

REPUBLIC OF SOUTH AFRICA

NATIONAL ROAD TRAFFIC AMENDMENT BILL

*(Select Committee on Transport, Public Service and Administration, Public Works and
Infrastructure)
(The English Text is the official text of the Bill)*

(MINISTER OF TRANSPORT)

[B 7D—2020]

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GENERAL EXPLANATORY NOTE:

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

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

BILL

To amend the National Road Traffic Act, 1996, so as to insert new definitions and to amend others; to provide for the suspension and cancellation of the registration of an examiner for driving licences or an examiner of vehicles, if such person has been convicted of an offence listed in **Schedule 1 or 2** of the Criminal Procedure Act, 1977 (Act No. 51 of 1977), or has a direct or indirect conflict of interest; to provide for the registration and grading of training centres; to further provide for the registration of manufacturers, builders, body builders, importers and manufacturers of number plates, including manufacturers of reflective sheeting for number plates, suppliers of blank number plates, suppliers of reflective sheeting for number plates, embossers of number plates, weighbridge facilities, manufacturers of microdots, suppliers of microdots and microdot fitment centres; to extend the right to appeal to a manufacturer of blank number plates, manufacturer of reflective sheeting for number plates, supplier of blank number plates, supplier of reflective sheeting for number plates, embosser of number plates, weighbridge facility, manufacturer of microdots, supplier of microdots and microdot fitment centres; to require a provincial Department responsible for transport or local authority to register a driving licence testing centre before operating as a driving licence testing centre; to further provide for the appointment of inspectorate of manufacturers, building, body builders, importers, including inspectorates of number plates, microdots and weighbridge facilities; to prohibit the wilful or negligent issuing of a learner's licence or authorising the issue of a learner's licence, endorsing or failure to endorse a learner's licence, or to produce, print or manufacture any document similar to a learner's licence, contrary to Chapter IV of the National Road Traffic Act, 1996; to prohibit the use of unauthorised aid during a test for a learner's licence or a driving licence test, and the disqualification thereof; to provide for the registration and grading of driving school instructors; to provide for the registration and grading of driving schools; to regulate further on international driving permits and foreign driving licence and permits; and to provide for matters connected therewith.

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

Amendment of section 1 of Act 93 of 1996, as amended by section 1 of Act 8 of 1998, section 1 of Act 21 of 1999 and section 1 of Act 64 of 2008

1. Section 1 of the National Road Traffic Act, 1996 (hereinafter referred to as the principal Act), is hereby amended—

(a) by the substitution for the definition of “ambulance” of the following definition:

“ **‘ambulance’** means a motor vehicle that is—

(a) appropriately equipped, designed or adapted solely for the purpose of providing emergency care and conveyance of patients;

(b) owned by an Emergency Medical Service as contemplated in the Emergency Medical Services Regulations, 2016, as amended; and

(c) registered as an ambulance in terms of this Act;”;

(b) by the insertion after the definition of “authorised officer” of the following definition:

“ **‘body builder’** means a person who builds new bodies, or modifies existing bodies on chassis and chassis-cabs, and who is registered as a builder of new vehicles or bodies or imports new buses, midibuses or minibuses complete with bodies, and is registered as an importer;”

(c) by the substitution for the definition of “builder” of the following definition:

“ **‘builder’** means any person who manufactures or assembles motor vehicles in whole or in part from used components[, or modifies motor vehicles using new or used components];”;

(d) by the insertion after the definition of “driving licence testing centre” of the following definitions:

“ **‘driving school’** means any person who has been registered in terms of this Act to conduct or offer instruction or training in the operation of motor vehicles in preparation of an applicant for examination to obtain a learner’s licence, driving licence or professional driving permit in terms of this Act;

‘ECE regulations’ means the United Nations Economic Commission for Europe Regulations;”;

(e) by the insertion after the definition of “edge of the roadway” of the following definitions:

“ **‘embosser of number plates’** means any person who is registered to emboss an allocated licence number or a motor trade number of a motor vehicle on a blank number plate for the purpose of selling such number plate;

‘emergency services’ means emergency medical services provided by an organ of state or private body for private use, disaster management services, fire and emergency services, traffic officers, reserve traffic warden, traffic warden, members of the South African Police Service, municipal police service, members of the South African National Defence force, or the Department responsible for health services;”;

‘emergency vehicle’ means a fire-fighting vehicle, fire-fighting response vehicle, rescue vehicle, ambulance, medical response vehicle, a vehicle driven by a traffic officer in the execution of his or her duties, a vehicle driven by a member of the South African Police Service in the execution of his or her duties or a vehicle driven by a member of municipal police service in the execution of his or her duties, both defined in the South African Police Service Act, 1995 (Act No. 68 of 1995), and a vehicle driven by a person engaged in civil protection as contemplated in the Disaster Management Act, 2002 (Act No. 57 of 2002);”;

(f) by the insertion after the definition of “examiner of vehicles” of the following definition:

“ **‘fire-fighting response vehicle’** means a vehicle operated by a person rendering a “service” as defined in section 1 of the Fire Brigade Service Act, 1987 (Act No. 99 of 1987);”;

- (g) by the insertion after the definition of “importer” of the following definition:
“**‘incident’** means an extraordinary condition or event which results in a reduction in road capacity or creates a hazard for road users for a sustained period of time, which includes a minor accident, shoulder or lane obstruction, rail or aviation accident, leakage or spilled load;” 5
- (h) by the insertion after the definition of “inspector of licences” of the following definitions:
“**‘inspectorate of driving licence testing centres’** means a person, an authority or an organisation appointed in terms of section 11;
‘inspectorate of driving schools’ means a person, authority or an organisation appointed as such in terms of section 28H;
‘inspectorate of manufacturers, builders, body builders and importers’ means a person, an authority or an organisation appointed as such in terms of section 7;
‘inspectorate of testing stations’ means any person, authority or organisation appointed in terms of section 41;” 10 15
- (i) by the substitution for the definition of “instructor” of the following definition:
“**‘instructor’** means any person who for direct or indirect reward—
(a) instructs any other person in the driving of a motor vehicle;
(b) teaches any other person the rules of the road, road traffic signs or any other teaching in order to obtain a learner’s licence, a driving licence or a professional driving permit;” 20
- (j) by the substitution for the definition of “local authority” of the following definition:
“**‘local authority’** means all municipalities conferred with the powers of the local sphere of government as envisaged in Chapter 7 of the Constitution;” 25
- (k) by the insertion after the definition of “manufacturer” of the following definitions:
“**‘manufacturer of blank number plates’** means any person or an organisation who is registered to manufacture blank number plates for purposes of embossing an allocated licence number or a motor trade number of a motor vehicle;
‘manufacturer of microdots’ means any person or an organisation registered in terms of section 5K to manufacture microdots;” 30 35
- (l) by the insertion after the definition of “manufacturer of number plates” of the following definition:
“**‘manufacturer of reflective sheeting’** means any person or an organisation who is registered to manufacture reflective sheeting for purposes of manufacturing blank number plates;” 40
- (m) by the insertion after the definition of “medical practitioner” of the following definitions:
“**‘medical rescue vehicle’** means a motor vehicle owned by an Emergency Medical Service as contemplated in the Emergency Medical Services Regulations, 2016, as amended and registered as a medical rescue vehicle in terms of this Act;
‘medical response vehicle’ means a motor vehicle owned by an Emergency Medical Service as contemplated in the Emergency Medical Services Regulations, 2016, as amended and registered as a medical response vehicle in terms of this Act;
‘microdot’ means a micro-particle with a diameter smaller than 1,8 mm which bears a unique optically readable microdot identifier of which the content and structure complies with the specifications SANS 534-1 and is legible with equipment that magnifies the text 60 times;
‘microdot fitment centre’ means any person or organisation registered in terms of section 5K to fit microdots on vehicles;” 45 50 55
- (n) by the insertion after the definition of “Minister” of the following definition:
“**‘model regulations’** means the United Nations Recommendations on the Transport of Dangerous Goods Model Regulations, 2015;” 60

- (o) by the substitution for the definition of “motor vehicle” of the following definition:
- “**motor vehicle**’ means any self-propelled vehicle and includes—
- (a) a trailer; and
 - (b) a power assisted pedal cycle, except for a power assisted pedal cycle contemplated in subparagraph (iii), but does not include—
 - (i) any vehicle propelled by electrical power derived from storage batteries and which is controlled by a pedestrian;
 - (ii) any vehicle with a mass not exceeding 230 kilograms and specifically designed and constructed, but not merely adapted, for the use of any person suffering from some physical defect or disability and used solely by such person;
 - (iii) a power assisted pedal cycle, having pedals and an engine or electrical motor as an integral part thereof, with a maximum mass of 30 kilograms and a design speed not exceeding 25 kilometres per hour that complies with the prescribed requirements for power assisted pedal cycles; or
 - (iv) a vehicle that has maximum design speed of 45 kilometres per hour that complies with the prescribed requirements for environmentally friendly vehicles;”;
- (p) by the insertion after the definition of “motor vehicle” of the following definition:
- “**NaTIS officer**’ means a person who has been appointed and registered in terms of sections 3A and 3C, respectively;”;
- (q) by the insertion after the definition of “park” of the following definition:
- “**Passenger Rail Agency of South Africa**’ means the company established in terms of section 22 of the Legal Succession to the South African Transport Services Act, 1989 (Act No. 9 of 1989);”;
- (r) by the substitution for the definition of “pedal cycle” of the following definition:
- “**pedal cycle**’ means—
- (a) a bicycle or tricycle designed for propulsion solely by means of human power; or
 - (b) a power assisted pedal cycle, as contemplated in subparagraph (iii) of the definition of motor vehicle;”;
- (s) by the insertion after the definition of “province” of the following definition:
- “**provincial inspectorate**’ means a person or an organisation appointed in terms of section 11A;”;
- (t) by the substitution for the definition of “public road” of the following definition:
- “**public road**’ means any road, street or thoroughfare or any other place (whether a thoroughfare or not) which—
- (a) is commonly used by the public or any section thereof; or
 - (b) the public or any section thereof has a right of access, and includes—
 - (i) the verge of any such road, street or thoroughfare;
 - (ii) any bridge, ferry or drift traversed by any such roads, street or thoroughfare; and
 - (iii) any other work or object forming part of, or connected with or belonging to such road, street, or thoroughfare, and includes roads inside a residential estate or other area with the prescribed methods of access control;”;
- (u) by the substitution for the definition of “reserve traffic warden” of the following definition:
- “**reserve traffic warden**’ means a [person] traffic warden who has been declared a peace officer by the Minister of Justice in terms of section 334 of the Criminal Procedure Act, 1977 (Act No. 51 of 1977), and has been appointed as a reserve traffic [officer] warden by the chief executive officer or the MEC, as the case may be, on a temporary basis for a specific period;”;

- (v) by the insertion after the definition of “South African Bureau of Standards” of the following definition:
“**standard**” means any code of practice, compulsory specification, specification, standard or standard method adopted by the South African Bureau of Standards, as defined in section 1 of the Standards Act, 2008 (Act No. 8 of 2008), or adopted by the International Standard Organisation;” 5
- (w) by the insertion after the definition of “stop” of the following definitions:
“**supplier of blank number plates**” means a person, an authority or an organisation registered to supply blank number plates for purposes of embossing an allocated licence number of a motor vehicle or a motor trade number of a motor vehicle;
“**supplier of microdots**” means a person, an authority or an organisation registered in terms of section 5K for the purpose of supplying microdots;
“**supplier of reflective sheeting**” means a person, an authority or an organisation registered to supply reflective sheeting for blank number plates for purposes of embossing an allocated licence number or a motor trade number of a motor vehicle;” 10 15
- (x) by the substitution for the definition of “testing station” of the following definition:
“**testing station**” means a testing station registered in terms of section 39 to examine and test a motor vehicle;” and 20
- (y) by the insertion after the definition of “verge” of the following definition:
“**weighbridge facility**” means a facility with a mass measuring apparatus and is registered in terms of section 5E to determine the tare of a motor vehicle;” 25

Amendment of section 3A of Act 93 of 1996, as inserted by section 2 of Act 21 of 1999 and amended by section 2 of Act 64 of 2008

2. Section 3A of the principal Act is hereby amended—

- (a) by the deletion in subsection (1)(a) of the word “and” at the end of subparagraph (iv); 30
- (b) by the substitution in subsection (1)(a) for the comma at the end of subparagraph (v) of a semi-colon;
- (c) by the addition in subsection (1)(a) of the following subparagraph:
“(vi) NaTIS officer;” 35
- (d) by the deletion in subsection (1)(b) of the word “and” at the end of subparagraph (iv);
- (e) by the substitution in subsection (1)(b) for the comma at the end of subparagraph (v) of a semi-colon;
- (f) by the addition in subsection (1)(b) of the following subparagraph: 40
“(iv) NaTIS officer; and
(v) reserve traffic warden;”;
- (g) by the deletion in subsection (1)(c) of the word “and” at the end of subparagraph (ii);
- (h) by the substitution in subsection (1)(c) for the comma at the end of subparagraph (iii) of a semi-colon; 45
- (i) by the addition in subsection (1)(c) of the following subparagraphs:
“(iv) traffic warden;
(v) reserve traffic warden; or
(vi) NaTIS officer;” 50
- (j) by the substitution in subsection (3) for paragraph (a) of the following paragraph:
“(a) No person shall be appointed under subsection (1) as an authorised officer or a NaTIS officer unless he or she has been graded and registered in the prescribed manner.” 55

Amendment of section 3B of Act 93 of 1996, as inserted by section 2 of Act 21 of 1999

3. Section 3B of the principal Act is hereby amended—
- (a) by the substitution for the heading of the following heading: 5
 “**Application for registration as inspector of licences, examiner of vehicles, examiner for driving licences [or], traffic officer, reserve traffic warden, traffic warden or NaTIS officer**”;
 - (b) by the deletion in subsection (1) of the word “or” at the end of paragraph (c);
 - (c) by the substitution in subsection (1) for the comma at the end of paragraph (d) of a semi-colon; and 10
 - (d) by the addition in subsection (1) of the following paragraphs:
 - “(e) a reserve traffic warden;
 - (f) a traffic warden; or
 - (g) a NaTIS officer.”

Amendment of section 3C of Act 93 of 1996, as inserted by section 2 of Act 21 of 1999

4. Section 3C of the principal Act is hereby amended—
- (a) by the substitution in subsection (2) for paragraph (a) of the following paragraph:
 - “(a) an examiner of vehicles if he or she, or through his or her spouse or partner, has or acquires a direct or indirect financial interest in the manufacturing, selling, rebuilding, repairing or modifying of motor vehicles;**[or]**”;
 - (b) by the substitution in subsection (2) for the colon at the end of paragraph (b) of a semi-colon; and 25
 - (c) by the addition in subsection (2) of the following paragraph:
 - “(c) a traffic officer, reserve traffic warden, traffic warden or NaTIS officer, if he or she, or through his or her spouse or partner, has or acquires a direct or indirect financial interest in a road transport services business.” 30

Amendment of section 3D of Act 93 of 1996, as inserted by section 2 of Act 21 of 1999

5. Section 3D of the principal Act is hereby amended—
- (a) by the substitution for the heading of the following heading: 35
 “**Minimum requirements for registration as inspector of licences, examiner of vehicles, examiner for driving licences [and], traffic officer, reserve traffic warden and NaTIS officer**”;
 - (b) by the substitution in subsection (1) for the words preceding paragraph (a) of the following words:
 - “The minimum requirements for registration as an inspector of licences, an examiner of vehicles, an examiner for driving licences [or], a traffic officer, a reserve traffic warden, a traffic warden or NaTIS officer, as the case may be, shall be that the applicant—;”;
 - (c) by the substitution in subsection (1) for paragraph (a) of the following paragraph: 45
 “(a) has obtained an appropriate [diploma] qualification at a training centre approved by the Shareholders Committee;”;
 - (d) by the substitution in subsection (2) for the words preceding paragraph (a) of the following words:
 - “The [diploma] qualification referred to in subsection (1)(a) shall—”. 50

Amendment of section 3E of Act 93 of 1996, as inserted by section 2 of Act 21 of 1999

6. Section 3E of the principal Act is hereby amended—

- (a) by the substitution in subsection (1) for the words preceding paragraph (a) of the following words:
 - “The inspectorate of driving licence testing centres or the inspectorate of testing stations, respectively, may for the period that it deems fit and in the manner prescribed, suspend or cancel the registration of an examiner for driving licences [,] or an examiner of vehicles, if—”;
- (b) by the deletion in subsection (1) of the word “or” at the end of subparagraph (c);
- (c) by the substitution in subsection (1) for the fullstop at the end of paragraph (d) of a semi-colon;
- (d) by the addition in subsection (1) of the following paragraphs:
 - (e) such person has been convicted of an offence listed in Schedule 1, Schedule 2, Schedule 3, Schedule 4, Schedule 5, Schedule 6 or Schedule 7 to the Criminal Procedure Act, 1977 (Act No. 51 of 1977);
 - (f) such person holds or acquires a direct or indirect financial interest in a road transport services business, the nature and extent of which may be prescribed by the Minister;
 - (g) an examiner of vehicles holds or acquires a direct or indirect financial interest in the manufacturing, selling, rebuilding, repairing or modifying of motor vehicles, the nature and extent of which may be prescribed by the Minister; or
 - (h) the examiner for driving licences holds or acquires a direct or indirect financial or other related interest in any driving school or in the training, instruction or supervision of learner drivers, the nature and extent of which may be prescribed by the Minister.”;
- (e) by the substitution for subsection (2) of the following subsection:
 - “(2) The chief executive officer may for the period that he or she deems fit and in the manner prescribed, suspend or cancel the registration of a traffic officer or inspector of licences if—
 - (a) any of the circumstances referred to in subsection (1)(a) to (h) exist; or
 - (b) the inspector of licences or traffic officer, as the case may be, holds or acquires a direct or indirect financial or other related interest in any testing station, driving school or in the training, instruction or supervision of learner drivers, the nature and extent of which may be prescribed by the Minister.”.

Amendment of section 3I of Act 93 of 1996, as inserted by section 2 of Act 21 of 1999

7. Section 3I of the principal Act is hereby amended—
- (a) by the deletion of “and” at the end of paragraph (o);
 - (b) by the substitution for the full stop at the end of paragraph (p) of “; and”; and
 - (c) by the addition of the following paragraph:
 - “(q) if he or she is satisfied, on reasonable grounds and subject to verification by the traffic officer, that a motor vehicle—
 - (i) was in the past issued with a notice to discontinue operation in terms of section 44(1) and such notice was not complied with;
 - (ii) is being operated on a public road by a driver who is not a holder of a valid driving licence;
 - (iii) is being operated on a public road by a driver who is not a holder of a valid professional driving permit; or
 - (iv) is being operated by a person without the necessary operating licence or permit or contrary to the conditions thereof, may impound the vehicle pending the investigation and prosecution of that person for an offence in terms of any applicable law and the officer must deal with the impounded vehicle as determined in terms of the relevant sections of the Criminal Procedure Act, 1977 (Act No. 51 of 1977).”.

Substitution of section 3L of Act 93 of 1996, as inserted by section 2 of Act 21 of 1999

8. The following section is hereby substituted for section 3L of the principal Act:

“Registration of training centre

3L. A provincial department responsible for transport or a local authority shall not offer authorised officer qualifications unless it has been approved, registered and graded as a training centre in terms this Act.”.

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Insertion of sections 3M, 3N and 3O in Act 93 of 1996

9. The following sections are hereby inserted in the principal Act after section 3L:

“Application for registration of training centre

3M. (1) A provincial department responsible for transport or a local authority desiring to offer qualifications for authorised officers shall apply in the prescribed manner to the Shareholders Committee for registration as a training centre.

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(2) A training centre may, on the prescribed conditions, be approved, registered and graded to offer qualifications for traffic officers, examiners for driving licences, examiners of vehicles or traffic wardens or a combination thereof.

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(3) A provincial department responsible for transport or a local authority shall not offer qualifications for authorised officers unless it has been approved, registered and graded as a training centre.

Registration and grading of training centre

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3N. On receipt of an application referred to in section 3M the Shareholders Committee shall, if satisfied that, in relation to the training centre concerned, the prescribed requirements have been met, register and grade such training centre in the prescribed manner, and give notice of such registration in the *Gazette*.

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Suspension or cancellation of registration of training centre

3O. The Shareholders Committee may, if a registered training centre no longer complies with the requirements referred to in section 3L, suspend the registration of that training centre for such period as it deems fit or regrade or cancel the registration, in the prescribed manner, and subject to due process of law.”.

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Amendment of section 5 of Act 93 of 1996, as substituted by section 3 of Act 8 of 1998 and amended by section 4 of Act 21 of 1999

10. Section 5 of the principal Act is hereby amended—

(a) by the substitution for the heading of the following heading:

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“Registration of manufacturers, builders, body builders and importers [and manufactures of number plates]”;

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

“(1) Every manufacturer, builder, body builder or importer must apply in the prescribed manner to the chief executive officer for registration as a manufacturer, builder, body builder or importer, as the case may be.”;
and

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(c) by the substitution for subsections (4), (5) and (6) of the following subsections, respectively:

“(4) The chief executive officer may, in the prescribed manner, suspend for such period as he or she may deem fit, or cancel, the registration of a manufacturer, builder, body builder or importer [or manufacturer of number plates].

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(5) The [**manufacturers, builders or importers**] manufacturer, builder, body builder or importer referred to in subsection (1) shall, in the prescribed manner, register every motor vehicle manufactured, modified, built or imported by him or her, subject to compliance with the applicable traffic laws before he or she distributes or sells such vehicle. 5

(6) [**Manufacturers, builders and importers**] A manufacturer, builder, body builder or importer shall not manufacture, build, modify, import, sell or distribute motor vehicles [**except**] unless registered in accordance with the prescribed conditions.”.

Insertion of section 5A, 5B, 5C, 5D, 5E, 5F, 5G, 5H, 5I, 5J, 5K and 5L in Act 93 of 1996 10

11. The following sections are hereby inserted in the principal Act after section 5:

“Manufacturing of blank number plates, supplying of blank number plates, manufacturing of reflective sheeting for number plates, supplying of reflective sheeting for number plates and embossing of number plates 15

5A. No person, authority or organisation shall—

- (a) manufacture blank number plates;
 - (b) manufacture reflective sheeting for number plates;
 - (c) supply blank number plates;
 - (d) supply reflective sheeting for number plates; or
 - (e) emboss or sell number plates,
- unless such person, authority or organisation is registered as such manufacturer, supplier or embosser in terms of this Act. 20

Application for registration as manufacturer of blank number plates, supplier of blank number plates, manufacturer of reflective sheeting for number plates, supplier of reflective sheeting for number plates and embosser of number plates 25

5B. Any person, authority or organisation desiring to manufacture or supply blank number plates, desiring to manufacture or supply reflective sheeting for number plates, or desiring to emboss number plates, shall apply in the prescribed manner to the MEC concerned for registration as— 30

- (a) a manufacturer of blank number plates,
- (b) a manufacturer of reflective sheeting for number plates;
- (c) a supplier of blank number plates;
- (d) a supplier of reflective sheeting for number plates; or
- (e) an embosser of number plates. 35

Registration of manufacturer of blank number plates, supplier of blank number plates, manufacturer of reflective sheeting for number plates, supplier of reflective sheeting for number plates and embosser of number plates 40

5C. On receipt of the application referred to in section 5B, the MEC concerned shall, if satisfied that, in relation to the—

- (a) manufacturer of blank number plates;
 - (b) manufacturer of reflective sheeting for number plates;
 - (c) supplier of blank number plates;
 - (d) supplier of reflective sheeting for number plates; or
 - (e) embosser of number plates,
- the prescribed requirements have been met, register such manufacturer, supplier or embosser in the prescribed manner, and give notice of such registration in the provincial Gazette. 45 50

Suspension or cancellation of registration as manufacturer of blank number plates, supplier of blank number plates, manufacturer of reflective sheeting for number plates, supplier of reflective sheeting for number plates and embosser of number plates

5D. Subject to due process of law, the MEC concerned may, if a registered—

- (a) manufacturer of blank number plates;
- (b) manufacturer of reflective sheeting for number plates;
- (c) supplier of blank number plates;
- (d) supplier of reflective sheeting for number plates; or
- (e) embosser of number plates,

no longer complies with the requirements of this Act, suspend the registration of that manufacturer, supplier or embosser for such period as he or she may deem fit or cancel the registration in the prescribed manner.

Weighbridge facility to be registered

5E. No person, authority or organisation shall operate a weighbridge facility unless such person, authority or body is registered as a weighbridge facility in terms of this Act.

Application for registration as weighbridge facility

5F. Any person, authority or organisation desiring to operate a weighbridge facility shall apply in the prescribed manner to the MEC concerned for registration as a weighbridge facility.

Registration of weighbridge facility

5G. On receipt of the application referred to in section 5F, the MEC concerned shall, if satisfied that, in relation to the weighbridge facility, the prescribed requirements have been met, register such weighbridge facility in the prescribed manner, and give notice of such registration in the provincial *Gazette*.

Suspension or cancellation of registration of weighbridge facility

5H. Subject to due process of law, the MEC concerned may, if a registered weighbridge facility no longer complies with the requirements of this Act, suspend the registration of that weighbridge facility for such period as he or she may deem fit or cancel the registration in the prescribed manner, and give notice of such cancellation in the provincial *Gazette*.

Manufacturer of microdots, supplier of microdots and microdot fitment centres

5I. No person, authority or organisation shall—

- (a) manufacture microdots;
- (b) supply microdots; or
- (c) operate a microdot fitment centre,

unless such person, authority or organisation is registered as such.

Application for registration as manufacturer, supplier or operator of microdots, supplier of microdots and microdot fitment centre

5J. Any person, authority or organisation desiring to manufacture microdots, supply microdots, or operate a microdot fitment centre shall apply in the prescribed manner to the MEC concerned for registration as such.

Registration of manufacturer of microdots, supplier of microdots and microdot fitment centre

5K. On receipt of the application referred to in section 5J, the MEC concerned shall, if satisfied that, in relation to the—
(a) manufacturer of microdots; 5
(b) supplier of microdots; or
(c) microdot fitment centre,
the prescribed requirements have been met, register such manufacturer, supplier of microdots or microdot fitment centre in the prescribed manner. 10

Suspension or cancellation of registration of manufacturer of microdots, supplier of microdots and microdot fitment centre

5L. Subject to due process of law, the MEC concerned may, if a registered manufacturer of microdots, supplier of microdots or microdot fitment centre no longer complies with the requirements of this Act, suspend the registration of that manufacturer of microdots, supplier of microdots or microdot fitment centre for such period as the MEC deems fit, or cancel the registration, in the prescribed manner.”. 15

Amendment of section 6 of Act 93 of 1996, as amended by section 4 of Act 8 of 1998 and section 5 of Act 21 of 1999 20

12. Section 6 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:

“(1) Any person who is aggrieved at the refusal of the chief executive officer to register him or her as a manufacturer, builder, importer **[or]**, manufacturer of blank number plates, manufacturer of reflective sheeting for number plates, supplier of blank number plates, supplier of reflective sheeting for number plates, embosser of number plates, weighbridge facility, manufacturer of microdots, supplier of microdots and microdot fitment centre, or at the refusal of the MEC to issue an exemption permit in terms of section 81(3), or at the suspension or cancellation of his or her registration as manufacturer, builder, importer **[or]**, manufacturer of blank number plates, manufacturer of reflective sheeting for number plates, supplier of blank number plates, supplier of reflective sheeting for number plates, embosser of number plates, weighbridge facility, manufacturer of microdots, supplier of microdots, microdot fitment centre or permit holder in terms of section 81(3), or at the conditions on which 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 Shareholders Committee against such refusal, suspension, cancellation or conditions, and such person shall at the same time serve a copy of the appeal on the chief executive officer.”. 25 30 35

Amendment of section 7 of Act 93 of 1996 40

13. Section 7 of the principal Act is hereby amended—

(a) by the substitution for the heading of the following heading:
“**Appointment of [inspectorate] inspectorates of manufacturers, builders [and], body builders, importers, number plates, microdots and weighbridge facilities**”; and 45

(b) by the substitution for subsections (1) and (2) of the following subsections, respectively:

“(1) The Minister may appoint a person [,] or an authority **[or a body]** as an inspectorate of—
(a) manufacturers, builders **[and]**, body builders and importers; 50
(b) number plates;
(c) microdots; or
(d) weighbridge facilities.

(2) The powers and duties of the inspectorates contemplated in subsection (1) in relation to the registration and inspection of—
(a) manufacturers, builders **[and]**, body builders and importers;
(b) number plates;
(c) microdots; and
(d) weighbridge facilities,
shall be as prescribed.”. 5

Repeal of section 8 of Act 93 of 1996, as substituted by section 6 of Act 21 of 1999

14. Section 8 of the principal Act is hereby repealed.

Amendment of section 8A of Act 93 of 1996, as inserted by section 6 of Act 21 of 1999 and amended by section 5 of Act 64 of 2008 10

15. Section 8A of the principal Act is hereby amended—
(a) by the substitution for subsection (1) of the following subsection:
“(1) **[Any department of State or registering authority]** Any local authority or registering authority desiring to operate a driving licence testing centre shall in the prescribed manner apply to the inspectorate of driving licence testing centres for approval and the registration of such testing centre.”; 15
(b) by the substitution for subsection (3) of the following subsection:
“(3) **[No department of State]** A local authority or a registering authority shall not operate a driving licence testing centre unless such testing centre is registered and graded in accordance with this Act.”; and 20
(c) by the addition of the following subsection:
“(4) A driving licence testing centre may, on the prescribed conditions, apply to the inspectorate of driving licence testing centres to be registered and graded to operate a mobile facility that may test applicants for learner’s licences— 25
(a) in case of a provincial department, within the province concerned; and
(b) in case of a registering authority or a local authority, within the area of jurisdiction of the registering authority or the local authority concerned.”. 30

Substitution of section 9 of Act 93 of 1996, as substituted by section 7 of Act 21 of 1999

16. The following section is hereby substituted for section 9 of the principal Act: 35

“Registration and grading of driving licence testing centres

9. On receipt of an application referred to in section 8A, the inspectorate of driving licence testing centres 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 and grading in the *Gazette*.”. 40

Amendment of section 11 of Act 93 of 1996, as substituted by section 9 of Act 21 of 1999 and amended by section 6 of Act 64 of 2008

17. Section 11 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection: 45

“(1) The Minister shall **[, after a decision has been taken by the Shareholders Committee,]** appoint a suitably qualified person[,] or an authority **[or a body]** as an inspectorate of driving licence testing centres.”.

Insertion of section 11A in Act 93 of 1996 50

18. The following section is hereby inserted in the principal Act after section 11:

“Provincial inspectorates

11A. (1) An MEC shall appoint suitably qualified a person as a provincial inspectorate to conduct inspections and evaluations to ensure compliance with this Act.

(2) The Minister shall, in consultation with the relevant MEC, prescribe the powers and duties of the provincial inspectorate.” 5

Amendment of section 15 of Act 93 of 1996, as amended by section 10 of Act 21 of 1999

19. Section 15 of the principal Act is hereby amended—

(a) by the substitution for the heading of the following heading: 10

“Disqualification from obtaining or holding learner’s licence, [or] driving licence or driving permit”;

(b) by the substitution in subsection (1)(f) for subparagraph (vii) of the following subparagraph:

“(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**];”;

(c) by the addition in subsection (1)(f) of the following subparagraph: 20

“(viii) 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**;”;

(d) by the substitution in subsection (1) for paragraph (g) of the following paragraph:

“(g) if he or she is addicted to the use of any drug having a narcotic effect or the excessive use of intoxicating liquor and is certified as such by a medical practitioner; or”;

(e) by the substitution for subsection (2) of the following subsection: 30

“(2) The chief executive officer 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)**;”;

(f) by the addition of the following subsections: 35

“(3) The chief executive officer shall, if satisfied that the holder of the licence is competent to drive the class of motor vehicle concerned with the aid of glasses, an artificial limb or any other physical aid, issue or authorise the issuing of a new licence in the prescribed manner reflecting the conditions under which it is issued. 40

(4) For purposes of this section read with sections 23 and 32 of this Act, driving permit includes all driving permits as defined in section 1 and required in terms of this Act.”. 45

Amendment of section 16 of Act 93 of 1996, as amended by section 11 of Act 21 of 1999

20. Section 16 of the principal Act is hereby amended—

(a) by the substitution in subsection (2) for the words following paragraph (b) of the following words: 50

“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 as contemplated in section 18(6), that document to the chief executive officer.”; and 55

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

“(3) When a licence is submitted in terms of subsection (2), the chief executive officer 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.”.

Amendment of section 17 of Act 93 of 1996, as amended by section 7 of Act 64 of 2008

21. Section 17 of the principal Act is hereby amended— 5

(a) by the substitution for subsections (1) and (2) of the following subsections, respectively:

“(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 registered and graded driving licence testing centre. 10

(2) Upon receipt of **[an]** the application contemplated in [terms of] subsection (1), the driving licence testing centre **[concerned shall, if it is satisfied from the information furnished 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 evaluated in the manner and in respect of the matters prescribed] shall deal with the application in the prescribed manner.”; and 15**

(b) by the substitution for subsections (4), (5) and (6) of the following subsections, respectively: 20

“(4) (a) A person shall not fraudulently, wilfully or negligently—

- (i) issue a learner’s licence;
- (ii) authorise the issue of a learner’s licence;
- (iii) endorse or fail to endorse a learner’s licence; or
- (iv) produce, print or manufacture any document similar to a learner’s licence, 25

contrary to the provisions of this Chapter.

(b) A person shall not make use of any unauthorised aid during a test for a learner’s licence or be in possession of an aid that may assist a person in answering a test for a learner’s licence. 30

(5) Any applicant for a learner’s licence who makes use of any unauthorised aid during a test for a learner’s licence or is found in possession of an aid that may assist a person in answering a test for a learner’s licence, shall be disqualified, as may be prescribed, from reapplying for a learner’s licence for a period not exceeding 24 months from the date of disqualification. 35

(6) If a person has been found to have contravened subsection (4)(b) and it is established that such person has obtained a learner’s licence during the investigation process in respect of the said contravention, such licence shall be invalid.” 40

Amendment of section 18 of Act 93 of 1996, as amended by section 12 of Act 21 of 1999, section 1 of Act 20 of 2003 and section 8 of Act 64 of 2008

22. Section 18 of the principal Act is hereby amended— 45

(a) by the substitution for subsection (1) of the following subsection: 45

“(1) Subject to section 24, the holder of a learner’s licence issued in terms of section 17, who desires to obtain a driving licence shall apply in the prescribed manner to an appropriately registered and 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.”; 50

(b) by the addition in subsection (2) of the following proviso:

“:Provided that in a case where the driving licence testing centre can provide an appropriate motor vehicle, such motor vehicle may be used for the test.”;

(c) by the substitution in subsection (4) for the words preceding paragraph (a) of the following words: 55

“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[,] to drive a motor vehicle of the class to which such

- applicant's application relates, the examiner shall issue [,] or authorise a **[person]** NaTIS officer employed by the driving licence testing centre concerned to issue [,] a driving licence in the prescribed manner, to such applicant in respect of that class of motor vehicle, and the examiner or the **[said authorised person]** NaTIS officer shall—"; 5
- (d) by the substitution for subsections (5A) and (5B) of the following subsections, respectively:
- “(5A) (a) A person shall not make use of an unauthorised aid during a driving licence test. 10
- (b) Any applicant for a driving licence who makes use of any unauthorised aid during a test for a driving licence or is found in possession of an aid that may assist a person in passing a driving licence test, shall be disqualified, as may be prescribed, from reapplying for a driving licence for a period not exceeding 24 months from the date of disqualification. 15
- (5B) If a person is suspected to have contravened subsection (5A), and it is established that such person has obtained a driving licence during the investigation process in respect of the said contravention, such licence shall be invalid.”;
- (e) by the substitution for subsection (6) of the following subsection: 20
- “(6) (a) **[A]** Subject to paragraph (b), a driving licence which has officially been included in an identity document shall **[be deemed to be a driving licence issued under this Act, until a date fixed by the Minister by notice in the Gazette]** not be accepted as proof of a driving licence. 25
- (b) **[In respect of any notice issued in terms of paragraph (a), in the case of]** Despite paragraph (a), any person **[who was unable to apply for such a driving licence]** who is in possession of a driving licence issued in an identity document who was unable to apply before 1 May 2003 for a driving licence card issued in terms of this Act due to him or her having been— 30
- (i) admitted to any medical facility or detained in any state institution in terms of an order issued or sentence imposed by a court of law;
- (ii) posted by the Government on a foreign mission or assignment or being a spouse or partner who accompanied such a person; 35
- (iii) **[on a contract of employment]** employed outside the borders of the Republic or being a spouse or partner who accompanied such a person; or
- (iv) a full-time student at a foreign academic institution[; or] 40
- [(v) a spouse or a partner of a person referred to in subparagraphs (ii) and (iii)],** **[the date determined in that notice]** before 1 May 2003, shall, upon proof submitted by any such person of the date of his or her discharge from such facility **[or]**, release from such institution or upon his or her return to the Republic, as the case may be, be **[deemed to be a date]** allowed to exchange such licence within six months after the date of such discharge from such facility, release from such institution or return to the Republic.”; and 45
- (f) by the insertion after subsection (6) of the following subsection: 50
- “(6A) A driving licence as contemplated in subsection (6)(a), which was valid before 1 May 2003, shall, subject to subsection (6)(b), no longer be deemed to be a valid driving licence.”.

Amendment of section 19 of Act 93 of 1996, as amended by section 13 of Act 21 of 1999 and substituted by section 2 of Act 20 of 2003 55

23. Section 19 of the principal Act is hereby amended—

- (a) by the insertion after subsection (2) of the following subsection:
- “(2A) Upon receipt of an application under subsection (1), the examiner for driving licences, if he or she is satisfied that the existing licence is a valid driving licence and that the applicant is the holder thereof, shall, subject to section 25, issue or authorise the issue of a 60

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.”; and

(b) by the substitution for subsection (4) of the following subsection:

“(4) Any person whose licence has become invalid in terms of subsection (3) and who requires a driving licence must apply anew for the issue of a licence in terms of [section] sections 17 and 18.”.

Amendment of section 20 of Act 93 of 1996, as amended by section 9 of Act 64 of 2008

24. Section 20 of the principal Act is hereby amended by the insertion after subsection (1) of the following subsection:

“(1A) The Minister may, by notice in the *Gazette*, fix a date from which the provisions of subsection (1) shall not be applicable, in respect of the driving licences concerned.”.

Substitution of section 23 of Act 93 of 1996

25. The following section is hereby substituted for section 23 of the principal Act:

“When licence not issued in terms of Act deemed to be driving licence

23. (1) Subject to sections 15, this section, section 32 and the prescribed conditions—

- (a) a licence or driving permit authorising the driving of a motor vehicle and which was issued in a country that is a contracting state to the Convention including Conventions from the Southern Africa Development Community;
- (b) a licence or driving permit in the prescribed territory or contracting state to the Convention; and
- (c) a licence combined with or without any of the driving permits which were issued while the holder thereof was not permanently or ordinarily resident in the Republic,

shall not, in respect of the class of motor vehicle to which that licence or driving permit relates be deemed as a licence or driving permit, unless subject to prescribed conditions and compliant with this Act.

(2) The holder of a licence or driving permit referred to in subsection (1) must, subject to the prescribed conditions, apply for a driving licence or driving permit issued in terms of this Act.

(3) The Minister must prescribe regulations, conditions necessary and required in terms of this section and conditions upon which such licences or driving permits may take the place of licences or driving permits issued in compliance with this Act.

(4) All applications in terms of section 15, this section and 32 must be made in the prescribed manner.”.

Amendment of section 25 of Act 93 of 1996, as amended by section 15 of Act 21 of 1999

26. Section 25 of the principal Act is hereby amended—

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

“(1) If the holder—

- (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] such licence, the chief executive officer [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[,] and an affirmation or affidavit in respect of the circumstances relating to such source of danger is submitted to the chief executive officer, the chief executive officer [of the province concerned] may cancel or suspend such licence.”;

(b) by the substitution for subsection (4) of the following subsection:

“(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] for which he or she holds a

licence, the chief executive officer shall forthwith cancel the licence concerned.”; and

- (c) by the substitution for subsection (10) of the following subsection:

“(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]** country that is a contracting state to the Convention, 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 chief executive officer may, in writing, 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 and the chief executive officer shall retain such licence as prescribed.”.

Amendment of section 27 of Act 93 of 1996, as amended by section 16 of Act 21 of 1999 and section 11 of Act 64 of 2008

27. Section 27 of the principal Act is hereby amended by the substitution in subsection (1) for paragraph (b) of the following paragraph:

- “(b) on which an endorsement made in terms of section 18(4)(b) or a similar endorsement by a competent authority in a prescribed territory has been effected.”.

Amendment of section 28 of Act 93 of 1996, as amended by section 17 of Act 21 of 1999

28. Section 28 of the principal Act is hereby amended—

- (a) by the substitution for the heading of the following heading: **“Instructor to be registered and graded”**; and
(b) by the substitution for subsection (2) of the following subsection:
“(2) **[No]** A person shall not employ any other person as an instructor, or make use of any other person’s services as instructor, unless that other person is registered and graded as an instructor in terms of section 28B.”.

Amendment of section 28A of Act 93 of 1996, as inserted by section 17 of Act 21 of 1999

29. The following section is hereby substituted for section 28A of the principal Act:

“Application for registration as instructor

28A. (1) Any person desiring to be registered as an instructor shall apply in the prescribed manner at a driving licence testing centre to the chief executive officer, in respect of one or more of the classes of motor vehicles for which a learner’s licence, or driving licence can be obtained.
(2) Upon receipt of an application for registration as contemplated in subsection (1), the driving licence testing centre shall deal with the application as prescribed.”.

Amendment of section 28B of Act 93 of 1996, as inserted by section 17 of Act 21 of 1999

30. Section 28B of the principal Act is hereby amended—

- (a) by the deletion in subsection (1) of the word “and” at the end of paragraph (b);
(b) by the substitution in subsection (1) for the fullstop at the end of paragraph (c) of the expression “; and”;
(c) by the addition in subsection (1) of the following paragraph:
“(d) is employed by a registered and graded driving school;”;
(d) by the insertion after subsection (1) of the following subsection:
“(1A) A person shall not be registered to act as an instructor if he or she—

- (a) has been convicted of an offence listed in Schedule 1 or 2 to the Criminal Procedure Act, 1977 (Act No. 51 of 1977); or
- (b) has been convicted of or has paid an admission of guilt fine for driving a motor vehicle while under the influence of intoxicating liquor or a drug having a narcotic effect.”; 5
- (e) by the substitution for subsection (2) of the following subsection:
“(2) A person referred to in [subsection] subsections (1) and (1A) shall only be registered as instructor in respect of a class of motor vehicle which he or she is licensed to drive.”; and
- (f) by the substitution for subsection (3) of the following subsection: 10
“(3) The chief executive officer shall, if satisfied that an applicant referred to in section 28A complies with subsections (1), (1A) and (2), register and grade such applicant in the prescribed manner.”.

Insertion of sections 28D, 28E, 28F, 28G and 28H in Act 93 of 1996

31. The following sections are hereby inserted in the principal Act after section 28C: 15

“Driving school to be registered

28D. A person shall not operate a driving school unless such driving school is registered and graded.

Application for registration of driving school

28E. Any person or organisation desiring to operate a driving school shall, in the prescribed manner, apply to the MEC in whose province such driving school will be operated, for the registration and grading of such driving school. 20

Registration and grading of driving school

28F. On receipt of the application referred to in section 28E and on the recommendation of the inspectorate of driving schools, the MEC shall, if satisfied that the driving school concerned has met the prescribed requirements for registration, register and grade such driving school in the prescribed manner, and give notice of such registration and grading in the provincial *Gazette*. 25 30

Suspension or cancellation of registration of driving school

28G. The MEC may, in the event that a registered and graded driving school no longer complies with the requirements and conditions for registration, after due process, suspend or cancel the registration of such driving school or regrade the driving school in the prescribed manner. 35

Appointment of inspectorate of driving schools

28H. (1) The Minister shall appoint a person, an authority or an organisation as an inspectorate of driving schools.

(2) The powers and duties of the inspectorate of driving schools, in relation to the inspection and control of standards, grading and operation of driving schools shall be as prescribed. 40

(3) The Minister may, in order to defray expenditure incurred by, or on behalf of, that inspectorate for the purposes of performance of its functions, prescribe the fees to be paid in respect of inspections carried out in terms of this Act.”. 45

Substitution of section 29 of Act 93 of 1996, as substituted by section 18 of Act 21 of 1999

32. The following section is hereby substituted for section 29 of the principal Act:

“Voidness of licences issued contrary to this Chapter

29. (1) A learner’s licence or driving licence or any document purporting to be a learner’s licence or driving licence that is issued contrary to this Chapter, shall after an investigation has been conducted and upon recommendation of the inspectorate of driving licence testing centres or the provincial inspectorate, as prescribed, be declared void by the MEC concerned. 5

(2) The MEC concerned may, after such learner’s licence or driving licence has been declared void, request the holder of such learner’s licence or driving licence to forthwith submit such document to the provincial inspectorate or inspectorate of driving licence testing centres who shall destroy the document. 10

(3) The MEC concerned may, subject to prescribed conditions, declare such learner’s licence or driving licence to be a valid licence from the date of issue of such document.”. 15

Substitution of section 30 of Act 93 of 1996

33. The following section is hereby substituted for section 30 of the principal Act:

“Use of somebody’s learner’s licence, or driving licence by another person prohibited

30. No person shall use any other person’s learner’s licence or driving licence and present such licence as his or her own.”. 20

Substitution of section 31 of Act 93 of 1996

34. The following section is hereby substituted for section 31 of the principal Act:

“Unlicensed driver not to be employed or permitted to drive motor vehicle 25

31. (1) A person who is the owner or operator, or is in charge, or control, of a motor vehicle shall not employ or permit any other person to drive that vehicle on a public road unless that other person is licensed and permitted in accordance with this Chapter to drive the vehicle. 30

(2) The owner or operator shall, before the person referred to in subsection (1) drives a vehicle as contemplated in subsection (1), verify that such person is licenced and permitted to drive accordingly.”. 30

Amendment of section 32 of Act 93 of 1996, as amended by section 5 of Act 8 of 1998

35. Section 32 of the principal Act is hereby amended—

(a) by the substitution for subsection (1) of the following subsection: 35

“(1) ~~[No]~~ A person shall not drive a motor vehicle of a prescribed class on a public road except in accordance with the conditions of 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]** who is the holder of a professional driving permit in respect of that class of vehicle and who is in possession of such permit: Provided further that if the person accompanying such person is an examiner for driving licences, such examiner does not have to be the holder of a professional driving permit; and 40 45

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

“(3) (a) Any document issued by a competent authority in any prescribed territory or other foreign international territory and serving in that territory a purpose similar to that of a professional driving 50

permit or an international driving permit, is deemed to be a professional driving permit for purposes of subsection (1), once all the necessary conditions and steps prescribed have been taken to ensure its validity as contemplated in accordance with this Chapter to possess such a document.”.

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Amendment of section 33 of Act 93 of 1996

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

“(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.”.

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Amendment of section 34 of Act 93 of 1996

37. Section 34 of the principal Act is hereby amended by the addition of the following subsection:

“(4) Where a court has issued an order in terms of subsection (1)(c) the registrar or the clerk of the court shall notify the MEC in the prescribed manner of such order and the MEC shall record such order in the register for driving licences.”.

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Insertion of section 53A in Act 93 of 1996

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38. The following section is hereby inserted in the principal Act after section 53:

“Delegation by MEC

53A. (1) The MEC of the province concerned may, subject to such conditions as he or she may deem necessary, delegate power conferred upon him or her in terms of this Act, except the powers in section 75.

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(2) Any delegation or authorisation under subsection (1) shall not prevent the MEC from exercising that power or carrying out that duty himself or herself.”.

Amendment of section 57 of Act 93 of 1996, as amended by section 29 of Act 21 of 1999

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39. Section 57 of the principal Act is hereby amended by the substitution for subsections (7) and (8) of the following subsections, respectively:

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

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(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 or the Passenger Rail Agency of South Africa on or along any railway level crossing over a public road for which Transnet Limited or the Passenger Rail Agency of South Africa is responsible, and if the local authority concerned **[or]**, Transnet Limited or the Passenger Rail Agency of South Africa 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 or the Passenger Rail Agency of South Africa, as the case may be.”.

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Amendment of section 58 of Act 93 of 1996, as amended by section 15 of Act 64 of 2008

40. Section 58 of the principal Act is hereby amended by the substitution for subsection (3) of the following subsection:

- “(3) The driver of **[a fire-fighting vehicle, a fire-fighting response vehicle, a rescue vehicle, an emergency medical response vehicle or an ambulance]** an emergency vehicle who drives such vehicle in the performance of his or her duties, a traffic officer or a person appointed in terms of the South African Police Service Act, 1995 (Act No. 68 of 1995), who drives a vehicle in the carrying out of his or her duties or any person **[issued with the necessary authorisation and]** driving a vehicle while responding to a disaster as contemplated in the Disaster Management Act, 2002 (Act No. 57 of 2002), may disregard the directions of a road traffic sign which is displayed in the prescribed manner: Provided that—
- (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 emergency vehicle or any vehicle driven by a person **[issued with the necessary authorisation]** while such person is responding to a disaster as contemplated in the Disaster Management Act, 2002 (Act No. 57 of 2002), 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[.]; and
 - (c) in a case where such vehicle is approaching an intersection, the driver of such vehicle shall stop at the intersection and proceed only when it is safe to do so whilst a traffic signal is displaying a steady or flashing red light or is a stop sign.”.

Substitution of section 60 of Act 93 of 1996, as amended by section 16 of Act 64 of 2008

41. The following section is hereby substituted for section 60 of the principal Act:

“Certain drivers may exceed general speed limit 30

60. Notwithstanding the provisions of section 59, the driver of **[fire-fighting vehicle, a fire-fighting response vehicle, a rescue vehicle, an emergency medical response vehicle or an ambulance]** an emergency vehicle who drives such vehicle in the carrying out of his or her duties, a traffic officer or a person appointed in terms of the South African Police Service Act, 1995 (Act No. 68 of 1995), who drives a vehicle in the carrying out of his or her duties or any person **[issued with the necessary authorisation and]** driving a vehicle while responding to a disaster as contemplated in the Disaster Management Act, 2002 (Act No. 57 of 2002), 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
- (b) in the case of **[any such fire-fighting vehicle, fire-fighting response vehicle, rescue vehicle, emergency medical response vehicle, ambulance]** an emergency vehicle or any vehicle driven by a person **[issued with the necessary authorisation]** while such person is responding to a disaster as contemplated in the Disaster Management Act, 2002 (Act No. 57 of 2002), such vehicle shall be fitted with a device capable of emitting a prescribed sound and with **[an]** a prescribed 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.”.

Insertion of section 62A in Act 93 of 1996

42. The following section is hereby inserted in the principal Act after section 62:

“Response to road incident

62A. In the event of a road incident, the emergency services shall immediately respond to the incident and render all the necessary services as prescribed.”. 5

Amendment of section 76 of Act 93 of 1996, as amended by section 21 of Act 64 of 2008

43. Section 76 of the principal Act is hereby amended—

(a) by the substitution for the heading of the following heading: 10

“Incorporation of standards, ECE regulations or model regulations by reference”;

(b) by the substitution for subsections (1) and (2) of the following subsections, respectively:

“(1) The Minister may by notice in the *Gazette* incorporate in the regulations any standard, ECE regulations or model regulations without stating the text thereof, by mere reference to the number, title and year of issue of that standard, ECE regulations or model regulations or to any particulars by which that standard, ECE regulations or model regulations is sufficiently identified. 15
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(2) Any standard, ECE regulations or model regulations 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.”; and

(c) by the substitution for subsection (4) of the following subsection: 25

“(4) If any standard, ECE regulations or model regulations is at any time after the incorporation thereof in the regulations amended or replaced, such standard, ECE regulations or model regulations shall remain in force until such time that the Minister, by notice in the *Gazette*, re-incorporate the amended or replaced standard, ECE regulations or model regulations.”. 30

Substitution of section 80 of Act 93 of 1996

44. The following section is hereby substituted for section 80 of the principal Act:

“Parking for [disabled] persons with disabilities

80. Any [disabled] person with a disability who has been exempted from the laws relating to parking in accordance with the [laws of any province] prescribed requirements, 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].”. 35
40

Substitution of section 81 of Act 93 of 1996, as substituted by section 23 of Act 64 of 2008

45. The following section is hereby substituted for section 81 of the principal Act: 45

“Exemption of vehicle and load from provisions of Act

81. (1) A person or organisation desiring to—
(a) manufacture or import a vehicle which, due to such vehicle’s original design, cannot comply with the provisions of this Act; or

- (b) operate on a public road a vehicle which, due to such vehicle's original design, cannot comply with the provisions of this Act, must apply to the Minister in the prescribed manner.
- (2) If the Minister is satisfied that the application is in order he or she may grant the exemption in the prescribed manner. 5
- (3) A person or organisation desiring to obtain an exemption to—
 - (a) operate in a safe manner on a public road, a registered vehicle;
 - (b) convey in a safe manner on a public road, passengers or any load;
 - (c) operate on a public road a combination of motor vehicles; or
 - (d) test a vehicle which is not intended for registration in the Republic by a manufacturer, builder and importer, 10which does not comply with the provisions of this Act, shall apply in the prescribed manner to the MEC of the province concerned.
- (4) If the MEC of the province concerned is satisfied that the application as contemplated in subsection (3) is in order and the applicant has paid the prescribed fees he or she may grant the exemption in the prescribed manner.” 15

Substitution of section 85 of Act 93 of 1996

46. The following section is hereby substituted for section 85 of the principal Act:

“Issue of document as proof of driving licence in special circumstances 20

- 85.** (1) An application for the issue of a document as proof of a driving licence shall be made to the Minister or the MEC and such application shall be accompanied by the full names and identity number of the applicant and the appropriate fees, if any. 25
- (2) If the Minister or the MEC is satisfied that the application in terms of subsection (1) is in order, the Minister or the MEC, as the case may be, shall issue such document as prescribed.”

Amendment of section 93A of Act 93 of 1996, as inserted by section 27 of Act 64 of 2008 30

47. Section 93A of the principal Act is hereby amended by the substitution for paragraphs (a) and (b) of the following paragraphs, respectively:
- “(a) sections 3A to 3E, 5, 6, ~~8A~~, 9, 10, 15, 16, 21, 25, 27, 28A to 28C, 29, 38, 39, 40, 45, 46, 50, 51A and ~~51B~~, any reference to the ‘chief executive officer’ or the ‘inspectorate of driving licence testing centres’ or the ‘inspectorate of testing stations’ shall be regarded to be a reference to the ‘MEC concerned’; 35
 - (b) section 3[(1) and (2)], any reference to the ‘Shareholders Committee’, shall, in consultation with the relevant MEC, be regarded to be a reference to the ‘MEC concerned’ and any reference to the ‘Shareholders Committee’ or the ‘chief executive officer’ shall be regarded to be a reference to the ‘MEC concerned’ ”. 40

Amendment of arrangement of sections of Act 93 of 1996

48. The arrangement of sections after the long title of the principal Act is hereby amended by—
- (a) by the substitution for “3B Application for registration as inspector of licences, examiner of vehicles, examiner for driving licences or traffic officer” of the following: 45
 - “**3B.** Application for registration as inspector of licences, examiner of vehicles, examiner for driving licences [~~or~~], traffic officer, reserve traffic warden, traffic warden or NaTIS officer”; 50
 - (b) by the substitution for 3D “Minimum requirements for registration as inspector of licences, examiner of vehicles, examiner for driving licences and traffic officer” of the following:

- “**3D.** Minimum requirements for registration as inspector of licences, examiner of vehicles, examiner for driving licences [**and**], traffic officer, reserve traffic warden and traffic warden and NaTIS officer”;
- (c) by the substitution for “3L. Approval of training centre” of the following: 5
“**3L.** Registration of training centre”;
- (d) by the insertion after 3L of the following:
“**3M.** Application for registration of training centre;
3N. Registration and grading of training centre;
3O. Suspension or cancellation of registration of training centre”; 10
- (e) by the substitution for 5 “Registration of manufacturers, builders, and manufacturers of number plates” of the following:
“**5.** Registration of manufacturers, builders, body builders and importers [**and manufacturers of number plates**]”; 15
- (f) by the insertion after 5 of the following: 15
“**5A.** Manufacturing of blank number plates, supplying of blank number plates, manufacturing of reflective sheeting for number plates, supplying of reflective sheeting for number plates and embossing of number plates;
5B. Application for registration as manufacturer of blank number plates, supplier of blank number plates, manufacturer of reflective sheeting for number plates, supplier of reflective sheeting for number plates and embosser of number plates; 20
5C. Registration of manufacturer of blank number plates, supplier of blank number plates, manufacturer of reflective sheeting for number plates, supplier of reflective sheeting for number plates and embosser of number plates; 25
5D. Suspension or cancellation of registration as manufacturer of blank number plates, supplier of blank number plates, manufacturer of reflective sheeting for number plates, supplier of reflective sheeting for number plates and embosser of number plates; 30
5E. Weighbridge facility to be registered;
5F. Application for registration as weighbridge facility;
5G. Registration of weighbridge facility;
5H. Suspension or cancellation of registration of weighbridge facility; 35
5I. Manufacturer of microdots, supplier of microdots and microdot fitment centre;
5J. Application for registration as manufacturer of microdots, supplier of microdots and microdot fitment centre;
5K. Registration of manufacturer of microdots, supplier of microdots and microdot fitment centre; 40
5L. Suspension or cancellation of registration of manufacturer of microdots, supplier of microdots and microdot fitment centre”;
- (g) by the substitution for 7 “Appointment of inspectorate of manufacturers, builders and importers” of the following: 45
“**7.** Appointment of [**inspectorate**] inspectorates of manufacturers, builders [**and**], body builders, importers, number plates, microdots and weighbridge facilities”;
- (h) by the insertion after 11 of the following: 50
“**11A.** Provincial inspectorates”;
- (i) by the substitution for 13 “Licence to drive, either learner’s or driving licence” of the following:
“**13.** [**Licence to drive, either learner’s**] Learner’s licence, [**or**] and driving licence”;
- (j) by the substitution for 14 “Prescribing, classification and extent of learner’s or driving licence” of the following: 55
“**14.** Prescribing, classification and extent of learner’s licence or driving licence”;
- (k) by the substitution for 15 “Disqualification from obtaining or holding learner’s or driving licence” of the following: 60
“**15.** Disqualification from obtaining or holding learner’s licence, [**or**] driving licence or driving permit”;

- (l) by the substitution for 28 “Instructor to be registered” of the following:
“**28.** Instructor to be registered and graded”;
- (m) by the insertion after 28C of the following:
“**28D.** Driving school to be registered;
28E. Application for registration of driving school; 5
28F. Registration and grading of driving school;
28G. Suspension or cancellation of registration of driving school;
28H. Appointment of inspectorate of driving schools”;
- (n) by the substitution for 30 “Use of somebody’s learner’s licence or driving
licence by another prohibited” of the following: 10
“**30.** Use of somebody’s learner’s licence or driving licence by another
person prohibited”;
- (o) by the insertion after 53 of the following:
“**53A.** Delegation by MEC”;
- (p) by the insertion after 62 of the following: 15
“**62A.** Response to road incident”;
- (q) by the substitution for 76 “Incorporation of standards by reference” of the
following:
“**76.** Incorporation of standards, ECE regulations or model regulations
by reference”; 20
- (r) by the substitution for 80 “Parking for disabled persons” of the following:
“**80.** Parking for [**disabled**] persons with disabilities”; and
- (s) by the substitution for 81 “Vehicle and load may be exempted from
provisions of Act” of the following:
“**81.** Exemption of vehicle and load from provisions of Act”. 25

Short title and commencement

49. This Act is called the National Road Traffic Amendment Act, 2020, and comes into operation on a date fixed by the President by proclamation in the *Gazette*.

MEMORANDUM ON THE OBJECTS OF THE NATIONAL ROAD TRAFFIC AMENDMENT BILL, 2020

1. BACKGROUND

The National Road Traffic Amendment Bill (“the Bill”) was drafted to give effect, in the short-term, to some of the principal strategies contained in the National Road Safety Strategy, 2006 (Road Safety Strategy). The Road Safety Strategy, among other things, contains the Millennium Development Goals set out by Ministers of Transport in Africa, for the purposes of reducing road crashes, improving traffic law enforcement, improving on existing mechanisms and creating more measures to ensure road traffic safety. The Bill seeks to achieve proper implementation of the strategic interventions highlighted in the Road Safety Strategy and address practical challenges.

2. OBJECTS OF THE BILL

The Bill seeks to amend the National Road Traffic Act, 1996 (Act No. 93 of 1996) (“the Act”). The main objectives of the Bill, amongst others, are to—

- provide for the registration and licensing of motor vehicles, manufacturers, builders, body builders, importers and manufacturers of number plates;
- empower a Member of the Executive Council (“the MEC”) to register an applicant as a manufacturer, body builder, builder, importer and manufacturer of number plates;
- regulate the registration and grading of applicants as driving school instructors and direct how the application and registration of driving school instructors should be made, to further regulate the driving school industry and to prohibit the operation of unregistered and ungraded driving schools and utilisation of ungraded driving school instructors;
- ensure misconduct and criminal processes are more efficient, effective, properly enforced and implemented;
- empower an MEC to declare as void all documents purporting to be driving licences;
- empower the Minister to appoint a person or authority as an inspectorate of driving licence testing centres; and
- ensure the compulsory registration and grading of driving schools, and the suspension and cancellation of registration by the MEC.

3. DISCUSSION

3.1 Clause 1

Clause 1 amends existing definitions and inserts new definitions, in order to assist in the interpretation of the Act.

3.2 Clauses 2 and 3

Clauses 2 and 3 amend sections 3A and 3B of the Act, respectively, to include NaTIS officers, reserve traffic wardens and traffic wardens to be appointed and registered by the chief executive officer (“the CEO”).

3.3 Clause 4

Clause 4 amends section 3C of the Act by providing that no person shall be registered or remain registered as an examiner of vehicles, traffic officer, reserve traffic warden, traffic warden and NaTIS officer, if such person or his or her spouse has or acquires a direct or indirect financial interest in the manufacturing, selling, rebuilding, repairing or modifying of motor vehicles.

3.4 Clause 5

Clause 5 amends section 3D of the Act to provide for minimum requirements and qualifications, instead of a “diploma”, for registration as inspector of licences, examiner of vehicles, examiner for driving licences or traffic officer. A reserve traffic warden, traffic warden and NaTIS officer are included.

3.5 Clause 6

Clause 6 amends section 3E of the Act by providing for the suspension or cancellation of the registration of an examiner for driving licences or an examiner of vehicles, if such person was convicted for a crime as contemplated in Schedule 1 or 2 to the Criminal Procedure Act, 1977 (Act No. 51 of 1977), if such person has a direct or indirect financial interest in the transport services business or motor vehicle business.

3.6 Clause 7

Clause 7 amends section 3I of the Act, which provides for the powers and duties of a traffic officer. Clause 7 seeks to add a new paragraph in section 3I, which provides a further power of a traffic officer to impound a motor vehicle if the traffic officer is satisfied on reasonable grounds, and subject to verification by the traffic officer, that the motor vehicle was issued with a notice to discontinue operation in terms of section 44 of the Act and the notice was not complied with, or the motor vehicle is being operated on a public road by a driver who is not a holder of a valid driving licence, or is being operated on a public road by a driver who is not a holder of a valid professional driving permit.

3.7 Clause 8

Clause 8 substitutes section 3L of the Act to preclude a department of state or an authority from offering authorised officer qualifications unless such department of state or authority has been approved, registered and graded as a training centre in accordance with prescribed requirements.

3.8 Clause 9

Clause 9 inserts new sections 3M, 3N and 3O to provide for the application for, and the registration and grading of, training centres by the Shareholders Committee, and also provides for the suspension and cancellation of registration of training centres by the Shareholders Committee.

3.9 Clause 10

Clause 10 amends section 5 of the Act and provides that manufacturers, builders, body builders and importers must apply for registration to the CEO and that they shall not manufacture, build, modify, import, sell or distribute motor vehicles unless registered in the prescribed manner by the CEO.

3.10 Clause 11

3.10.1 Clause 11 seeks to insert sections 5A, 5B, 5C, 5D, 5E, 5F, 5G, 5H, 5I, 5J, 5K and 5L in the Act. This clause provides for the manufacturing of blank number plates, supplying of blank number plates, manufacturing of reflective sheeting for number plates, supplying of reflective sheeting for number plates and embossing of number plates.

3.10.2 Clause 11 prohibits the manufacturing of blank number plates, supplying of blank number plates, manufacturing of reflective sheeting for number plates, supplying of reflective sheeting for number plates and embossing of number plates, unless the person, authority or organisation is registered. A person, authority or organisation may apply to the MEC for registration as a manufacturer

of blank number plates, supplier of blank number plates, manufacturer of reflective sheeting for number plates, supplier of reflective sheeting for number plates and embosser of number plates. The MEC may, subject to due process of law, suspend or cancel the registration if the person is no longer complying with the prescribed requirements.

3.10.3 Clause 11 provides for weighbridge facilities. The clause prohibits anyone from operating a weighbridge facility unless such person is registered. A person, authority or organisation desiring to operate a weighbridge facility may apply to the MEC for registration and such registration may, subject to due process of law, be suspended or cancelled by the MEC if such person, authority or organisation no longer complies with the prescribed requirements.

3.10.4 Clause 11 provides for the manufacturing and supplying of microdots as well as microdot fitment centres. No person may manufacture or supply microdots or operate a microdot fitment centre unless such person is registered. A person, authority or organisation may apply to the MEC for registration, who may, subject to due process of law, suspend or cancel such registration of such person, authority or organisation no longer comply with the prescribed requirements.

3.11 Clause 12

Clause 12 amends section 6 of the Act, which provides for appeals to the Shareholders Committee, in the event that a person is aggrieved at a refusal by the CEO to register him or her as a manufacturer or if a person is aggrieved by a suspension or cancellation of a registration. The new proposal seeks to extend the right to appeal to a manufacturer of blank number plates, manufacturer of reflective sheeting for number plates, supplier of blank number plates, supplier of reflective sheeting for number plates, embosser of number plates, weighbridge facility, manufacturer of microdots, supplier of microdots and microdot fitment centre.

3.12 Clause 13

Clause 13 amends section 7 of the Act by providing for the inspectorates of manufacturers, body builders, importers, number plates, microdots and weighbridge facilities, whose powers and duties are to be prescribed in the regulations.

3.13 Clause 14

Clause 14 repeals section 8 of the principal Act.

3.14 Clause 15

Clause 15 amends section 8A of the Act by providing that a driving licence testing centre may apply for registration for the operation of a mobile facility for the purpose of testing applicants for learner's licences.

3.15 Clause 16

Clause 16 amends section 9 of the Act to include grading of driving licence testing centres, in the *Gazette*, in addition to the notice of registration.

3.16 Clause 17

Clause 17 amends section 11 of the Act to remove the involvement of the Shareholders Committee in the appointment of an inspectorate of driving licence testing centres.

3.17 Clause 18

Clause 18 inserts a new section 11A in the Act to provide for the appointment of, and the powers and duties of, provincial inspectorates, whose powers and duties must be prescribed by the Minister of Transport in consultation with the relevant MEC.

3.18 Clause 19

3.18.1 Clause 19 amends section 15 of the Act, which provides for the disqualification from obtaining or holding a learner's licence or a driving licence. Clause 19 seeks to include driving permit in the disqualification.

3.18.2 Clause 19 also includes physical defects in the requirements for disqualifications.

3.18.3 The CEO may attach conditions in respect of an issued licence, by a person who has to drive with the aid of glasses, an artificial limb or any other aid.

3.19 Clause 20

Clause 20 amends section 16 of the Act by providing that any person who is the holder of a licence authorising the driving of a motor vehicle, who becomes aware that he or she is disqualified from holding such licence, must submit the licence to the CEO, who must cancel the licence and, if the licence was issued in a prescribed territory, the CEO must notify those authorities of the cancellation.

3.20 Clause 21

Clause 21 amends section 17 of the Act by providing that a person shall not wilfully or negligently issue a learner's licence or authorise the issue of a learner's licence, endorse or fail to endorse a learner's licence, or produce, print or manufacture any document similar to a learner's licence, contrary to Chapter 4 of the Act. Clause 21 also provides that an applicant for a learner's licence who makes use of any unauthorised aid during a test for a learner's licence or is found in possession of an aid that may assist a person in answering a test for a learner's licence, shall be disqualified from reapplying for a learner's licence for a period not exceeding 24 months from the date of such disqualification. The Minister is empowered to make regulations regarding due process that will be followed before a person is disqualified.

3.21 Clause 22

Clause 22 adds a new subsection (5A) in section 18 of the Act and prohibits use of unauthorised aid during a driving licence test and a guilty person will be disqualified from reapplying for a driving licence for a period of two years.

3.22 Clause 23

Clause 23 amends section 19 of the Act by providing that the examiner of driving licences shall on receipt of an application for substitution of a driving licence, if he or she is satisfied that the existing licence is a valid licence and that the applicant is the holder thereof, issue or authorise the issue of a driving licence in respect of the class of motor vehicle to which the existing licence relates. Furthermore, any person whose licence has become invalid in terms of section 18(6) or (7) of the Act and who requires a driving licence must apply anew for the issue of such driving licence.

3.23 Clause 24

Clause 24 amends section 20 of the Act by providing that a driving licence issued in terms of subsection (1) shall be deemed to be a driving licence issued under this Act until a date fixed by the Minister by notice in the *Gazette*.

3.24 Clause 25

Clause 25 substitutes section 23 of the Act and provides for circumstances under which a driving licence authorising the driving of a motor vehicle which was issued in any other country that is a contracting state to the Convention and an international driving permit which was issued while the holder thereof was not permanently or ordinarily resident in the Republic, shall be deemed to be a driving licence or a driving permit.

3.25 Clause 26

Clause 26 amends section 25 of the Act by providing that if the holder of a learner's or driving licence issued in terms of Chapter 4 of the Act, a repealed ordinance or any prior law, is disqualified from holding such licence, the CEO must cancel such licence; if the holder of the licence constitutes a source of danger to the public by driving a motor vehicle on a public road, and an affirmation or affidavit in respect of the circumstances relating to such source of danger is submitted to the CEO, the CEO may cancel or suspend such licence.

3.26 Clause 27

Clause 27 amends section 27 of the Act in order to clarify that an amendment is made in terms of section 18(4)(b) of the Act.

3.27 Clause 28

Clause 28 amends section 28 of the Act to include grading in respect of registration of an instructor.

3.28 Clause 29

Clause 29 amends section 28A of the Act to provide that any person desiring to be registered as an instructor apply at a driving licence testing centre to the CEO in respect of one or more classes of motor vehicles for which a learner's or driving licence can be obtained and in terms of the prescribed conditions.

3.29 Clause 30

Clause 30 amends section 28B of the Act which provides for the requirements for eligibility for registrations of a person as an instructor. Clause 30 adds a new requirement that a person may not be registered as an instructor if he or she has been convicted of any offence listed in Schedule 1 or 2 to the Criminal Procedure Act, 1977 (Act No. 51 of 1977), or if such person has been convicted of driving under the influence of alcohol or drugs.

3.30 Clause 31

Clause 31 inserts sections 28D, 28E, 28F, 28G and 28H to provide for the compulsory registration and grading of driving schools, and for suspension and cancellation of registration by the MEC.

3.31 Clause 32

Clause 32 amends section 29 of the Act by providing that a document purporting to be a learner's or a driving licence issued contrary to Chapter 4 of the Act shall, on the request of the inspectorate of driving licence testing

centres or provincial inspectorate, be declared void by the CEO. Upon his or her request, the holder of such document shall forthwith submit such document to the inspectorate of driving licence testing centres, who shall destroy the document in the prescribed manner, further providing that the CEO may under the prescribed circumstances condone the issue of a document referred to in subsection (1) and declare such a document to be a valid licence from the date of issue of the document.

3.32 **Clause 33**

Clause 33 amends section 30 of the Act by providing that no person shall use any other person's learner's or driving licence and present such licence as his or her own.

3.33 **Clause 34**

Clause 34 amends section 31 of the Act by providing that 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 licenced to drive the vehicle, he or she must verify that such person is licensed before such person drives such vehicle.

3.34 **Clause 35**

Clause 35 amends section 32 of the Act by prohibiting any person from driving a motor vehicle of a prescribed class on a public road except in accordance with the conditions of a professional driving permit issued to him or her and unless such person keeps such permit with him or her in the vehicle. Furthermore, if the person accompanying the holder of a learner's licence is an examiner for driving licences, such examiner does not have to be the holder of a professional driving permit.

3.35 **Clause 36**

Clause 36 effects a technical amendment.

3.36 **Clause 37**

Clause 37 amends section 34 of the Act by adding a new subsection to provide that where a court has issued an order declaring a convicted person who is not a holder of a licence or permit, to be disqualified from obtaining a licence, the registrar or clerk of the court shall notify the MEC concerned of such order and the MEC shall record such order in the register for driving licences.

3.37 **Clause 38**

Clause 38 inserts section 53A in the Bill and provides for the power of an MEC to delegate his or her statutory powers to another person, although this does not prevent the MEC from exercising such power himself or herself.

3.38 **Clause 39**

Clause 39 amends section 57 of the Act to include the Passenger Rail Agency of South Africa in the authority to display road traffic signs or to remove road traffic signs in a railway level crossing over any public road.

3.39 **Clause 40**

Clause 40 amends section 58 of the Act, which provides for the authority to disregard road traffic signs, to include a person who drives an emergency vehicle in the carrying out of his or her duties or a person driving a vehicle while responding to a disaster in terms of the Disaster Management Act, 2002 (Act No 57 of 2002), permitting such person to disregard the directions of a

road traffic sign which is displayed in the prescribed manner and in the case where such vehicle is approaching certain intersections, such driver to stop at the intersection and proceed only when it is safe to do so.

3.40 Clause 41

Clause 41 of the Bill amends section 60 of the Act, to provide that the driver of an emergency vehicle who drives such vehicle in the carrying out of his or her duties or a person driving a vehicle while responding to a disaster in terms of the Disaster Management Act, 2002 (Act No. 57 of 2002), may not exceed a speed of 20 km/h through an intersection.

3.41 Clause 42

Clause 42 inserts a new section 62A in the Act, and provides that in the event of a road incident, the emergency services shall immediately respond to the incident and render all the necessary services as prescribed.

3.42 Clause 43

Clause 43 amends section 76 of the Act by including ECE regulations or model regulations in the provision for the incorporation of standards by reference.

3.43 Clause 44

Clause 44 amends section 80 of the Act by providing that any disabled person who has been exempted from the laws relating to parking in accordance with the prescribed requirements, and to whom proof of such exemption has been issued, must be deemed to be so exempted from the laws applicable in the areas of jurisdiction of all local authorities in the Republic.

3.44 Clause 45

Clause 45 amends section 81 of the Act by providing for the circumstances under which a registered vehicle which does not comply with the provisions of this Act might be exempted and authorised to operate on a public road.

3.45 Clause 46

Clause 46 amends section 85 of the Act by providing that an application for the issue of a document as proof of a driving licence must be made to the relevant MEC or Minister and such application shall be accompanied by the full names and identity number of such applicant and appropriate fees, if any.

3.46 Clause 47

Clause 47 effects technical amendments in respect of references and the CEO.

3.47 Clause 48

Clause 48 substitutes the heading of the section and the arrangement of the section.

3.48 Clause 49

Clause 49 provides for the short title and commencement.

4. CONSULTATION

Provincial departments responsible for transport and traffic in the provinces and other stakeholders were consulted.

5. FINANCIAL IMPLICATIONS

None.

6. PARLIAMENTARY PROCEDURE

- 6.1 The Constitution prescribes procedure for the classification of Bills, therefore a Bill must be correctly classified otherwise it will be constitutionally out of order.
- 6.2 We have considered the Bill against the provisions of the Constitution relating to the tagging of Bills, and against the functional areas listed in Schedule 4 (functional areas of concurrent national and provincial legislative competence) and Schedule 5 (functional areas of exclusive provincial legislative competence) to the Constitution.
- 6.3 The established test for classification of a Bill is that any Bill whose provisions in substantial measure fall within a functional area listed in Schedule 4 to the Constitution must be classified in terms of that Schedule. The process is concerned with the question of how the Bill should be considered by the provinces and in the NCOP, and how a Bill must be considered by the provincial legislatures depends on whether it affects the provinces. The more it affects the interests, concerns and capacities of the provinces, the more say the provinces should have on its content.
- 6.4 The main objectives of the Bill, among other things, is to reduce road incidents, to improve traffic law enforcement, to improve existing mechanisms in order to regulate road traffic and to formulate more measures to enhance road traffic safety. The following are the main provisions of the Bill:
 - (a) The Bill prohibits the registration by the CEO, of an examiner of vehicles, a traffic officer, traffic warden or Natis officer who, or through his or her spouse or partner, has or acquires a direct or indirect financial interest in a road transport services business.
 - (b) the Bill adds further requirements for the registration by the MEC, of an examiner of driving licences or an examiner of vehicles, namely that such person must not be convicted of an offence under schedule 1 or 2 to the Criminal Procedure Act or have a direct or indirect financial interest in a road transport business, in the manufacturing of motor vehicles, in a driving schools or training of learner drivers.
 - (c) the Bill provides for the registration and grading of training centres that will offer qualifications to traffic officers, examiners for driving licences, examiners of vehicles and traffic wardens.
 - (d) the Bill deals with the registration, by the MEC, of manufacturers (of microdots and number plates), builders, body builders, importers of motor vehicles and weighbridge facilities. A registration may also be suspended or cancelled. In addition, the Minister is empowered to appoint separate inspectorates for these entities.
 - (e) the MEC is required to register driving licence testing centres and the MEC is also authorised to register a driving licence testing centre to operate a mobile facility to test applicants for learner's licences.
 - (f) An MEC may appoint provincial inspectorates who will conduct inspections and evaluate compliance with the Act and the Minister will determine their powers and functions.
 - (g) the Bill provides for the disqualification for a period, of a person who fraudulently obtained a learner's licence or driving licence.
 - (h) the Bill provides for more requirements for the registration and grading of driving school instructors, for instance such a person must not be convicted of an offence listed in Schedule 1 or 2 to the Criminal Procedure Act.

- (i) the Bill seeks to regulate the driving school industry by requiring all driving schools to be registered and graded by the relevant MEC, and the operation of unregistered and ungraded driving schools is prohibited.
- (j) the Bill also gives powers to MECs in respect of suspension and cancellation of a registration of a driving school.
- (k) the Bill also seeks to prohibit any amount of concentration of alcohol in a specimen of blood or specimen of breath taken from any driver, in order to enhance road traffic safety.

6.5 It appears that the provisions of the Bill and its subject matter, in substantial measure, fall within the functional area, namely “road traffic regulation”, contained in Schedule 4 to the Constitution. The provisions of the Bill affect provinces in that they require the involvement of the provinces in their implementation and they affect the interests, concerns and capacities of the provinces, therefore the provinces should have more say on the contents of the Bill.

6.6 We are therefore of the opinion that this Bill must be dealt with in accordance with the procedure prescribed by section 76(1) or (2) of the Constitution since it falls within a functional area listed in Schedule 4 to the Constitution, which is “road traffic regulation”.

6.7 We are therefore of the opinion that this Bill must be dealt with in accordance with the procedure set out in section 76 of the Constitution.

6.8 We are also of the opinion that it is not necessary to refer this Bill to the National House of Traditional Leaders in terms of section 18(1)(a) of the Traditional Leadership and Governance Framework Act, 2003 (Act No. 41 of 2003), since it does not contain provisions pertaining to customary law or customs of traditional communities.

