisfied that, in relation to the driving licence testing centre concerned, the prescribed requirements for the registration of such a testing centre have been met, register and grade such testing centre in the prescribed manner, and give notice of such registration in the *Provincial Gazette*. 35

**Suspension or cancellation of registration of driving licence testing centre**

10. The MEC may, if a registered driving licence testing centre no longer complies with the requirements referred to in section 9, suspend the registration of that testing centre for such period as he or she may deem fit, or regrade or cancel it, in the prescribed manner. 40

**Appointment of national inspectorate of driving licence testing centres**

11. (1) The Minister shall appoint a person, an authority or a body as a national inspectorate of driving licence testing centres.

(2) The powers and duties of the inspectorate contemplated in subsection (1) in relation to the inspection and the control of standards, grading and operation of driving licence testing centres shall be as prescribed.

(3) The Minister may, in order to defray the expenditure incurred by or on behalf of that inspectorate for the purposes of performing its functions, prescribe fees to be paid in respect of inspections carried out in terms of this Act. 5

#### **Driver of motor vehicle to be licensed**

12. No person shall drive a motor vehicle on a public road—

- (a) except under the authority and in accordance with the conditions of a licence issued to him or her in terms of this Chapter or of any document deemed to be a licence for the purposes of this Chapter; and 10
- (b) unless he or she keeps such licence or document or any other prescribed authorisation with him or her in the vehicle.

#### **Licence to drive, either learner's or driving licence**

13. A licence authorising the driving of a motor vehicle shall be issued by a driving licence testing centre in accordance with this Chapter and shall be either— 15

- (a) a provisional licence, to be known as a learner's licence; or
- (b) a licence, to be known as a driving licence,

and, except as otherwise provided in this Chapter, no person shall be examined or tested for the purpose of the issue to him or her of a driving licence unless he or she is the holder of a learner's licence. 20

#### **Prescribing, classification and extent of learner's or driving licence**

14. Subject to this Chapter—

- (a) the category of a learner's or driving licence;
  - (b) the class of motor vehicle to which each category of such licence relates; 25
  - (c) the authority granted by such licence;
  - (d) the period of validity of such licence;
  - (e) the limitations to which the authority granted by such licence shall be subject; and
  - (f) the form and content of such licence, 30
- shall be as prescribed.

#### **Disqualification from obtaining or holding learner's or driving licence**

15. (1) A person shall be disqualified from obtaining or holding a learner's or driving licence—

- (a) if he or she— 35
  - (i) in the case of any licence for a motor cycle, motor tricycle or motor quadrucycle having an engine with a cylinder capacity not exceeding 125 cubic centimetres or which is propelled by electrical power or which is a vehicle as contemplated in paragraph (b) of the definition of "motor vehicle", is under the age of 16 years; 40
  - (ii) in the case of a learner's licence for a light motor vehicle, being a motor vehicle not of a class referred to in subparagraph (i) and the tare of which does not exceed 3 500 kilograms or, where such motor vehicle is—
    - (aa) a bus or goods vehicle, the gross vehicle mass of which does not exceed 3 500 kilograms; 45
    - (bb) an articulated motor vehicle, the gross combination mass of which does not exceed 3 500 kilograms,
  - is under the age of 17 years; or
  - (iii) in the case of any other licence, is under the age of 18 years;
- (b) during any period in respect of which he or she has been declared by a competent court or authority to be disqualified from obtaining or holding a licence to drive a motor vehicle, while such disqualification remains in force; 50

- (c) where a licence to drive a motor vehicle held by him or her has been suspended by a competent court or authority, while such suspension remains in force;
- (d) where a licence to drive a motor vehicle held by him or her has been cancelled by a competent court or authority, for such period as he or she may not apply for a licence; 5
- (e) if such licence relates to a class of motor vehicle which he or she may already drive under a licence held by him or her;
- (f) if he or she is suffering from one of the following diseases or disabilities: 10
- (i) Uncontrolled epilepsy;
  - (ii) sudden attacks of disabling giddiness or fainting due to hypertension or any other cause;
  - (iii) any form of mental illness to such an extent that it is necessary that he or she be detained, supervised, controlled and treated as a patient in terms of the Mental Health Act, 1973 (Act No. 18 of 1973); 15
  - (iv) any condition causing muscular incoordination;
  - (v) uncontrolled *diabetes mellitus*;
  - (vi) defective vision ascertained in accordance with a prescribed standard;
  - (vii) any other disease or physical defect which is likely to render him or her incapable of effectively driving and controlling a motor vehicle of the class to which such licence relates without endangering the safety of the public: Provided that deafness shall not of itself be deemed to be such a defect; 20
- (g) if he or she is addicted to the use of any drug having a narcotic effect or the excessive use of intoxicating liquor; or 25
- (h) in such other circumstance as may be prescribed, either generally or in respect of a particular class of learner's or driving licence.

(2) The MEC concerned may, if he or she deems it expedient and on such conditions as he or she may deem fit, declare that any person shall no longer be subject to any disqualification, suspension or cancellation by a competent authority referred to in subsection (1)(b), (c) or (d), respectively: Provided that in the case of any cancellation such declaration shall be subject to section 25(9). 30

#### **Failure to disclose disqualification in respect of licence authorising driving of motor vehicle prohibited**

16. (1) No person shall, when applying for a learner's or driving licence, wilfully fail to disclose any disqualification to which he or she is subject in terms of section 15. 35

(2) Any person who—

- (a) is the holder of a licence authorising the driving of a motor vehicle in terms of this Chapter; and
- (b) becomes aware thereof that he or she is disqualified from holding such licence, 40

shall, within a period of 21 days after having so become aware of the disqualification, submit the licence or, in the case where it is contained in an identity document, that document to the MEC of the province concerned.

(3) When a licence is submitted in terms of subsection (2) the MEC shall cancel it and if the licence was issued in a prescribed territory he or she shall notify the authority which issued it of the cancellation: Provided that if the MEC is satisfied that the holder thereof is competent to drive the class of motor vehicle concerned with the aid of glasses, an artificial limb or any other physical aid, the MEC shall, in the case where the licence— 50

- (a) is contained in an identity document—
  - (i) not cancel the licence, but endorse the licence accordingly and such endorsement shall be a condition subject to which the licence is held;
  - (ii) return the identity document to the holder thereof; or
- (b) is not contained in an identity document, issue or authorise the issue of a new licence in the prescribed manner reflecting the conditions on which it is issued. 55

### Application for and issue of learner's licence

17. (1) Subject to section 24, a person desiring to obtain a learner's licence shall in person apply therefor in the prescribed manner to an appropriately graded driving licence testing centre.

(2) Upon receipt of an application in terms of subsection (1), the driving licence testing centre concerned shall, if it is satisfied from the information furnished in the application or from such further information as such centre may reasonably request, that the applicant is not disqualified from obtaining a learner's licence, determine a day on and time at which the applicant shall present himself or herself to be examined and tested by an examiner for driving licences in the manner and in respect of the matters as prescribed. 5 10

(3) If the examiner for driving licences is satisfied that the applicant has sufficient knowledge of the matters as prescribed in respect of the class of vehicle concerned, and is not disqualified in terms of section 15 from obtaining a learner's licence, the examiner shall issue or authorise the issue of a learner's licence in the prescribed manner to such applicant in respect of the appropriate class of motor vehicle, and the examiner or the person authorised thereto by him or her shall— 15

- (a) in the case where the applicant is found to be competent to drive with the aid of spectacles or contact lenses, an artificial limb or other physical aid, endorse the licence accordingly; and 20
- (b) in the case where the applicant is a physically disabled person who has to drive a vehicle adapted for physically disabled persons, or a vehicle adapted specifically for that physically disabled applicant, endorse the licence accordingly.

(4) No person shall wilfully or negligently issue or authorise the issue of a learner's licence contrary to the provisions of this Chapter. 25

### Application for and issue of driving licence

18. (1) Subject to section 24, the holder of a learner's licence who desires to obtain a driving licence shall apply in the prescribed manner to an appropriately graded driving licence testing centre for a licence to drive a motor vehicle of a class the driving of which is authorised by his or her learner's licence. 30

(2) Upon receipt of an application in terms of subsection (1), the driving licence testing centre concerned shall, if it is satisfied from the information furnished in the application or from such further information as such centre may reasonably request, that the applicant is not disqualified from obtaining a driving licence, determine a day on and time at which the applicant shall present himself or herself to be examined by an examiner for driving licences in the manner and in respect of the matters as prescribed, and for such purpose the applicant shall supply a motor vehicle of the class to which his or her application relates. 35

(3) An examiner for driving licences shall test an applicant for a driving licence in the manner and in respect of the matters as prescribed. 40

(4) If an examiner for driving licences has satisfied himself or herself in terms of subsection (3) that an applicant for a driving licence is competent, as prescribed, to drive a motor vehicle of the class to which such applicant's application relates, the examiner shall issue or authorise the issue of a driving licence in the prescribed manner to such applicant in respect of that class of motor vehicle, and the examiner or the person authorised thereto by him or her shall— 45

- (a) in the case where the applicant has in terms of subsection (2) provided a motor vehicle equipped with an automatic transmission or the motor vehicle is electrically powered, endorse the driving licence to the effect that authorisation is granted only for the driving of a motor vehicle equipped with an automatic transmission or which is electrically powered, as the case may be; 50
- (b) in the case where the applicant is found to be competent to drive with the aid of spectacles or contact lenses, an artificial limb or other physical aid, endorse the licence accordingly; and 55

(c) in the case where the applicant is a physically disabled person who has to drive a vehicle adapted for physically disabled persons, or a vehicle adapted specifically for that physically disabled applicant, endorse the licence accordingly.

(5) No person shall wilfully or negligently— 5

- (a) issue a driving licence;
- (b) authorise the issue of a driving licence; or
- (c) endorse or fail to endorse a driving licence,

contrary to this section.

(6) A driving licence which has officially been included in an identity document shall be deemed to be a driving licence issued under this Act. 10

#### **Substitution of driving licence issued before certain date**

19. (1) The holder of a driving licence issued in accordance with section 18(4) before the commencement of this Act, may—

- (a) if such licence is contained in an identity document, apply to a driving licence testing centre; or 15
- (b) if such licence is not contained in an identity document, apply to the driving licence testing centre where such holder was tested for that licence,

for one or more driving licences to be issued to him or her in substitution of his or her existing licence. 20

(2) An application under subsection (1) shall be made in the prescribed manner and be accompanied by the prescribed documents.

(3) Upon receipt of an application under subsection (1) the examiner for driving licences or person authorised thereto, if he or she is satisfied that the existing licence is a valid licence and that the applicant is the holder thereof, shall, subject to section 25, issue or authorise the issue of a driving licence on the prescribed form and in the prescribed manner in respect of the class of motor vehicle to which the existing licence relates. 25

#### **Special provisions in relation to driving licences which ceased to be valid in terms of road traffic ordinance** 30

20. (1) The holder of a licence issued in terms of section 57 of the road traffic ordinance, which licence ceased to be a valid driving licence in terms of—

- (a) section 59(1) of the said Ordinance (Transvaal);
- (b) section 59(1) of the said Ordinance (Natal);
- (c) section 59(2) of the said Ordinance (the Orange Free State); and 35
- (d) section 59A(1) of the said Ordinance (the Cape of Good Hope),

may, subject to section 15 of this Act, apply to a prescribed authority that a driving licence be issued to him or her, to drive a motor vehicle of a class corresponding to the class mentioned in the licence issued to him or her, in terms of section 57 of the Ordinance concerned, subject to such conditions as may apply to the latter licence. 40

(2) An application for a driving licence under subsection (1) shall be accompanied by—

- (a) the licence issued in terms of section 57 of the road traffic ordinance or a duplicate thereof; or
- (b) the prescribed form. 45

(3) Upon receipt of an application under subsection (1), the prescribed authority shall satisfy itself in the prescribed manner as to the authenticity of the document referred to in subsection (2)(a) and, if satisfied, issue a driving licence in the manner prescribed in section 18(4) to the applicant and, if applicable, endorse such driving licence in accordance with section 18(4). 50

#### **Power of MEC in respect of examination and testing of applicant for learner's or driving licence**

21. Notwithstanding anything to the contrary in this Act contained, the MEC may, whenever he or she deems it necessary, direct where and by which examiner for driving

licences an applicant for a learner's or driving licence shall be examined and tested and at which driving licence testing centre such applicant may apply for a driving licence.

**Holder of licence to drive motor vehicle shall give notice of change of place of residence**

22. When the holder of a licence to drive a motor vehicle which was issued in terms of this Chapter, has changed his or her place of residence permanently, he or she shall, within 14 days after such change, notify in the prescribed manner the registering authority in whose area he or she is ordinarily resident of his or her new residential and postal address. 5

**When licence not issued in terms of this Act deemed to be driving licence** 10

23. (1) Subject to subsection (2) and the prescribed conditions—

(a) a licence authorising the driving of a motor vehicle and which was issued in any other country; and

(b) an international driving permit which was issued while the holder thereof was not permanently or ordinarily resident in the Republic, 15

shall, in respect of the class of motor vehicle to which that licence or permit relates and subject to the conditions thereof, be deemed to be a licence for the purposes of this Chapter: Provided that if that licence is a provisional licence or an international driving permit, it shall not authorise the driving of a motor vehicle carrying passengers and in respect of which a professional driving permit is required. 20

(2) (a) The period in respect of which a licence or an international driving permit referred to in subsection (1) shall be deemed to be a licence for the purposes of this Chapter, shall be as prescribed.

(b) The holder of a licence or an international driving permit referred to in subsection (1) may, subject to the prescribed conditions, apply for a driving licence to take the place of such licence or permit. 25

(3) An application under subsection (2)(b) shall be made in the prescribed manner to an appropriately graded driving licence testing centre.

(4) On receipt of an application under subsection (2)(b), the driving licence testing centre concerned shall, subject to the prescribed conditions, issue to the applicant a driving licence in the prescribed manner. 30

**Department of State may issue learner's or driving licence to person in its employment only**

24. (1) A department of State registered as a driving licence testing centre may issue a learner's or driving licence in the prescribed form to a person who is in the employment of such department of State only. 35

(2) For the purposes of subsection (1), a person who renders service in the South African National Defence Force shall be deemed to be in the employment of the Department of Defence.

(3) A licence authorising the driving of a motor vehicle and which was issued by a department of State prior to 1 January 1993, shall, subject to the prescribed conditions, grant the holder thereof the right to be issued with a driving licence of the appropriate class in accordance with this Chapter. 40

**Suspension or cancellation by MEC of licence authorising driving of motor vehicle**

25. (1) If the holder— 45

(a) of a learner's or driving licence issued in terms of this Chapter, a repealed ordinance or any prior law, is disqualified in terms of section 15 from holding it, the MEC of the province concerned shall cancel such licence; or

(b) of a licence referred to in paragraph (a) would constitute a source of danger to the public by driving a motor vehicle on a public road, the MEC of the province concerned may cancel or suspend such licence. 50

- (2) For the purposes of subsection (1) the MEC may request the holder of the licence concerned to submit himself or herself within such period as the MEC may determine—
- (a) to an examination and a test by one or more examiners for driving licences nominated by the MEC, to determine his or her competency to drive a motor vehicle of the class to which his or her licence relates, and for the purpose of such examination and test the holder of the licence concerned shall provide a motor vehicle of the class concerned: Provided that the holder of the licence concerned may request that he or she be submitted to an examination and a test to determine his or her competency to drive a motor vehicle—
    - (i) of any other class of which the driving is authorised by his or her licence; or
    - (ii) of a specific prescribed class,
 and for the purpose of such examination and test he or she shall provide a motor vehicle of the class concerned;
  - (b) to an examination, at the cost of the Administration of the province concerned, by a medical practitioner nominated by the MEC, to determine his or her physical and mental fitness to drive a motor vehicle; or
  - (c) to an examination and a test contemplated in paragraph (a) and an examination contemplated in paragraph (b).
- (3) If the holder of the licence concerned is, after the examination and test in terms of subsection (2)(a), found to be competent to drive a motor vehicle of the class provided by him or her and is not disqualified in terms of section 15, the MEC may direct—
- (a) that every licence authorising the driving of a motor vehicle and of which he or she is the holder shall be cancelled; and
  - (b) that a driving licence in respect of a motor vehicle of the class provided by him or her shall be issued to him or her by an examiner for driving licences of the authority authorised thereto by the MEC, and for that purpose the provisions of section 18(4) shall apply with the necessary changes.
- (4) If any person, after having been examined and tested in terms of subsection (2)(a), is found not to be competent to drive a motor vehicle of the class provided by him or her, the MEC concerned shall forthwith cancel the licence concerned.
- (5) If any person fails to comply with a request in terms of subsection (2), the MEC may forthwith suspend or cancel, as the case may be, the licence concerned unless such person is able to satisfy the MEC within a period determined by the MEC that such failure was due to a reason beyond his or her control and that such licence should not be so suspended or cancelled.
- (6) The suspension or cancellation of a licence in terms of this section shall apply to any other learner's or driving licence held by the holder of such suspended or cancelled licence and recognised in terms of this Chapter as a valid licence, as the MEC may determine.
- (7) (a) When a licence is cancelled or suspended in terms of subsection (1) or is cancelled in terms of subsection (3)(a) or (4), the holder thereof shall forthwith submit the licence or, in the case where it is contained in an identity document, that document to the MEC or an inspector of licences authorised by him or her.
- (b) If the licence is not contained in an identity document—
    - (i) but particulars thereof are contained in the register for driving licences, the MEC or the inspector of licences, as the case may be, shall record particulars of the cancellation or suspension in that register;
    - (ii) and particulars thereof are not contained in the register for driving licences, the MEC or the inspector of licences, as the case may be, shall notify the authority which issued the licence of the cancellation or suspension,
 and where the licence has been suspended the MEC or the inspector of licences, as the case may be, shall retain the licence until the period of suspension expires, whereafter it shall be returned to the holder thereof.
  - (c) If the licence is contained in an identity document, the MEC or inspector of licences, as the case may be, shall effect an appropriate endorsement on the licence,

record the particulars of the cancellation or suspension in the register for driving licences and return the identity document to the holder thereof.

(8) The MEC may, where he or she deems it expedient and on such conditions as he or she may deem fit—

- (a) in the prescribed manner reinstate a licence suspended in terms of this section; 5
- (b) authorise a person whose licence has been cancelled in terms of this section to apply for a learner's and a driving licence.

(9) A person whose learner's or driving licence has been cancelled in terms of this Act, a repealed ordinance or any prior law or by any competent court or authority, shall be deemed to be unlicensed, and any person whose learner's or driving licence has so been suspended shall, during the period of the suspension, be deemed to be unlicensed. 10

(10) Where any circumstance arises in relation to the holder of a licence authorising the driving of a motor vehicle and which is issued in a prescribed territory or a foreign state, which would have disqualified such person as contemplated in section 15 from obtaining a driving licence, or if such holder would constitute a source of danger to the public by driving a motor vehicle on a public road, the MEC concerned may inform such person that such licence is of no force within the Republic, and as from the date on which such person is so informed the licence shall cease to be in force within the Republic. 15

#### Lapsing of endorsement on licence

26. (1) An endorsement in terms of any order of a court effected on any licence authorising the driving of a motor vehicle in terms of this Chapter, shall lapse after the expiry of a period of five years from the date upon which such endorsement was ordered, if during such period no further endorsement has been ordered on that licence: Provided that no other period of suspension of such licence shall be included in the calculation of the period of five years, 25

(2) Where, in relation to a driving licence, all endorsements have lapsed in accordance with subsection (1), the authority which issued such licence may, upon application by the holder thereof in the prescribed manner, issue to such holder a driving licence free from any endorsements.

#### Cancellation or amendment of endorsement on licence

30

27. (1) Where the holder of a licence—

- (a) authorising the driving of a motor vehicle in the Republic; and
- (b) on which an endorsement in terms of section 18(4) or a similar endorsement by a competent authority in a prescribed territory has been effected,

is of the opinion that there are circumstances justifying the cancellation or amendment of such endorsement, he or she may apply to the MEC of the province in which he or she is permanently or ordinarily resident for the cancellation or amendment of such endorsement. 35

(2) (a) An application under subsection (1) shall be accompanied by—

- (i) the licence concerned or, in the case where it is contained in an identity document, that document; 40
- (ii) a statement by the applicant setting forth the reasons for the application.

(b) The MEC concerned shall issue the applicant with a receipt for such licence or document, which shall be deemed to be sufficient for the purposes of section 12(b).

(3) Upon receipt of an application under subsection (1) the MEC may, for the purpose of the consideration thereof— 45

- (a) require the applicant to submit such further statement or document; or
- (b) take such other steps,

as the MEC may deem expedient.

(4) If an application under subsection (1)— 50

- (a) is refused by the MEC, he or she shall notify the applicant accordingly and return the licence or identity document concerned to him or her; or

- (b) is granted by the MEC, he or she shall—
- (i) cancel the licence and issue or authorise the issue of a new licence in the prescribed manner without endorsement or reflecting the amended endorsement, as the case may be; and
  - (ii) notify the authority which issued the licence or, in the case where it is contained in an identity document, the Director-General of Home Affairs accordingly. 5

#### **Uniform standards for instructors**

28. (1) No person shall act as instructor in accordance with the laws of any province unless he or she is— 10

- (a) registered in terms of the laws of that province to act as an instructor and has passed the prescribed examination;
- (b) of good character;
- (c) mentally and physically fit to act as an instructor, and was medically examined to ascertain such fitness. 15

(2) A person referred to in subsection (1) shall only be registered as an instructor in respect of a class of motor vehicle which he or she is licensed to drive.

#### **Voidness of learner's or driving licence issued contrary to Chapter**

29. A learner's or driving licence issued contrary to this Chapter, shall be void, and upon the request of the MEC concerned, the authority which issued such licence or a traffic officer, as the case may be, the holder of such licence shall forthwith submit it or, in the case where it is contained in an identity document, that document to that MEC, the authority which issued it or the traffic officer, as the case may be, who shall cancel the licence in the prescribed manner: Provided that the traffic officer may cancel the licence only with the prior approval of the MEC concerned. 25

#### **Use of somebody's learner's or driving licence by another prohibited**

30. No person who is the holder of a learner's or driving licence shall allow such licence to be used by any other person.

#### **Unlicensed driver not to be employed or permitted to drive motor vehicle**

31. No person who is the owner or operator, or is in charge, or control, of a motor vehicle shall employ or permit any other person to drive that vehicle on a public road unless that other person is licensed in accordance with this Chapter to drive the vehicle. 30

#### **Professional driver to have permit**

32. (1) No person shall drive a motor vehicle in respect of which an operator is registered on a public road except in accordance with the conditions of a permit (to be known as a professional driving permit) issued to him or her in accordance with this Chapter and unless he or she keeps such permit with him or her in the vehicle: Provided that this subsection shall not apply to the holder of a learner's licence who drives such vehicle while he or she is accompanied by a person registered as a professional driver in respect of that class of vehicle. 40

(2) The—

- (a) categories of;
- (b) nature and extent of the authority granted by;
- (c) period of validity of;
- (d) form and content of; 45
- (e) application for and issue of;
- (f) suspension and cancellation of;
- (g) incorporation in any other document of; and

(h) other necessary or expedient matters in relation to, professional driving permits, shall be as prescribed.

(3) (a) Any document issued by a competent authority in any prescribed territory and serving in that territory a purpose similar to that of a professional driving permit shall, subject to the conditions thereof and to such conditions as may be prescribed, be deemed to be a professional driving permit for the purposes of subsection (1). 5

(b) A public driving permit issued in terms of the Road Traffic Act, 1989 (Act No. 29 of 1989), or a road traffic law contemplated in section 229 of the Constitution of the Republic of South Africa, 1993 (Act No. 200 of 1993), shall, in accordance with the conditions thereof but subject to this Act, be deemed to be a professional driving permit for the purposes of this section for the period of validity of that public driving permit. 10

#### **Production of licence and permit to court**

33. (1) If any person is charged with any offence in terms of this Act relating to the driving of a motor vehicle or a failure to stop after or report an accident, he or she shall produce every licence and permit of which he or she is the holder, or a duplicate thereof issued in terms of this Act if he or she is not in possession of the original, to the court at the time of the hearing of the charge. 15

(2) For the purposes of this section and sections 34 to 36, inclusive—

“licence” means a learner’s or driving licence; and

“permit” means a professional driving permit. 20

(3) No person referred to in subsection (1) shall, without reasonable excuse, refuse or fail to produce in terms of that subsection the licence and permit or duplicate so referred to on request.

#### **Court may issue order for suspension or cancellation of licence or permit or disqualify person from obtaining licence or permit** 25

34. (1) Subject to section 35, a court convicting a person of an offence in terms of this Act, or of an offence at common law, relating to the driving of a motor vehicle may, in addition to imposing a sentence, issue an order, if the person convicted is—

(a) the holder of a licence, or of a licence and permit, that such licence or licence and permit be suspended for such period as the court may deem fit or that such licence or licence and permit be cancelled, and any such licence shall be dealt with as provided in subsection (3); 30

(b) the holder of a licence, or of a licence and permit, that such licence or licence and permit be cancelled, and that the person convicted be disqualified from obtaining a licence, or a licence and permit, for any class of motor vehicle for such period as the court may deem fit, and any such licence shall be dealt with as provided in subsection (3); or 35

(c) not the holder of a licence, or of a licence and permit, declaring him or her to be disqualified from obtaining a licence, or a licence and permit, either indefinitely or for such period as the court may deem fit. 40

(2) The making of an endorsement in terms of subsection (3) may be postponed by the court issuing the order until any appeal against the conviction or sentence or both has been disposed of.

(3) Where a court has issued an order under subsection (1)(a) or (b) the registrar or clerk of the court shall, subject to subsection (2), in the case where the licence— 45

(a) is contained in an identity document, endorse such licence accordingly and return the identity document to the holder thereof; or

(b) is not contained in an identity document, retain such licence and deal with it in the prescribed manner.

#### **On conviction of certain offences licence and permit shall be suspended for minimum period and learner’s or driving licence may not be obtained** 50

35. (1) Subject to subsection (3), every driving licence or every licence and permit of any person convicted of an offence referred to in—

- (a) section 61(1)(a), (b) or (c), in the case of the death of or serious injury to a person;
- (b) section 63(1), if the court finds that the offence was committed by driving recklessly;
- (c) section 65(1), (2) or (5), 5
- where such person is the holder of a driving licence or a licence and permit, shall be suspended in the case of—
- (i) a first offence, for a period of at least six months;
- (ii) a second offence, for a period of at least five years; or
- (iii) a third or subsequent offence, for a period of at least ten years, 10
- calculated from the date of sentence.
- (2) Subject to subsection (3), any person who is not the holder of a driving licence or of a licence and permit, shall, on conviction of an offence referred to in subsection (1), be disqualified for the periods mentioned in paragraphs (i) to (iii), inclusive, of subsection (1) calculated from the date of sentence, from obtaining a learner's or driving 15
- licence or a licence and permit.
- (3) If a court convicting any person of an offence referred to in subsection (1), is satisfied that circumstances exist which do not justify the suspension or disqualification referred to in subsection (1) or (2), respectively, the court may, notwithstanding the provisions of those subsections, order that the suspension or disqualification shall not 20
- take effect, or shall be for such shorter period as the court may deem fit.
- (4) A court convicting any person of an offence referred to in subsection (1) shall, before imposing sentence, bring the provisions of subsection (1) or (2), as the case may be, and of subsection (3) to the notice of such person.
- (5) The provisions of section 36 shall with the necessary changes apply to the 25
- suspension of a driving licence or a licence and permit in terms of this section.

#### **Procedure subsequent to suspension or cancellation of licence or permit**

36. (1) Where a court has issued an order that any licence or any permit be suspended or cancelled, the prescribed procedure shall be followed.
- (2) Whenever a licence is or a licence and permit are suspended or cancelled in terms 30
- of an order of court, the suspension or cancellation shall apply to every other licence or licence and permit, as the case may be, held by the person concerned.

### **CHAPTER V**

#### *Fitness of vehicles*

#### **Testing station to be registered** 35

37. No person, department of State or registering authority shall operate a testing station unless such testing station is registered and graded.

#### **Application for registration of testing station**

38. Any person, department of State or registering authority desiring to operate a testing station shall apply in the prescribed manner to the MEC concerned for the 40

registration of such testing station.

#### **Registration and grading of testing station**

39. If, upon receipt of an application referred to in section 38, the MEC is satisfied that the prescribed requirements for registration of the testing station concerned have been met, he or she shall register and grade such testing station on the conditions and in the 45

manner prescribed, and shall give notice of such registration in the *Provincial Gazette*: Provided that the MEC may provisionally register and grade a testing station operated by a registering authority, on the conditions and in the manner prescribed.

#### **Suspension or cancellation of registration of testing station**

40. The MEC may, if a registered testing station no longer complies with the 50

requirements contemplated in section 39, suspend, for such period as he or she may deem fit, or cancel the registration of such testing station or regrade the testing station in the prescribed manner.

**Appointment of national inspectorate of testing stations**

41. (1) The Minister shall appoint a person, an authority or a body as a national inspectorate of testing stations.

(2) The powers and duties of the inspectorate contemplated in subsection (1) in relation to the inspection and the control of standards, grading and operation of testing stations shall be as prescribed. 5

(3) The Minister may, in order to defray the expenditure incurred by or on behalf of that inspectorate for the purposes of performing its functions, prescribe fees to be paid in respect of every examination conducted or test carried out regarding the roadworthiness of a motor vehicle. 10

**Roadworthy certificate required in respect of motor vehicle**

42. (1) No person shall operate a motor vehicle which is not in a roadworthy condition on a public road.

(2) No person shall operate a motor vehicle on a public road unless the requirements in respect of roadworthiness certification contemplated in subsection (3) in relation to such motor vehicle are complied with, and except in accordance with the conditions of a roadworthy certificate. 15

(3) Subject to this Chapter—

- (a) the categories of roadworthy certificates;
- (b) the classes in which motor vehicles are classified for the purposes of prescribing the requirements regarding roadworthiness and the requirements for roadworthiness certification applicable to each class of motor vehicle; 20
- (c) the period of validity of roadworthy certificates;
- (d) the examination of motor vehicles;
- (e) the issue of roadworthy certificates; and 25
- (f) any other aspect regarding roadworthy certificates which the Minister may deem necessary or expedient,

shall be as prescribed.

(4) Any document issued by a competent authority in a prescribed territory and serving a similar purpose to that of a roadworthy certificate shall, in accordance with the conditions thereof but subject to this Act, be deemed to be a roadworthy certificate for the purposes of subsection (2). 30

**Application for roadworthy certificate**

43. Any person desiring to obtain a roadworthy certificate shall apply in the prescribed manner to an appropriately graded testing station. 35

**Notice to discontinue operation of motor vehicle**

44. (1) If a motor vehicle is not roadworthy a traffic officer or an examiner of vehicles may, by notice in the prescribed form served on the driver, owner or operator of such vehicle, direct that such vehicle shall not be operated on a public road or that such vehicle shall only be operated on the prescribed conditions. 40

(2) The manner in which and circumstances under which the traffic officer or examiner of vehicles may issue a notice referred to in subsection (1), and the further steps which shall or may be taken in respect of the vehicle concerned, shall be as prescribed.

**CHAPTER VI 45*****Operator fitness*****Registration of operator**

45. (1) (a) Subject to paragraph (b), the owner of a motor vehicle of a prescribed class is the operator of such motor vehicle, and shall be registered as such in terms of subsection (5). 50

(b) Notwithstanding the provisions of paragraph (a), a person who is not a manager, employee or agent of the owner of a motor vehicle referred to in subsection (1) and who enters into a written agreement providing that such motor vehicle may be operated by such person for a period—

(i) in excess of three months, is the operator of such motor vehicle, and shall be registered as such in terms of subsection (5); 5

(ii) of three months or less, shall be deemed to be the operator of such motor vehicle for that period for the purposes of section 49(c), (d), (e), (f) and (g).

(2) The owner of a motor vehicle referred to in subsection (1) shall, in the prescribed manner— 10

(a) upon the licensing of such motor vehicle in terms of Chapter II; or

(b) within 21 days—

(i) after the conclusion or amendment of an agreement contemplated in subsection (1)(b); or

(ii) after the vehicle became a vehicle of a class contemplated in subsection (1)(a), 15

notify the prescribed registering authority which person (hereinafter in this section referred to as the designated person) is to be registered as the operator of such motor vehicle.

(3) If the registering authority concerned is satisfied with the notification contemplated in subsection (2), as the case may be, it shall in such circumstances as the MEC may determine, submit the particulars of the designated person to the MEC concerned within seven days after receipt thereof. 20

(4) Unless the owner of the motor vehicle concerned, at the time of the notification contemplated in subsection (2), is registered as the operator thereof, the registering authority may issue a temporary operator card to that owner in the manner and on the conditions prescribed. 25

(5) (a) The MEC shall, if satisfied that the designated person should be registered as the operator, notify the registering authority concerned accordingly.

(b) The registering authority referred to in paragraph (a) shall in the prescribed manner register the designated person as the operator. 30

(6) The Minister may by regulation exempt any operator or category of operators from any provision of this Act.

#### Issue of operator card

46. (1) The registering authority shall, in respect of every motor vehicle contemplated in section 45, issue an operator card in the prescribed manner: Provided that where any operator card of a specific operator is suspended, the registering authority shall not issue any new operator card to such operator until the period of suspension has expired. 35

(2) The categories, period of validity, form and contents of an operator card shall be as prescribed. 40

(3) Any document issued by a competent authority in any prescribed territory or a foreign state and serving in such territory or state a purpose similar to that of an operator card shall, subject to the conditions thereof and to the prescribed conditions, be deemed to be an operator card for the purposes of subsection (1).

(4) Where any circumstance arises in relation to the holder of an operator card contemplated in subsection (3) which would have empowered the MEC to act under section 50 if such card was issued in the Republic, the MEC may inform such holder that such card is of no force within the Republic, and as from the date on which such person is so informed, such card shall cease to be in force within the Republic. 45

#### Operator card to be displayed on motor vehicle

50

47. No person shall operate a motor vehicle of any class contemplated in section 45(1) on a public road unless a valid operator card is displayed on such motor vehicle in the prescribed manner.

**Proof of certain facts**

48. (1) If in any prosecution the question arises as to who the operator of a motor vehicle is or was, an imprint or a copy of or an extract from an operator card certified by a peace officer, or a person authorised thereto by a registering authority, to be true, shall, upon production thereof, be *prima facie* proof that the person whose name appears as operator on such card, is or was the operator of such vehicle at the time in question. 5

(2) No person shall in terms of subsection (1) certify any imprint, copy or extract to be true, knowing that it is not a true imprint, copy or extract.

**Duties of operator**

49. The operator of a motor vehicle shall— 10
- (a) notify, within seven days of any change in the circumstances in relation to his or her registration as the operator of such motor vehicle—
    - (i) the owner of such motor vehicle, if applicable; and
    - (ii) the registering authority concerned,
 and return the operator card in respect of that motor vehicle to the registering authority concerned; 15
  - (b) keep safe and protect from theft an operator card issued to him or her and, if any such card is lost, stolen or destroyed, he or she shall notify the nearest police station within 24 hours and the registering authority within whose area the holder is ordinarily resident within seven days after having become aware of such loss, theft or destruction or after it could reasonably be expected that he or she should have been aware of such loss, theft or destruction, whichever event occurred first; 20
  - (c) exercise proper control over the driver of such motor vehicle to ensure the compliance by such driver with all the relevant provisions of this Act, in particular the provisions regarding— 25
    - (i) the requirements in respect of the professional driving permit referred to in section 32; and
    - (ii) the loading of such vehicle as prescribed by or under this Act;
  - (d) ensure that such motor vehicle complies with the fitness requirements contemplated in Chapter V; 30
  - (e) conduct his or her operations with due care to the safety of the public;
  - (f) if dangerous goods or substances are conveyed, ensure that all requirements for the conveyance of such goods or substances, as prescribed in—
    - (i) any other law in relation to such goods or substances; and 35
    - (ii) this Act,
 are complied with; and
  - (g) take all reasonable measures to ensure that such motor vehicle is operated on a public road in compliance with the provisions for the loading and transportation of goods as prescribed by or under this Act. 40

**Power of MEC in respect of motor vehicles, drivers and activities of operators**

50. (1) The MEC concerned may, on account of any evidence regarding the state of fitness of a motor vehicle in respect of which an operator is registered, produced to him or her in accordance with subsection (4), by written notice—

- (a) notify such operator that such motor vehicle is suspected of being unroadworthy and that the operator should forthwith take adequate steps to ensure its continued roadworthiness in accordance with Chapter V; 45
- (b) require from such operator to indicate in writing what precautions he or she has taken to ensure the continued roadworthiness of such motor vehicle in accordance with Chapter V; 50

- (c) direct such operator to produce such motor vehicle for inspection, examination or testing at a time and place specified in such notice; and
- (d) suspend the operator card issued in respect of such motor vehicle, if such motor vehicle has been examined or tested under paragraph (c) and found to be unroadworthy in terms of Chapter V, for such period as such motor vehicle is so unroadworthy. 5
- (2) The MEC concerned may, on account of the record of a driver of a motor vehicle in respect of which an operator is registered, by written notice—
- (a) inform such operator that it is suspected that he or she does not exercise proper control over the driver under his or her authority as required by section 49; 10
- (b) require such operator to indicate in writing what precautions he or she has taken in order to ensure proper control over drivers under his or her authority;
- (c) require such operator to produce for examination the records regarding drivers which an operator is required to keep in terms of this Act; and
- (d) direct that the driver concerned be retested in terms of section 25. 15
- (3) The MEC concerned may, if the record of an operator indicates that such operator does not comply with the provisions of this Act, by written notice—
- (a) direct such operator to carry out his or her duties in terms of section 49 properly;
- (b) appoint a person whom he or she deems fit, to investigate the activities or specific activities of such operator and direct the person so appointed to make a written recommendation to him or her regarding what measures should be taken in respect of such operator; 20
- (c) direct such operator to appear before him or her or before any other person appointed by him or her, in order to furnish reasons for his or her failure to carry out his or her duties in terms of section 49; and 25
- (d) notify such operator—
- (i) that an operator card shall only be issued to him or her on such conditions as that MEC may deem fit;
- (ii) that no further operator card shall be issued to him or her for such period as that MEC may specify in the notice; or 30
- (iii) that the operator card or cards relating to such motor vehicle or vehicles as the MEC may determine in respect of which he or she is registered as the operator is or are suspended until that MEC is satisfied that the grounds for the suspension have lapsed; 35
- Provided that—
- (aa) the period of any suspension under subparagraph (iii) shall not exceed 12 months;
- (bb) any decision by the MEC under this paragraph shall only be taken on the basis of a recommendation by a person appointed under paragraph (b); 40
- (cc) the MEC shall, within 21 days after the date of the notice, in writing furnish such operator with the reasons for his or her decision.
- (4) The MEC concerned may, in the exercise of his or her powers under this section—
- (a) require any operator, subject to any legal objection, to make discovery of documents by way of affidavit or by answering interrogatories on oath and to produce such documents for inspection; 45
- (b) require any operator to allow inspection of any records and documents required to be kept by the operator in terms of this Act;
- (c) appoint a commission to take the evidence of any person in the Republic or in a prescribed territory or in a foreign state and to forward such evidence to him or her in the same manner as if the commission were a commissioner appointed by a court; and 50

- (d) at any time require that an inquiry be instituted into the operational activities of an operator by a person appointed by him or her for that purpose and, if such operator is a company, also into those of any other company in a group of companies to which the operator belongs or of which the operator is the controlling company. 5
- (5) The MEC concerned may, if he or she on reasonable grounds suspects that any person registered as the operator of a motor vehicle is not the *bona fide* operator of such vehicle, require proof from the owner of the vehicle that the person so registered is in fact the operator of the vehicle concerned, and if it is not proved to the satisfaction of the MEC that the person so registered is in fact the operator of the vehicle concerned, the owner of the vehicle shall be deemed to be the operator thereof. 10

#### Act or omission of manager, agent or employee of operator

51. (1) Whenever any manager, agent or employee of an operator commits or omits an act which would have constituted an offence in terms of this Act if the operator had committed or omitted such act, that operator shall, in the absence of evidence— 15
- (a) that he or she did not connive at or permit such act or omission;
  - (b) that he or she took all reasonable measures to prevent an act or omission of the nature concerned; and
  - (c) that an act or omission of the nature of the act or omission charged did not fall within the scope of the authority of or the course of the employment as such manager, agent or employee, 20
- be deemed himself or herself to have committed or omitted that act and be liable to be convicted and sentenced in respect thereof.

- (2) Whenever any manager, agent or employee of an operator commits or omits any act which would have constituted an offence in terms of this Act if such operator had committed or omitted it, such manager, agent or employee shall be liable to be convicted and sentenced in respect thereof as if he or she were such operator. 25

### CHAPTER VII

#### Road safety

#### Powers and functions of Director-General 30

52. (1) The Director-General may—
- (a) prepare a comprehensive research programme to effect road safety in the Republic, carry it out systematically and assign research projects to persons who, in his or her opinion, are best equipped to carry them out;
  - (b) give guidance regarding road safety in the Republic by means of the organising of national congresses, symposiums, summer schools and study weeks, by means of mass-communication media and in any other manner deemed fit by the Director-General. 35
- (2) In order to perform his or her functions properly the Director-General may—
- (a) finance research in connection with road safety in the Republic; 40
  - (b) publish a periodical to promote road safety in the Republic, and pay fees for matters inserted therein;
  - (c) give guidance to associations or bodies working towards the promotion of road safety in the Republic;
  - (d) organise national congresses, symposiums, summer schools and study weeks and, if necessary, pay the costs therefor, and remunerate persons performing thereat; 45
  - (e) with a view to promoting road safety in the national sphere, publish advertisements in the mass-communication media.
- (3) The Director-General shall exercise his or her powers and perform his or her functions subject to the control and directions of the Minister. 50

**Delegation by Director-General**

53. (1) The Director-General may, subject to such conditions as he or she may deem necessary—

(a) delegate to an officer employed by the Department any power conferred upon him or her by section 52; or

(b) authorise an officer employed by the Department to carry out any duty assigned to him or her by section 52.

(2) Any person to whom any power has been so delegated or who has been so authorised to carry out any duty shall exercise that power or carry out that duty subject to the directions of the Director-General, and the Director-General may at any time revoke such delegation or authorisation.

(3) Any delegation or authorisation under subsection (1) shall not prevent the Director-General from exercising that power or carrying out that duty himself or herself.

**CHAPTER VIII*****Dangerous goods*****Transportation of certain dangerous goods prohibited**

54. No person shall, except as prescribed, offer for transportation in a vehicle, or transport in a vehicle, or accept after transportation in, on or by a vehicle, any prescribed dangerous goods.

**Appointment of dangerous goods inspector or inspectorate**

55. (1) (a) The Minister may appoint a person, an authority or a body as a dangerous goods inspector or inspectorate.

(b) The training and qualifications of a person appointed under paragraph (a) shall be as prescribed, and an authority or body shall have the services of persons with the prescribed training and qualifications at its disposal before that authority or body is so appointed.

(2) The powers and duties of the inspector or inspectorate contemplated in subsection (1)(a) in relation to the transportation of prescribed dangerous goods shall be as prescribed.

(3) The Minister may, in order to defray the expenditure incurred by or on behalf of that inspector or inspectorate for the purposes of performing his, her or its functions, prescribe fees to be paid in respect of inspections carried out by him, her or it in terms of this Act.

**CHAPTER IX*****Road traffic signs and general speed limit*****Minister may prescribe road traffic signs**

56. (1) The Minister may, subject to this Act and for the purpose of prohibiting, limiting, regulating or controlling traffic in general or any particular class of traffic on a public road or a section thereof or for the purpose of designating any public road or a section thereof as a public road of a particular class, prescribe such signs, signals, markings or other devices (to be known as road traffic signs) as he or she may deem expedient, as well as their significance and the conditions on and circumstances under which any road traffic sign may be displayed on a public road.

(2) The Minister may, subject to such conditions as he or she may deem expedient, authorise any person or body to display on a public road any sign, signal, marking or other device for the purpose of ascertaining the suitability of such sign, signal or device as a road traffic sign.

**Authority to display road traffic signs**

57. (1) The Minister, or any person authorised thereto by him or her, may in respect of any public road cause or permit to be displayed in the prescribed manner such road traffic signs as he or she may deem expedient.

(2) The MEC concerned, or any person authorised thereto by him or her either generally or specifically, may in respect of any public road not situated within the area of jurisdiction of a local authority, cause or permit to be displayed in the prescribed manner any such road traffic signs as he or she may deem expedient.

(3) (a) A local authority, or any person in its employment authorised thereto by it either generally or specifically, may in respect of any public road within the area of jurisdiction of that local authority display or cause to be displayed in the prescribed manner any such road traffic signs as such authority or person may deem expedient. 5

(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. 10

(c) A local authority referred to in paragraph (b) may determine the conditions for such display and may order the removal of such sign.

(4) Notwithstanding the provisions of subsections (2) and (3), the MEC concerned, or any person authorised thereto by him or her either generally or specifically, may in respect of any public road referred to in subsection (3) and which is a road constructed or maintained by the Administration of the province concerned, in addition to the road traffic signs referred to in subsection (3), cause or permit to be displayed in the prescribed manner such road traffic signs as he or she may deem expedient, and no local authority may without the consent of that MEC remove or permit to be removed any such road traffic sign. 15 20

(5) In such circumstances and subject to such conditions as the MEC concerned may determine, scholars or students may be organised into patrols (to be known as scholars' patrols) for the purpose of displaying, in the prescribed manner, an appropriate road traffic sign so as to ensure the safety of scholars or students crossing a public road. 25

(6) The MEC concerned may authorise any association or club to display any such road traffic signs as he or she may deem expedient, subject to such conditions as the MEC may determine, on any public road referred to in subsection (2) or (3), and any such association or club may thereupon, in the prescribed manner, display a badge or other token of the association or club in conjunction with any such road traffic sign. 30

(7) Transnet Limited, or a person in its employment who has either generally or specifically been authorised thereto, may in respect of any railway level crossing on any public road for which Transnet Limited is responsible, cause or permit to be displayed, in the prescribed manner, any such road traffic signs as Transnet Limited or such person may deem expedient. 35

(8) Notwithstanding the provisions of subsections (3) and (7), the MEC concerned may direct that any road traffic sign be displayed or removed by a local authority on or along any public road in the area of jurisdiction of such local authority, or by Transnet Limited on or along any railway level crossing over a public road for which Transnet Limited is responsible, and if the local authority concerned or Transnet Limited fails to comply with the direction, that MEC or any person authorised thereto by him or her may cause such sign to be displayed or removed, as the case may be, and the MEC shall recover the cost of such display or removal from the local authority concerned or from Transnet Limited, as the case may be. 40

(9) Any road traffic sign displayed in terms of a repealed ordinance or the Road Traffic Act, 1989 (Act No. 29 of 1989), shall be deemed to be displayed in terms of this Chapter. 45

(10) No person shall display any road traffic sign on a public road unless having been authorised thereto by or under this Chapter.

(11) The MEC concerned or, within the area of jurisdiction of a local authority, that local authority, may by notice in writing direct the owner or occupier of any land on which any road traffic sign or other object resembling a road traffic sign is displayed, or on which any object is displayed which obscures or interferes with the effectiveness of any road traffic sign, to remove such sign or object within the period specified in the notice and, if the owner or occupier concerned fails to comply with the notice, that MEC or local authority, as the case may be, may cause such sign or other object to be removed. 50 55

(12) No person shall wilfully or negligently damage any road traffic sign, or any other sign, signal, marking or other device, displayed in terms of this Chapter, or without

proper authority remove it or alter the position thereof or the inscription, lettering, colour or marking thereof or thereon.

#### **Failure to obey road traffic sign prohibited**

58. (1) Subject to subsection (3), no person shall, unless otherwise directed by a traffic officer, fail to comply with any direction conveyed by a road traffic sign displayed in the prescribed manner. 5

(2) In any prosecution for a contravention of or a failure to comply with a provision of subsection (1), it shall be presumed, in the absence of evidence to the contrary, that the road traffic sign concerned was displayed by the proper authority under the power conferred by this Act and in accordance with its provisions. 10

(3) The driver of a fire-fighting vehicle, a rescue vehicle or an ambulance who drives such vehicle in the performance of his or her duties, a traffic officer who drives a vehicle in the carrying out of his or her duties or any person driving a vehicle while engaged in civil protection as contemplated in any ordinance made in terms of section 3 of the Civil Protection Act, 1977 (Act No. 67 of 1977), may disregard the directions of a road traffic sign which is displayed in the prescribed manner: Provided that— 15

- (a) he or she shall drive the vehicle concerned with due regard to the safety of other traffic; and
- (b) in the case of any such fire-fighting vehicle, rescue vehicle, ambulance or vehicle driven by a person while he or she is so engaged in civil protection, such vehicle shall be fitted with a device capable of emitting a prescribed sound and with an identification lamp, as prescribed, and such device shall be so sounded and such lamp shall be in operation while the vehicle is driven in disregard of the road traffic sign. 20

#### **Speed limit** 25

59. (1) The general speed limit in respect of—

- (a) every public road or section thereof, other than a freeway, situated within an urban area;
- (b) every public road or section thereof, other than a freeway, situated outside an urban area; and 30
- (c) every freeway,

shall be as prescribed.

(2) An appropriate road traffic sign may be displayed on any public road in accordance with section 57, indicating a speed limit other than the general speed limit which applies in respect of that road in terms of subsection (1): Provided that such other speed limit shall not be higher than the speed limit prescribed in terms of subsection (1)(c). 35

(3) The Minister may, after consultation with the MECs, in respect of any particular class of vehicle prescribe a speed limit which is lower or higher than the general speed limit prescribed in terms of subsection (1)(b) or (c): Provided that the speed limit so prescribed shall not replace a lower speed limit indicated in terms of subsection (2) by an appropriate road traffic sign. 40

(4) No person shall drive a vehicle on a public road at a speed in excess of—

- (a) the general speed limit which in terms of subsection (1) applies in respect of that road;
- (b) the speed limit indicated in terms of subsection (2) by an appropriate road traffic sign in respect of that road; or 45
- (c) the speed limit prescribed by the Minister under subsection (3) in respect of the class of vehicle concerned.

#### **Certain drivers may exceed general speed limit**

60. Notwithstanding the provisions of section 59, the driver of a fire-fighting vehicle, a rescue vehicle or an ambulance who drives such vehicle in the carrying out of his or her duties, a traffic officer who drives a vehicle in the carrying out of his or her duties or 50

any person driving a vehicle while engaged in civil protection as contemplated in any ordinance made in terms of section 3 of the Civil Protection Act, 1977 (Act No. 67 of 1977), may exceed the applicable general speed limit: Provided that—

- (a) he or she shall drive the vehicle concerned with due regard to the safety of other traffic; and 5
- (b) in the case of any such fire-fighting vehicle, rescue vehicle, ambulance or vehicle driven by a person while he or she is so engaged in civil protection, such vehicle shall be fitted with a device capable of emitting a prescribed sound and with an identification lamp, as prescribed, and such device shall be so sounded and such lamp shall be in operation while the vehicle is driven in excess of the applicable general speed limit. 10

## CHAPTER X

### *Accidents and accident reports*

#### **Duty of driver in event of accident**

61. (1) The driver of a vehicle on a public road at the time when such vehicle is involved in or contributes to any accident in which any other person is killed or injured or suffers damage in respect of any property or animal shall— 15

- (a) immediately stop the vehicle;
- (b) ascertain the nature and extent of any injury sustained by any person;
- (c) if a person is injured, render such assistance to the injured person as he or she may be capable of rendering; 20
- (d) ascertain the nature and extent of any damage sustained;
- (e) if required to do so by any person having reasonable grounds for so requiring, give his or her name and address, the name and address of the owner of the vehicle driven by him or her and, in the case of a motor vehicle, the registration or similar mark thereof; 25
- (f) if he or she has not already furnished the information referred to in paragraph (e) to a traffic officer at the scene of the accident, and unless he or she is incapable of doing so by reason of injuries sustained by him or her in the accident, as soon as is reasonably practicable, and in any case within 24 hours after the occurrence of such accident, report the accident to any police officer at a police station or at any office set aside by a competent authority for use by a traffic officer, and there produce his or her driving licence and furnish his or her identity number and such information as is referred to in that paragraph; 30
- and 35
- (g) not, except on the instructions of or when administered by a medical practitioner in the case of injury or shock, take any intoxicating liquor or drug having a narcotic effect unless he or she has complied with the provisions of paragraph (f), where it is his or her duty to do so, and has been examined by a medical practitioner if such examination is required by a traffic officer. 40

(2) No person shall remove any vehicle involved in an accident in which another person is killed or injured from the position in which it came to rest, until such removal has been authorised by a traffic officer, except when such accident causes complete obstruction of the roadway of a public road, in which event the vehicle involved may, without such authority and after its position has been clearly marked on the surface of the roadway by the person moving it, be moved sufficiently to allow the passage of traffic. 45

(3) Subject to subsection (2), no person shall remove a vehicle involved in an accident from the scene of such accident, except for the purpose of sufficiently allowing the passage of traffic, without the permission of the owner, driver or operator of such vehicle or a person who may lawfully take possession of such vehicle. 50

(4) In any prosecution for a contravention of any provision of this section it shall be presumed, in the absence of evidence to the contrary, that the accused was aware of the

fact that the accident had occurred, and that he or she did not report the accident or furnish the information as required by subsection (1)(f).

(5) In this section the word "animal" means any bovine animal, horse, ass, mule, sheep, goat, pig, ostrich or dog.

#### **Garage to keep record of motor vehicle involved in accident** 5

62. (1) Any person in charge of a garage or other place where motor vehicles are repaired, and to which any motor vehicle showing signs or marks of having been involved in an accident is brought, for the purpose of the repair of such signs or marks, shall, as soon as possible before the repair is commenced with, keep a record specifying the nature of such signs or marks, the engine number, chassis number and the registration or similar mark and number, and if known, the name and address of the owner and driver, of such vehicle. 10

(2) A person required to keep a record in terms of subsection (1) shall retain such record for a period of three years from the date on which it was made, and any such record shall, on request, be produced to a traffic officer. 15

### **CHAPTER XI**

#### *Reckless or negligent driving, inconsiderate driving, driving while under the influence of intoxicating liquor or a drug having a narcotic effect, and miscellaneous offences*

#### **Reckless or negligent driving** 20

63. (1) No person shall drive a vehicle on a public road recklessly or negligently.

(2) Without restricting the ordinary meaning of the word "recklessly" any person who drives a vehicle in wilful or wanton disregard for the safety of persons or property shall be deemed to drive that vehicle recklessly.

(3) In considering whether subsection (1) has been contravened, the court shall have regard to all the circumstances of the case, including, but without derogating from the generality of subsection (1) or (2), the nature, condition and use of the public road upon which the contravention is alleged to have been committed, the amount of traffic which at the relevant time was or which could reasonably have been expected to be upon that road, and the speed at and manner in which the vehicle was driven. 25 30

#### **Inconsiderate driving**

64. No person shall drive a vehicle on a public road without reasonable consideration for any other person using the road.

#### **Driving while under the influence of intoxicating liquor or drug having narcotic effect, or with excessive amount of alcohol in blood or breath** 35

65. (1) No person shall on a public road—

(a) drive a vehicle; or

(b) occupy the driver's seat of a motor vehicle the engine of which is running, while under the influence of intoxicating liquor or a drug having a narcotic effect. 40

(2) No person shall on a public road—

(a) drive a vehicle; or

(b) occupy the driver's seat of a motor vehicle the engine of which is running, while the concentration of alcohol in any specimen of blood taken from any part of his or her body is not less than 0,05 gram per 100 millilitres, or in the case of a professional driver referred to in section 32, not less than 0,02 gram per 100 millilitres. 45

(3) If, in any prosecution for an alleged contravention of a provision of subsection (2), it is proved that the concentration of alcohol in any specimen of blood taken from any part of the body of the person concerned was not less than 0,05 gram per 100 millilitres at any time within two hours after the alleged contravention, it shall be presumed, in the absence of evidence to the contrary, that such concentration was not less than 0,05 gram per 100 millilitres at the time of the alleged contravention, or in the case of a professional driver referred to in section 32, not less than 0,02 gram per 100 millilitres, it shall be presumed, in the absence of evidence to the contrary, that such concentration was not less than 0,02 gram per 100 millilitres at the time of the alleged contravention. 5

(4) Where in any prosecution in terms of this Act proof is tendered of the analysis of a specimen of the blood of any person, it shall be presumed, in the absence of evidence to the contrary, that any syringe used for obtaining such specimen and the receptacle in which such specimen was placed for despatch to an analyst, were free from any substance or contamination which could have affected the result of such analysis. 10

(5) No person shall on a public road— 15

(a) drive a vehicle; or

(b) occupy the driver's seat of a motor vehicle the engine of which is running, while the concentration of alcohol in any specimen of breath exhaled by such person is not less than 0,24 milligrams per 1 000 millilitres, or in the case of a professional driver referred to in section 32, not less than 0,10 milligrams per 1000 millilitres. 20

(6) If, in any prosecution for a contravention of a provision of subsection (5), it is proved that the concentration of alcohol in any specimen of breath of the person concerned was not less than 0,24 milligrams per 1 000 millilitres of breath taken at any time within two hours after the alleged contravention, it shall be presumed, in the absence of evidence to the contrary, that such concentration was not less than 0,24 milligrams per 1 000 millilitres at the time of the alleged contravention, or in the case of a professional driver referred to in section 32, not less than 0,10 milligrams per 1000 millilitres, it shall be presumed, in the absence of evidence to the contrary, that such concentration was not less than 0,10 milligrams per 1 000 millilitres at the time of the alleged contravention. 25 30

(7) For the purposes of subsection (5) the concentration of alcohol in any breath specimen shall be ascertained by using the prescribed equipment.

(8) Any person detained for an alleged contravention of any provision of this section shall not—

(a) during his or her detention consume any substance that contains alcohol of any nature, except on the instruction of or when administered by a medical practitioner; 35

(b) during his or her detention smoke until the specimen referred to in subsection (3) or (6) has been taken, as the case may be.

(9) No person shall refuse that a specimen of blood, or a specimen of breath, be taken of him or her. 40

#### Unauthorised acts in relation to vehicle

66. (1) No person shall, without reasonable cause or without the consent of the owner, operator or person in lawful charge of a vehicle—

(a) set the machinery thereof in motion; 45

(b) place such vehicle in gear;

(c) in any way tamper with the machinery, accessories or parts of such vehicle; or

(d) enter or climb upon such vehicle.

(2) No person shall ride in or drive a vehicle without the consent of the owner, operator or person in lawful charge thereof. 50

(3) No person shall without lawful excuse tamper with a vehicle or with any part of the equipment or the accessories of any vehicle or wilfully damage it, or throw any object at any such vehicle.

(4) No person shall without the written consent of a registering authority remove, alter, obliterate or mutilate the engine number or chassis number, or any part of such engine number or chassis number, of a motor vehicle or allow it to be removed, altered, obliterated or mutilated. 55

**Furnishing false information prohibited**

67. Without derogating from any other provision of this Act, no person shall—

- (a) in connection with any application under this Act; or
- (b) in connection with the furnishing of any information which, to his or her knowledge, is to be or may be used for any purpose in terms of this Act, 5  
make a declaration or furnish information which to his or her knowledge is false or in any material respect misleading.

**Unlawful acts in relation to registration plates, registration number, registration mark or certain documents**

68. (1) No person shall use or manufacture any registration plate which does not 10  
comply with the prescribed specifications.

(2) No person shall—

- (a) falsify or counterfeit or, with intent to deceive, replace, alter, deface or mutilate or add anything to a registration number or a registration mark or a similar number or mark issued by a competent authority outside the Republic; 15  
or
- (b) be in possession of such number or mark which has been falsified or counterfeited or so replaced, altered, defaced or mutilated or to which anything has been so added.

(3) No person shall— 20

- (a) falsify or counterfeit or, with intent to deceive, replace, alter, deface or mutilate or add anything to a certificate, licence or other document issued or recognised in terms of this Act; or
- (b) be in possession of such certificate, licence or other document which has been falsified or counterfeited or so replaced, altered, defaced or mutilated or to 25  
which anything has been so added.

(4) No person shall—

- (a) use a certificate, licence or other document issued or recognised in terms of this Act and of which he or she is not the holder; or
- (b) permit such certificate, licence or other document of which he or she is the 30  
holder to be used by any other person.

(5) Where in a prosecution for a contravention of subsection (2)(b) or (3)(b) it is proved that a person was found in possession of a registration number or a registration mark or a similar number or mark or a document which has been falsified or counterfeited or replaced, altered, defaced or mutilated or to which anything has been 35  
added, it shall, in the absence of evidence to the contrary, be presumed that such person knew that—

- (a) such number, mark or document was—
  - (i) falsified or counterfeited; or
  - (ii) replaced, altered, defaced or mutilated with intent to deceive; or 40
- (b) whatever was added to such number, mark or document was added thereto with intent to deceive.

(6) No person shall—

- (a) with intent to deceive, falsify, replace, alter, deface, mutilate, add anything to or remove anything from or in any other way tamper with the engine or chassis number of a motor vehicle; or 45
- (b) without lawful cause be in possession of a motor vehicle of which the engine or chassis number has been falsified, replaced, altered, defaced, mutilated, or to which anything has been added, or from which anything has been removed, or has been tampered with in any other way. 50

(7) Where in a prosecution for a contravention of any provision of subsection (6) it is proved that a person was found in possession of a motor vehicle, the engine or chassis number of which has been falsified, replaced, altered, defaced, mutilated, or to which anything has been added or removed or has in any way been tampered with, it shall, in the absence of evidence to the contrary, be presumed that such person knew that any 55  
such act has been committed in respect of such a number with intent to deceive.

## CHAPTER XII

*Presumptions and legal procedure***Presumptions regarding public road, freeway and public road in urban area**

69. (1) 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. 5

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

(3) Where in any prosecution in terms of this Act it is alleged that an offence was committed on a public road in an urban area, the road concerned shall, in the absence of evidence to the contrary, be presumed to be a public road in an urban area. 10

**Presumption regarding mass ascertained by means of mass-measuring bridge or other mass-measuring instrument**

70. Where in any prosecution for an alleged contravention of any provision of this Act, evidence to prove such contravention is tendered of any mass as ascertained by means of a mass-measuring bridge or other mass-measuring instrument, such mass shall be deemed to be correct in the absence of evidence to the contrary. 15

**Presumption regarding gross vehicle mass of motor vehicle**

71. Where in any prosecution in terms of this Act it is alleged that an offence was committed in relation to the gross vehicle mass of a motor vehicle, the mass so alleged shall, in the absence of evidence as contemplated in section 70, be presumed, in the absence of evidence to the contrary, to be the gross vehicle mass of such vehicle. 20

**Proof of gross vehicle mass of motor vehicle**

72. Any document purporting to have been issued by a manufacturer and stating the gross vehicle mass of any particular model of motor vehicle manufactured by such manufacturer, shall be *prima facie* proof as to the gross vehicle mass of such model. 25

**Presumption that owner drove or parked vehicle**

73. (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. 30

(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. 35

(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. 40

**Presumption regarding officers**

74. In any prosecution in terms of this Act, the fact that any person purports to act or has purported to act as a traffic officer, an inspector of licences, an examiner of vehicles or an examiner for driving licences, shall be *prima facie* proof of his or her appointment 45

and authority so to act: Provided that this section shall not apply to a prosecution on a charge for impersonation.

### CHAPTER XIII

#### *Regulations*

#### **Power of Minister to make regulations**

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**75. (1)** The Minister may after consultation with the MECs make regulations not inconsistent with this Act, in respect of any matter contemplated, required or permitted to be prescribed in terms of this Act and generally regarding the operation of any vehicle on a public road, the construction and equipment of such vehicle and the conditions on which it may be operated, and in any other respect for the better carrying out of the provisions or the achievement of the objects of this Act, and in particular, but without derogating from the generality of this subsection, regarding—

- (a) the safety of traffic on a public road, including the restriction of the use of any such road or part thereof by such traffic and the duties of the users of any such road; 15
- (b) the identification of vehicles or parts of vehicles and, in relation to a motor vehicle, the size and shape of the registration mark or number to be displayed in terms of this Act and the means to be applied to validate such mark or number and to render any such mark or number easily distinguishable, whether by night or by day, when any such vehicle is operated on a public road; 20
- (c) the width, height and length of any vehicle, and the diameter of the wheels and the width, nature and condition of the tyres when operated on a public road;
- (d) the maximum mass, laden or unladen, of any vehicle, the height and width of any load which may be carried by any vehicle, the manner in which any vehicle may be loaded, the extent to which any load may project in any direction and the maximum mass of any vehicle or any part thereof supported by the road or any specified area thereof, when any such vehicle is operated on a public road; 25
- (e) the emission of exhaust gas, smoke, fuel, oil, visible vapours, sparks, ash or grit from any vehicle operated on a public road; 30
- (f) excessive noise owing to the design or condition of any vehicle or the loading thereof, or to the design, condition or misuse of a silencer, or of a hooter, bell or other warning device, when any such vehicle is operated on a public road;
- (g) the particulars to be marked on any vehicle; 35
- (h) dangerous goods—
  - (i) the classification of dangerous goods;
  - (ii) the powers and duties of traffic officers in respect of the transportation of dangerous goods;
  - (iii) the manner in and conditions on which specified dangerous goods may be transported; and 40
  - (iv) the dangerous goods which may not be transported;
- (i) the towing, pushing or drawing of any vehicle by another vehicle on a public road;
- (j) the conditions on which any motor vehicle fitted with steering apparatus on the left side may be imported into the Republic or operated on a public road, including the power to prohibit the operation of such vehicle on a public road; 45
- (k) the number, nature and kind of lamps, including retro-reflectors, to be carried by any vehicle operated on a public road, the position in which they shall be, the manner, conditions and times of their use and the use of any lamp or lighting device which may endanger public safety and, for the purposes of this paragraph, "retro-reflector" means a reflector which bears a certification mark as defined in section 1 of the Standards Act, 1993 (Act No. 29 of 1993), or which bears any other prescribed identification mark; 50

- (l) the number and nature of brakes and for ensuring that brakes, silencers and steering apparatus shall be efficient and in proper working order, in respect of any vehicle operated on a public road;
- (m) the regulation of the operation and control of any vehicle on a public road, its construction, equipment, width of tracks, dimensions, mass and use in respect of either chassis and body or chassis, body and load and the conditions on which it may be used; 5
- (n) in relation to a vehicle operated on a public road, the devices to be fitted for—  
 (i) signalling the approach thereof;  
 (ii) enabling the driver thereof to become aware of the approach of another vehicle from the rear; and 10  
 (iii) indicating any intended movement thereof,  
 and the use of any such devices and for ensuring that they shall be efficient and kept in proper working order;
- (o) the protection of any public road, the mass, tyres and load of any vehicle in relation to any specified bridge or ferry, the time when and speed at which any vehicle of a specified mass may be allowed to cross any bridge or ferry, and the furnishing of security by any person against damage to any public road by reason of heavy traffic, and making good the cost of repairing such damage; 15
- (p) the stopping with and parking of vehicles on public roads; 20
- (q) the rules of the road that shall apply to all public roads;
- (r) the furnishing of accident reports and statistics of any nature;
- (s) the determination of the number of passengers for the transport of which a certain class of motor vehicle is adapted and the number which may be transported, the general safety, comfort and convenience of passengers carried on or by such a motor vehicle and the conduct of the driver, conductor and passengers on such a vehicle; 25
- (t) the specifications for the examination of any vehicle;
- (u) any light which may interfere with the proper view of any road traffic sign or may be confused with any such sign; 30
- (v) the method of determining any fact which is required for the purposes of this Act;
- (w) any form, process or token which the Minister may deem expedient for the purposes of this Act and the nature and extent of any information to be furnished for the purpose of any such form; 35
- (x) the issue of any duplicate certificate, licence or other documentation or token issued in terms of this Act if the original has been lost, destroyed or defaced or any particulars thereon have become illegible;
- (y) the carriage of persons as passengers on any vehicle which has been constructed or designed solely or mainly for the carriage of goods and not for the carriage of passengers and their effects; and 40
- (z) the additional duties for operators of specified classes of motor vehicles or operators engaged in activities which require additional safety measures for the protection of the public.
- (2) Regulations made by the Minister under subsection (1) regarding— 45
- (a) specific categories—  
 (i) of road transport undertakings;  
 (ii) of industries or trades or occupations concerned with road transport;  
 (iii) of persons by whom any undertaking or occupation referred to in subparagraphs (i) and (ii) is carried on or exercised; or 50  
 (iv) of operators of vehicles concerned with, or new entrants to, any undertaking or occupation referred to in subparagraph (iii);
- (b) specific circumstances in which any undertaking or occupation referred to in paragraph (a)(iii) is carried on or exercised; or
- (c) specific areas in which any undertaking or occupation referred to in paragraph (a)(iii) is carried on or exercised, 55
- shall be so made by the Minister with due regard to the particular requirements of the category, circumstance or area concerned.

(3) (a) The power to make regulations for any purpose referred to in subsection (1), shall include the power to restrict or prohibit any matter or thing in relation to that purpose either absolutely or conditionally.

(b) Any regulation regarding driving licences contained in identity documents shall be made in consultation with the Minister of Home Affairs. 5

(4) Any regulation may be made to apply generally throughout the Republic or within any specified area thereof or to any specified class or category of vehicle or person.

(5) A regulation may provide for penalties for a contravention thereof and for different penalties in the case of successive or continuous contraventions, but no penalty shall—

(a) in the case of a contravention of a regulation made under subsection (1)(d), (l) 10 or (n), exceed a fine or imprisonment for a period of six years; or

(b) in the case of a contravention of any other regulation, exceed a fine or imprisonment for a period of one year.

(6) Before the Minister makes any regulation, the Minister may, if he or she deems it expedient, cause a draft of the proposed regulation to be published in the *Gazette* 15 together with a notice calling upon all interested persons to lodge in writing, and within a period specified in the notice, but not less than four weeks as from the date of publication of the notice, any objections or representations which they would like to raise or make, with the Director-General for submission to the Minister: Provided that, 20 if the Minister thereafter decides to alter the draft regulation as a result of any objections or representations submitted thereanent, it shall not be necessary so to publish such alterations before making the regulation.

#### **Incorporation of standards by reference**

76. (1) The Minister may by notice in the *Gazette* incorporate in the regulations any standard without stating the text thereof, by mere reference to the number, title and year 25 of issue of that standard or to any particulars by which that standard is sufficiently identified.

(2) Any standard incorporated in the regulations under subsection (1) shall for the purposes of this Act, in so far as it is not inconsistent with it, be deemed to be a regulation. 30

(3) A notice under subsection (1) shall come into operation on a date specified in the notice, but not before the expiry of 30 days after the date of publication of the notice.

(4) If any standard is at any time after the incorporation thereof in the regulations amended or replaced, the notice incorporating that standard in the regulations shall, 35 unless otherwise stated therein, be deemed to refer to that standard as so amended or replaced, as the case may be.

(5) In this section "standard" means any code of practice, compulsory specification, specification, standard or standard method adopted by the SABS, as defined in section 1 of the Standards Act, 1993 (Act No. 29 of 1993).

### **CHAPTER XIV**

40

#### ***Registers and records***

##### **Registers or records to be kept**

77. (1) The prescribed registers or records shall be kept by—

(a) a driving licence testing centre;

(b) a testing station; 45

(c) manufacturers, builders and importers;

(d) a registering authority;

(e) any clerk or registrar of a court convicting a person of an offence in terms of this Act;

(f) any provincial administration or local authority; 50

(g) the Director-General;

(h) a department of State; and

(i) any person determined by the Minister by notice in the *Gazette*.

(2) The prescribed particulars shall be recorded in the prescribed manner in the registers and records contemplated in subsection (1).

(3) Any institution or person referred to in subsection (1) shall in the prescribed manner and at the prescribed intervals furnish the Minister or any person or body designated by the Minister with the prescribed information recorded in a register or record of such institution or person, and the Minister shall from the information so furnished compile or cause to be compiled such register as he or she may deem fit. 5

(4) The Minister may prescribe that any institution or person referred to in subsection (1) shall keep such additional registers or records as he or she may deem expedient.

#### **Copy of entry in register or record to be *prima facie* proof** 10

78. (1) A document purporting to be an extract from, or a copy of, any register or record kept in terms of this Act and purporting to be certified as such, shall in any court and upon all occasions be admissible as evidence and shall be *prima facie* proof of the truth of the matters stated in such document without the production of the original register or record or any certificate, licence, other document, microfiche, microfilm or computerised record from or of which such extract or copy was made. 15

(2) The information contained in a register or record kept for the purposes of this Act shall be furnished to—

- (a) a traffic officer or inspector of licences who requires it for the carrying out of his or her duties; 20
- (b) any person authorised thereto by the Minister or the MEC concerned to demand such furnishing;
- (c) any department of State;
- (d) a competent authority in a prescribed territory; and
- (e) a local authority. 25

Provided that the consent of the Minister or any person authorised thereto by him or her shall be obtained before such information is furnished to an authority referred to in paragraph (d).

(3) Any institution or person keeping a register or record in terms of section 77 shall at the request of any person confirm whether or not certain information corresponds to the information contained in such register or record, if that person on reasonable grounds requires confirmation of such information. 30

(4) Any provincial administration keeping a register or record in terms of section 77 shall at the request of any person furnish the information referred to in subsection (3) to that person, if that person on reasonable grounds requires that such information be furnished to him or her. 35

#### **Cognisance may be taken of information contained in register or record**

79. The Minister or the MEC concerned may, in exercising a discretion or taking a decision in terms of this Act, take cognisance of the information contained in a register or record contemplated in section 77. 40

### **CHAPTER XV**

#### ***General provisions***

##### **Parking for disabled persons**

80. Any disabled person who has been exempted from the laws relating to parking in accordance with the laws of any province, and to whom proof of such exemption has been issued, shall be deemed to be so exempted from the laws applicable in the areas of jurisdiction of all local authorities in the Republic, but only to the extent to which that disabled person is exempted from the laws applicable in the area of jurisdiction of the local authority concerned. 45

##### **Vehicle and load may be exempted from provisions of Act** 50

81. An MEC may, subject to such conditions and upon payment of such fees or

charges as he or she may determine, authorise in writing, either generally or specifically, the operation on a public road of a vehicle which does not comply with the provisions of this Act or the conveyance on a public road of passengers or any load otherwise than in accordance with the provisions of this Act.

#### **Inspections for ensuring that provisions of Act are given effect to** 5

82. (1) The Minister may authorise any person to carry out any inspection which the Minister deems necessary in order to ensure that the provisions of this Act are being complied with.

(2) If the Minister delegates the power conferred upon him or her by subsection (1) to the MEC concerned, that MEC may authorise any person to carry out the inspection concerned. 10

(3) No person shall obstruct or hinder any person in the carrying out of any inspection contemplated in subsection (1).

#### **Doubt regarding use or classification of vehicle**

83. If, for the purposes of this Act, doubt arises as to the use to which any vehicle is put or the classification of any vehicle, such matter shall be submitted to the Minister for decision. 15

#### **Variation of prescribed form**

84. The Minister may, in any such circumstances as he or she may deem expedient, authorise a registering or other authority to use, in place of a form prescribed for a particular purpose, a form which varies from such prescribed form, and in respect of such authority such varied form shall be deemed to be the prescribed form for that purpose. 20

#### **Issue of document as proof of driving licence in special circumstances**

85. (1) Notwithstanding anything to the contrary in this Act contained, the Director-General of Home Affairs or any person authorised thereto by him or her may, upon receipt of an application in the prescribed form and upon payment of such fee as that Director-General may determine, issue to any person who is the holder of a driving licence which is or was contained in an identity document, a document certifying that such person is the holder of a driving licence and that there is no objection against the issuing of a driving licence to such person in a prescribed territory, provided— 30

(a) the said identity document ceased to be of force and effect in respect of the applicant for the reason that he or she has ceased to be a South African citizen; or

(b) that Director-General or any person authorised to act on his or her behalf, satisfies himself or herself that the said identity document has been lost or, in so far as it relates to the driving licence, that it has been destroyed or defaced or the figures or particulars thereon have become illegible. 35

(2) An application referred to in subsection (1), shall be made as prescribed, and the Director-General of Home Affairs or any person authorised to act on his or her behalf shall issue such document in the prescribed manner. 40

#### **Signature upon documents**

86. Any person who is unable to sign his or her name shall, whenever his or her signature is required upon any document in terms of this Act, impress in place thereof his or her left thumb print upon the space within which he or she would otherwise have been required to sign his or her name, and if his or her left thumb print is not available, he or she shall in place thereof press another of his or her fingerprints, and in such latter event the document so marked shall be endorsed by the officer in whose presence the print was made, identifying the finger used. 45

### Service of notices

87. (1) Whenever in terms of this Act any notice is authorised or required to be served upon or issued to any person, such notice shall either be served personally upon the person to whom it is addressed or be sent to him or her by registered post to his or her last known address: Provided that the address furnished by the holder of a driving licence at the time of his or her application for such licence or recorded against his or her name in a register of driving licences, or the address recorded against the registration of a vehicle in a register of motor vehicles as the address of the owner of such vehicle, shall serve as his or her domicile of summons and execution for all purposes arising from or for the purposes of this Act, for the service of notices, post or process on that person. 5 10

(2) Service by registered post in terms of subsection (1) shall be deemed to have been effected on the tenth day after the date stamped upon the receipt for registration issued by the post office which accepted the notice.

(3) A certificate by the officer who issued the notice referred to in subsection (1), or by a person subordinate to such officer, stating the time, place and manner of issuing such notice, shall be *prima facie* proof that such notice was duly issued. 15

### State bound

88. This Act shall bind the State and any person in the service of the State: Provided that the Minister may, by notice in the *Gazette*, exempt the State or any department thereof or any such person from any provision of this Act, subject to such conditions as the Minister may determine. 20

### Offences and penalties

89. (1) Any person who contravenes or fails to comply with any provision of this Act or with any direction, condition, demand, determination, requirement, term or request thereunder, shall be guilty of an offence. 25

(2) Any person convicted of an offence in terms of subsection (1) read with section 42(1) or (2), 44(1), 45(2), 46(1) or 65(1), (2), (5) or (9) shall be liable to a fine or to imprisonment for a period not exceeding six years.

(3) Any person convicted of an offence in terms of subsection (1) read with section 17(4), 18(5), 59(4), 61(2), 66(3) or 68(1), (2), (3), (4) or (6) shall be liable to a fine or to imprisonment for a period not exceeding three years. 30

(4) Any person convicted of an offence in terms of subsection (1) read with section 61(1) shall be liable—

(a) in the case of the death of or serious injury to a person where it is proved that the person convicted has failed to comply with paragraph (a), (b), (c) or (f) of section 61(1), to a fine or to imprisonment for a period not exceeding nine years; 35

(b) in the case of damage in respect of any property or animal of another person where it is proved that the person convicted has failed to comply with paragraph (a), (d) or (f) of section 61(1), to a fine or to imprisonment for a period not exceeding three years; or 40

(c) where it is proved that he or she has failed to comply with paragraph (e) or (g) of section 61(1), to a fine or to imprisonment for a period not exceeding one year.

(5) Any person convicted of an offence in terms of subsection (1) read with section 63(1) shall be liable— 45

(a) in the case where the court finds that the offence was committed by driving recklessly, to a fine or to imprisonment for a period not exceeding six years; or

(b) in the case where the court finds that the offence was committed by driving negligently, to a fine or to imprisonment for a period not exceeding three years. 50

(6) Any person convicted of an offence in terms of subsection (1) read with any other provision of this Act shall be liable to a fine or to imprisonment for a period not exceeding one year.

(7) Notwithstanding anything to the contrary in any law contained, a magistrate's court shall be competent to impose any penalty provided for in this Act.

#### Apportionment of fines

90. Subject to sections 6 and 8 of the Finance and Financial Adjustments Acts Consolidation Act, 1977 (Act No. 11 of 1977), and section 341(2)(b) of the Criminal Procedure Act, 1977 (Act No. 51 of 1977), all fines imposed or moneys estreated as bail in respect of any offence in terms of this Act shall be paid into the appropriate accounts as determined by the laws of each province. 5

#### Delegation by Minister and MEC

91. (1) The Minister may— 10

- (a) delegate to any other person any power conferred upon him or her by this Act other than the power conferred by section 75; and
- (b) authorise any other person to perform any duty assigned to the Minister by this Act,

and may effect such delegation or grant such authorisation subject to such conditions as he or she may deem fit. 15

(2) The MEC concerned may—

- (a) delegate to any other person any power conferred upon him or her by or under this Act; and
- (b) authorise any other person to perform any duty assigned to the MEC by or 20 under this Act,

and may effect such delegation or grant such authorisation subject to such conditions as he or she may deem fit.

(3) Any delegation effected or authorisation granted under subsection (1) or (2) may at any time be withdrawn by the Minister or by the MEC concerned, as the case may be. 25

#### Provincial laws

92. Notwithstanding anything to the contrary in any other law contained, but subject to this Act—

- (a) the right of appeal by any person who is aggrieved by any decision taken in terms of this Act shall be as provided by the laws of the province concerned; 30 and
- (b) the fees payable in respect of any application or request made, or document issued in terms of this Act, or any other matter referred to in this Act, shall be as provided by the laws of the province concerned.

#### Repeal of laws, and savings 35

93. (1) Subject to subsections (2) and (3), the laws mentioned in the Schedule are hereby repealed to the extent indicated in the third column thereof.

(2) Any proclamation, regulation, by-law, notice, order, prohibition, authorisation, appointment, permission, information or document made, issued, imposed, granted, furnished or given and any other action taken in terms of any provision of a law repealed 40 by subsection (1) shall be deemed to have been made, issued, imposed, granted, furnished, given or taken in terms of the corresponding provision of this Act (if any).

(3) Any relevant provision of the Road Traffic Act, 1989 (Act No. 29 of 1989), shall, notwithstanding the provisions of subsection (1), remain in force until such time as the corresponding provision of this Act (if any) has been put into operation under section 94(2). 45

#### Short title and commencement

94. (1) This Act shall be called the National Road Traffic Act, 1996, and shall come into operation on a date fixed by the President by proclamation in the *Gazette*.

(2) Different dates may be so fixed in respect of different provisions of this Act, and dates so fixed may differ in respect of different—

- (a) persons or goods or categories of persons or goods transported by means of a motor vehicle;
- (b) kinds or classes of motor vehicles used in the transportation of persons or goods; 5
- (c) persons or categories of persons; or
- (d) areas in the Republic.

(3) More than one of the elements referred to in paragraphs (a) to (d), inclusive, of subsection (2) may be combined for the purposes of that subsection. 10

Act No. 93, 1996

NATIONAL ROAD TRAFFIC ACT, 1996

**SCHEDULE**

<b>No. and year of law</b>	<b>Short title</b>	<b>Extent of repeal</b>
Act No. 9 of 1972	The National Road Safety Act, 1972	Sections 7A, 14 and 26
Act No. 29 of 1989	The Road Traffic Act, 1989	The whole
Act No. 71 of 1991	The Businesses Act, 1991	Schedule 3 in so far as it refers to the Road Traffic Act, 1989
Act No. 73 of 1991	The Road Traffic Amendment Act, 1991	The whole
Act No. 17 of 1992	The Road Traffic Amendment Act, 1992	The whole
Act No. 40 of 1992	The Road Traffic Second Amendment Act, 1992	The whole
Act No. 39 of 1993	The Road Traffic Amendment Act, 1993	The whole
Act No. 66 of 1993	The Road Traffic Second Amendment Act, 1993	The whole
Act No. 129 of 1993	The General Law Third Amendment Act, 1993	Section 72
Act No. 16 of 1995	The Transport General Amendment Act, 1995	Sections 12 to 26, inclusive