REPUBLIC OF SOUTH AFRICA

NATIONAL ROAD TRAFFIC AMENDMENT BILL

(As introduced in the National Council of Provinces as a section 76 Bill)

(SELECT COMMITTEE ON PUBLIC SERVICES)

[B 5—99]

REPUBLIEK VAN SUID-AFRIKA

NASIONALE PADVERKEER-WYSIGINGSWETSONTWERP

(Soos ingedien in die Nasionale Raad van Provinsies as 'n artikel-76-wetsontwerp)

Polity.org.za

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 amend certain definitions and to insert others; to provide that certain functions may be performed by the Shareholders Committee or the chief executive officer of the Road Traffic Management Corporation; to make provision for the appointment of registering authorities and officers, the registration and grading of officers, the suspension and cancellation of the registration of officers and the powers and duties of officers; to provide that all motor vehicles must be registered and licensed; to provide that manufacturers of number plates must be registered; to make provision for the registration and grading of driving licence testing centres; to change the name of the national inspectorate of driving licence testing centres to the inspectorate of driving licence testing centres; to provide that a driving licence that has been included in an identity document lapses on a date fixed by the Minister of Transport; to provide for the registration and grading of instructors; to provide that a void driving licence must be submitted to the inspectorate of driving licence testing centres instead of to the MEC; to provide for the registration and grading of testing stations; to change the name of the national inspectorate of testing stations to the inspectorate of testing stations; to provide for a right of appeal to the Shareholders Committee, and to the chief executive officer, of the said Corporation; to empower local authorities to make by-laws; to repeal the whole of the National Road Safety Act, 1972; and to make provision for incidental matters.

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

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

(a) by inserting the following definition after the definition of ''articulated motor vehicle'':

'' 'authorised officer' means an inspector of licences, examiner of vehicles, examiner for driving licences or traffic officer, and also any other person declared by the Minister by regulation to be an authorised officer, from time to time;'';

(b) by inserting the following definition after the definition of ''certification of roadworthiness'':

Polity.org.za

‘‘ ‘chief executive officer’ means the chief executive officer of the Corporation appointed in terms of section 15 of the Road Traffic Management Corporation Act, 1999;’’;

(c) by inserting the following definition after the definition of ‘‘Convention’’:

‘‘ ‘Corporation’ means the Road Traffic Management Corporation, established by section 3 of the Road Traffic Management Corporation Act, 1999;’’;

(d) by the substitution for the definition of ‘‘examiner for driving licences’’ of the following definition:

‘‘ ‘examiner for driving licences’ means an examiner for driving licences **[registered and]** appointed and registered in terms of **[the laws of any province]** sections 3A and 3C, respectively;’’;

(e) by the substitution for the definition of ‘‘examiner of vehicles’’ of the following definition:

‘‘ ‘examiner of vehicles’ means an examiner of vehicles **[registered and]** appointed and registered in terms of **[the laws of any province]** sections 3A and 3C, respectively;’’;

(f) by the substitution for the definition of ‘‘inspector of licences’’ of the following definition:

‘‘ ‘inspector of licences’ means an inspector of licences appointed and registered in terms of **[the laws of any province]** sections 3A and 3C, respectively;’’;

(g) by the substitution for the definition of ‘‘instructor’’ of the following definition:

‘‘ ‘instructor’ means any person who for direct reward—

(a) instructs any other person in the driving of a motor vehicle;

(b) teaches any other person the rules of the road or road traffic signs in order to obtain a learner’s or a driver’s licence;’’;

(h) by the substitution for the definition of ‘‘peace officer’’ of the following definition:

‘‘ ‘peace officer’ means a traffic officer and also a traffic warden appointed in terms of **[the laws of any province]** section 3A;’’;

(i) by the substitution for the definition of ‘‘registering authority’’ of the following definition:

‘‘ ‘registering authority’ means a registering authority appointed as such in accordance with **[the laws of any province]** section 3;’’;

(j) by inserting the following definition after the definition of ‘‘semi-trailer’’:

‘‘ ‘Shareholders Committee’ means the Shareholders Committee established by section 6 of the Road Traffic Management Corporation Act, 1999;’’; and

(k) by the substitution for the definition of ‘‘traffic officer’’ of the following definition:

‘‘ ‘traffic officer’ means a traffic officer appointed in terms of **[the laws of any province]** section 3A, and any member of the Service, and any member of a municipal police service, both as defined in section 1 of the South African Police Service Act, 1995 (Act No. 68 of 1995), and for the purposes of Chapters V, IX and X and sections 74 and 78 of this Act, includes a peace officer;’’.

Substitution of section 3 of Act 93 of 1996

2. The following sections are substituted for section 3 of the principal Act:

‘‘Appointment of registering authorities

3. (1) For the purposes of this Act, the Shareholders Committee shall, in consultation with the relevant MEC and by notice in the *Gazette*, appoint a registering authority for the area and on the conditions it determines from time to time.

(2) The Shareholders Committee, in consultation with the relevant MEC, may combine the area of any registering authority or any portion thereof with the area of another registering authority, may divide the area of a

registering authority into areas for two or more registering authorities, and may appoint a registering authority for a new area.

(3) Where, from or after a specific date, a registering authority, in this subsection referred to as a new registering authority, becomes the registering authority for an area previously under the jurisdiction of another registering authority, including a registering authority appointed under a repealed law or ordinance, any reference in this Act or a repealed law or ordinance to such other registering authority shall, from or after such date, be construed as a reference to such new registering authority.

(4) The powers and duties conferred or imposed upon a registering authority by or in terms of this Act shall be exercised or performed on behalf of that registering authority by the persons authorised thereto by the registering authority.

(5) If the Shareholders Committee decides that circumstances warrant such a step, the chief executive officer may execute the functions, or appoint an agent to execute the functions, of a registering authority whose service delivery, collection of payment or management fall short of the standards set in respect of business groups by the Road Traffic Management Corporation Act, 1999.

Appointment of officers

3A. (1) For the purposes of this Act—

(a) the chief executive officer may, upon such conditions as he or she may determine, appoint as many persons as—
  (i) inspectors of licences;
  (ii) examiners of vehicles;
  (iii) examiners for driving licences;
  (iv) traffic officers; and
  (v) traffic wardens,
  as he or she may deem expedient;

(b) an MEC may, upon the conditions set by the chief executive officer, appoint for the province concerned as many persons as—
  (i) inspectors of licences;
  (ii) examiners of vehicles;
  (iii) examiners for driving licences;
  (iv) traffic officers; and
  (v) traffic wardens,
  as he or she may deem expedient;

(c) a local authority which is a registering authority may, upon the conditions set by the chief executive officer, appoint for its area as many persons as—
  (i) inspectors of licences;
  (ii) examiners of vehicles; and
  (iii) examiners for driving licences,
  as it may deem expedient;

(d) any local authority or two or more local authorities may jointly appoint for its area or for their areas jointly, as the case may be, as, upon the conditions set by the chief executive officer, many persons as traffic officers or reserve traffic officers as may be reasonably necessary, and such officers shall function within such area or areas;

(e) any local authority may appoint persons as traffic wardens or as reserve traffic wardens to exercise or perform within its area such powers and duties of a traffic officer as the MEC may determine: Provided that the MEC may—
  (i) make different determinations in respect of different categories of traffic wardens; and
  (ii) either generally or specifically, impose conditions with regard to the exercise or performance of such powers and duties; and

(f) any person or institution determined by the chief executive officer by

notice in the *Gazette*, may, on the conditions and for the areas determined in the notice, appoint any person as an examiner of vehicles or as an examiner for driving licences.

(2) Notwithstanding anything to the contrary contained in this Act or any other law, the chief executive officer may, in consultation with the MEC or local authority concerned, as the case may be, determine that some or all traffic officers and reserve traffic officers appointed by such MEC or local authority, may function within an area or areas determined by the chief executive officer.

(3) No person shall be appointed under subsection (1) as an authorised officer unless he or she has been graded and registered in the prescribed manner: Provided that any person who is not so graded and registered may be appointed once on probation as an authorised officer for a period not exceeding 12 months or for the further period approved by the MEC on the understanding that it is a condition of appointment that such person during that probation period complies with the competency and registration requirements prescribed for the specific appointment category.

(4) Any person appointed under subsection (1) as an authorised officer, shall upon his or her appointment be issued with a certificate of appointment by the chief executive officer, MEC concerned, local authority, person or institution appointing him or her, as the case may be.

(5) An authorised officer shall not exercise any power or perform any duty unless he or she is in possession of his or her certificate of appointment.

(6) An authorised officer shall produce his or her certificate of appointment at the request of any person having a material interest in the matter concerned.

Application for registration as inspector of licences, examiner of vehicles, examiner for driving licences or traffic officer

3B. (1) Any person desiring to be registered as—

(a) an inspector of licences;
(b) an examiner of vehicles;
(c) an examiner for driving licences; or
(d) a traffic officer,

shall apply in the prescribed manner to the chief executive officer.

(2) An application referred to in subsection (1) shall be accompanied by the prescribed fees.

Registration and grading of officers

3C. (1) The chief executive officer shall, if satisfied that a person referred to in section 3B complies with the prescribed competency and registration requirements in respect of the specific application category, register such person in the prescribed manner: Provided that the chief executive officer shall grade an examiner of vehicles or an examiner for driving licences according to his or her qualifications in the prescribed manner.

(2) No person shall be registered or remain registered in terms of subsection (1) as—

(a) an examiner of vehicles if he or she has or acquires a direct or indirect financial interest in the manufacturing, selling, rebuilding, repairing or modifying of motor vehicles; or
(b) an inspector of licences, an examiner for driving licences or a traffic officer if he or she, or through his or her spouse or partner has or acquires a direct or indirect financial or other related interest in any driving school or in the training or instruction of or supervision of learner drivers:

Provided that the chief executive officer may register a person in terms of subsection (1) notwithstanding the provisions of this subsection.

(3) Any act by a person in the execution of his or her powers or in the performance of his or her duties whilst he or she was incompetent by reason of the provisions of subsection (2), shall not be invalid for such reason only.

(4) Any person registered as a traffic officer for a province in terms of subsection (1), shall be deemed to be registered for any other province.

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

3D. (1) The minimum requirements for registration as an inspector of licences, an examiner of vehicles, an examiner for driving licences or a traffic officer, as the case may be, shall be that the applicant—

(a) has obtained an appropriate diploma at a training centre approved by the Shareholders Committee;

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

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

Provided that a person appointed before—

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

(ii) the commencement of this Act in terms of any road traffic law contemplated in item 2 of Schedule 6 to the Constitution of the Republic of South Africa, 1996 (Act No. 108 of 1996),

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

(2) The diploma referred to in subsection (1)*(a)* shall—

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

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

(3) The chief executive officer shall grade an examiner of vehicles or an examiner for driving licences as prescribed.

Suspension and cancellation of registration of officer

3E. (1) 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—

(a) in the opinion of the inspectorate such person is guilty of misconduct in the exercise of his or her powers or the performance of his or her duties;

(b) such person stopped functioning as an officer for a period of 12 successive months;

(c) such person has not attended an appropriate refresher course within the prescribed time at a training centre approved by the Shareholders Committee; or

(d) in the opinion of the inspectorate concerned, the performance record of such person indicates that he or she is incompetent to exercise or perform the powers or duties of an officer of the category in which he or she is registered.

(2) The registration of a person referred to in subsection (1) may only be suspended or cancelled after such person has had the opportunity to make representations in writing and to show cause, within the period determined by the chief executive officer, which period shall not be less than 21 days, why the registration should not be suspended or cancelled.

(3) Any person adversely affected by the decision of the inspectorate referred to in subsection (1) may, within 21 days after he or she became aware of the decision, request the inspectorate to give reasons in writing for its decision.

(4) If the registration of a person is suspended or cancelled in terms of this section, that person shall forthwith return his or her registration document to the chief executive officer, who shall keep such document for the period of suspension, or cancel such document, as the case may be.

Powers and duties of inspector of licences

3F. In addition to the powers and duties conferred upon him or her or under this Act, an inspector of licences may, subject to the provisions of this Act or any other law—

(a) by notice in writing as prescribed, direct the owner, operator, driver or person in charge of any vehicle, wherever found, which in his or her opinion does not comply with the requirements for roadworthiness certification provided for in this Act or in any other law, to produce such vehicle for inspection, examination or testing to an appropriately graded testing station for such class of vehicle at a time and place specified in such notice;

(b) in respect of any motor vehicle, demand from the title holder, owner, operator or driver thereof the production of any document which such person is required to have in respect of that motor vehicle in terms of this Act or any other law, or any like document issued by a competent authority outside the Republic;

(c) require from any instructor—

(i) where such instructor is engaged in teaching or instructing another person in the driving of a motor vehicle, forthwith; or

(ii) where such instructor is not so engaged, within seven days,

to produce evidence of his or her registration;

(d) examine any motor vehicle in order to satisfy himself or herself that it is the motor vehicle in respect of which a document referred to in paragraph *(b)* was issued;

(e) impound any document referred to in paragraph *(b)* which appears to be or which the officer suspects to be invalid or which has been or appears to have been unlawfully altered or defaced or which is being put to unlawful use, and where any document is so impounded, the inspector shall issue a receipt in respect thereof to the person concerned;

(f) require the owner, operator or driver or person in charge of any vehicle forthwith to furnish his or her name and address, and give any other particulars required as to his or her identification, and where applicable, immediately to produce a professional driving permit;

(g) demand from any person immediately to produce a licence or any other prescribed authorisation authorising him or her to drive a motor vehicle, and to produce any other document which he or she is required to have in respect of any motor vehicle in terms of this Act or any other law;

(h) impound any licence or document produced to him or her in terms of paragraph *(g)* which in his or her opinion may afford evidence of a contravention or evasion of any provision of this Act or any other law,

and where any licence or document is so impounded, the inspector shall issue a receipt in respect thereof to the person concerned;

(i) require any person, whether or not this person is in a vehicle, to furnish his or her name and address and to give other particulars required as to his or her identification, as well as such information as is within his or her power to furnish and which may lead to the identification of the owner, operator or driver of the vehicle concerned;

(j) require any person to furnish him or her with any information as is within the power of such person to furnish and which may lead to the identification of the driver, owner, operator or person in charge of a vehicle at any time or during any period; or

(k) at any reasonable time, having regard to the circumstances of the case, without prior notice, and in the exercise of any power or the performance of any duty which he or she is in terms of this Act or any other law authorised or required to exercise or perform, enter any premises on which he or she has reason to believe that any vehicle is kept.

Powers and duties of examiner of vehicles

3G. (1) An examiner of vehicles may inspect, examine or test any vehicle in order to determine whether it is roadworthy and for that purpose may dismantle the vehicle or any part thereof or its equipment or accessories: Provided that he or she shall reassemble any vehicle so dismantled unless he or she is requested by the person in charge of the vehicle not to do so.

(2) An examiner of vehicles may drive any vehicle when necessary in the performance of his or her duties, if, in the case of a motor vehicle, he or she is licensed to drive a motor vehicle of the class concerned.

Powers and duties of examiner for driving licences

3H. (1) An examiner for driving licences shall test any applicant for a learner's or driving licence in the manner and in regard to the matters as prescribed, in order to determine whether the applicant is fit and competent to obtain a learner's or driving licence for the class of vehicle for which he or she applies.

(2) No examiner for driving licences shall test an applicant for a driving licence in terms of this Act unless the examiner himself or herself is licensed to drive a vehicle of the class for which the applicant applies to obtain a driving licence or of the class prescribed.

Powers and duties of traffic officer

3I. In addition to the powers and duties conferred upon him or her or under this Act, a traffic officer may, subject to the provisions of this Act or any other law—

(a) exercise or perform any of the powers or duties conferred upon an inspector of licences under section 3F;

(b) when in uniform, require the driver of any vehicle to stop such vehicle;

(c) inspect and test or cause to be inspected and tested by a person whom he or she considers competent to do so, any part and the functioning of any vehicle, and the equipment thereof, with a view to ascertaining whether the vehicle concerned or the functioning thereof and the equipment comply with the provisions of this Act: Provided that no officer or person instructed by the officer to inspect or test such vehicle shall, in the exercise of the power hereby conferred upon him or her, dismantle the mechanism or any working parts of any motor vehicle

unless he or she is also a qualified motor mechanic or has passed an examination for examiners of vehicles as prescribed, and if he or she has so dismantled the vehicle, he or she shall reassemble the dismantled mechanism or parts unless he or she is requested by the person in charge of the vehicle not to do so;

(d) ascertain the dimensions of, the load on, or the mass, axle mass load or axle unit mass load of, any vehicle, or the mass of any combination of vehicles, loaded or unloaded, and if necessary for the purpose of ascertaining such mass, require any vehicle or combination of vehicles to proceed to a mass-meter or mass-measuring device, and if the mass of any vehicle or combination of vehicles exceeds the mass allowed in terms of this Act, prohibit the operation of the vehicle or combination of vehicles on a public road until the mass has been reduced or adjusted to comply with this Act: Provided that where the load on a vehicle includes any hazardous substance as contemplated in the Hazardous Substances Act, 1973 (Act No. 15 of 1973), the reduction and handling of the mass shall be undertaken in terms of that Act;

(e) drive any vehicle where necessary in the performance of his or her duties if, in the case of a motor vehicle, he or she is licensed to drive a motor vehicle of the class concerned;

(f) if a person, being the driver or the person apparently in charge of a motor vehicle, appears, by reason of his or her physical or mental condition, howsoever arising, to be incapable for the time being of driving or being in charge of that vehicle, temporarily forbid the person to continue to drive or be in charge of that vehicle and make the arrangements for the safe disposal or placing of the vehicle as in his or her opinion may be necessary or desirable in the circumstances;

(g) regulate and control traffic upon any public road, and give such directions as may, in his or her opinion, be necessary for the safe and efficient regulation of the traffic, which may include the closing of any public road, and, where he or she is of the opinion that the driver of a motor vehicle is hampering or impeding the normal flow of traffic on a public road, direct the driver to remove the vehicle from such road and to follow another route with the vehicle;

(h) require any person to furnish his or her name and address and other particulars which are required for his or her identification or for any process if the officer reasonably suspects this person of having committed an offence in terms of this Act or any other law or, if in the opinion of the officer, he or she is able to give evidence in regard to the commission of any such offence;

(i) in respect of any motor vehicle, demand from the owner, operator or driver thereof to produce any document prescribed in terms of this Act;

(j) impound any document referred to in paragraph *(i)* produced to him or her and which in his or her opinion may afford evidence of a contravention of or failure to comply with any provision of this Act or any other law related to road traffic matters and where any document is so impounded, the traffic officer shall issue a receipt in respect thereof to the person concerned;

(k) require any professional driver or the operator or owner of any motor vehicle to produce for inspection and to have a copy made of—

(i) any record or document which that person is required in terms of this Act to carry or have in his or her possession or which is required to be affixed to any such motor vehicle; or

(ii) any record which that person is required in terms of this Act to preserve;

(l) at any time enter any motor vehicle of an operator and inspect such vehicle;

(m) at any time enter upon any premises on which he or she has reason to believe that a motor vehicle of an operator is kept or any record or other document required to be kept in terms of this Act is to be found, and inspect such vehicle and copy any such record or document, which he or she finds there;

(n) if he or she has reason to believe that an offence in terms of this Act has been committed in respect of any record or document, inspected by him or her, impound that record or document, and where any document is so impounded, the traffic officer shall issue a receipt in respect thereof to the person concerned;

(o) inspect any motor vehicle or part thereof and impound any document issued in connection with the registration and licensing of such motor vehicle which relates to the motor vehicle, where it is found that the engine or chassis number of the motor vehicle differs from the engine or chassis number as specified on the document, and direct that the motor vehicle be taken, forthwith, to any police station specified by the traffic officer for police clearance, and may after such clearance has been obtained, return the impounded document to any person who is entitled thereto, or notify the owner of the motor vehicle concerned that the vehicle must be re-registered, as the case may be; and

(p) require from the owner, operator or driver of a motor vehicle registered or deemed to be registered in any prescribed territory, police clearance in respect of the motor vehicle before allowing the motor vehicle to be taken across the borders of the Republic: Provided that the chief executive officer may exempt any owner, operator or driver in the prescribed manner from having to provide such police clearance.

Failure to comply with instruction or direction of inspector of licences, traffic officer, examiner of vehicles or peace officer

3J. (1) No person shall—

(a) fail to comply with any instruction or direction given to him or her by an inspector of licences, traffic officer or examiner of vehicles, or obstruct, hinder or interfere with any inspector of licences, traffic officer or examiner of vehicles in the exercise of any power or the performance of any duty in terms of this Act;

(b) fail to comply with any instruction or direction given to him or her by a peace officer, or obstruct, hinder or interfere with any peace officer in the exercise of any power relating to a provision of this Act assigned to him or her in terms of section 334 of the Criminal Procedure Act, 1977 (Act No. 51 of 1977); or

(c) in order to compel a person referred to in paragraph *(a)* or *(b)* to perform or to refrain from performing any act in respect of the exercise of his or her powers or the performance of his or her duties, or on account of such person having performed or refrained from performing such an act, threaten or suggest the use of violence against or restraint upon such person or any of his or her relatives or dependants, or threaten or suggest any injury to the property of such person or of any of his or her relatives or dependants.

(2) Whenever the production of any document which is not required to be affixed to a vehicle or to be kept with him or her in a vehicle by any person, is demanded under sections 3F*(b)*, 3F*(g)* or 3I*(i)*, the production thereof at

any police station or office set aside by a competent authority for use by a traffic officer or peace officer, within a period of seven days after being so demanded, shall be deemed to be sufficient compliance with the demand.

(3) Whenever any document is produced under subsection (2) at any police station or office referred to in that subsection, the officer in charge of such police station or office so set aside, shall accordingly forthwith notify the officer who made the demand concerned and shall issue an acknowledgement of production of such document to the person producing it.

(4) Where a document is not produced under subsection (2) and any process is to be handed to or served upon a person in terms of section 54 or 72 of the Criminal Procedure Act, 1977, an inspector of licences, traffic officer or peace officer may require the imprint of the left thumb of the person to whom the process relates on such process, and such person shall be obliged to furnish such imprint in the manner and at such a place or places on the document or copies thereof as directed by the inspector or officer concerned: Provided that if it is not possible to obtain the left thumb print of such person, the imprint of any other finger may be required, in which case the finger so used shall be identified in writing by the inspector or officer concerned under each imprint of such finger.

Impersonating authorised officer or peace officer or inducing any such officer to forsake his or her duty

3K. (1) Any person who is not an authorised officer or a peace officer shall not by word, conduct or demeanour, pretend that he or she is an authorised officer or a peace officer.

(2) No person shall connive with or induce or attempt to induce any authorised officer or peace officer to omit to carry out his or her duty or to commit an act in conflict with his or her duty.

Approval of training centre

3L. (1) If a training centre referred to in sections 3D(1)*(a)*, 3E(1)*(c)* and 28C meets the prescribed requirements, the Shareholders Committee shall approve it.

(2) The Shareholders Committee may, if a training centre no longer complies with the requirements referred to in subsection (1) revoke the approval referred to in that subsection.''.

Substitution of section 4 of Act 93 of 1996

3. The following section is substituted for section 4 of the principal Act:

''Registration and licensing of motor vehicles

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

(2) All motor vehicles shall be registered and licensed unless the contrary is prescribed in respect of specific cases.''.

Amendment of section 5 of Act 93 of 1996, as amended by section 3 of Act 8 of 1998

4. Section 5 of the principal Act is amended—

(a) by the substitution for the expression ''MEC concerned'' in subsection (1) of the expression ''chief executive officer'';

(b) by the substitution for the expression ''MEC'', wherever it occurs in subsections (2), (3) and (4), of the expression ''chief executive officer''; and

(c) by adding the following subsection:

Polity.org.za

''(7) A manufacturer of number plates shall not manufacture, sell or distribute number plates unless he or she is registered as a manufacturer of number plates.''.

Amendment of section 6 of Act 93 of 1996, as amended by section 4 of Act 8 of 1998

5. Section 6 of the principal Act is amended—

(a) by the substitution for the expression ''MEC,'' wherever it occurs, of the expression ''chief executive officer'';

(b) by the substitution for the expression ''Minister'', wherever it occurs, of the expression ''Shareholders Committee''; and

(c) by the substitution for the expression ''he or she'' in subsection (3) of the expression ''it''.

Substitution of section 8 of Act 93 of 1996

6. The following section is substituted for section 8 of the principal Act:

''Driving licence testing centre to be registered

8. No person, department of State or registering authority shall operate a driving licence testing centre unless such testing centre is registered and graded.

Application for registration of driving licence testing centre

8A. (1) Any person, department of State 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 the registration of such a testing centre.

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

Substitution of section 9 of Act 93 of 1996

7. The following section is substituted for section 9 of the principal Act:

''Registration and grading of driving licence testing centres

9. On receipt of an application referred to in section **[8]** 8A the **[MEC]** 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 in the **[Provincial Gazette]** *Gazette*.''.

Substitution of section 10 of Act 93 of 1996

8. The following section is substituted for section 10 of the principal Act:

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

10. The **[MEC]** inspectorate of driving licence testing centres may, if a registered driving licence testing centre no longer complies with the requirements referred to in section 9, suspend the registration of that testing centre for such period as it deems fit, or regrade or cancel it, in the prescribed manner.''.

Substitution of section 11 of Act 93 of 1996

9. The following section is substituted for section 11 of the principal Act:

Polity.org.za

Polity.org.za

"Appointment of inspectorate of driving licence testing centres

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

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

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

Amendment of section 15 of Act 93 of 1996

10. Section 15 of the principal Act is amended by the substitution for the expression ''MEC concerned'' in subsection (2) of the expression ''chief executive officer''.

Amendment of section 16 of Act 93 of 1996

11. Section 16 of the principal Act is amended—

(a) by the substitution for the expression ''MEC of the province concerned'' in subsection (2) of the expression ''chief executive officer''; and

(b) by substitution for the expression ''MEC'', wherever it occurs in subsection (3), of the expression ''chief executive officer''.

Amendment of section 18 of Act 93 of 1996

12. Section 18 of the principal Act is amended by the substitution for subsection (6) of the following subsection:

''(6) A driving licence which has officially been included in an identity document shall be deemed to be a driving licence issued under this Act, until a date fixed by the Minister by notice in the *Gazette*.''.

Amendment of section 19 of Act 93 of 1996

13. Section 19 of the principal Act is amended by the substitution for subsection (3) of the following subsection:

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

Substitution of section 21 of Act 93 of 1996

14. The following section is substituted for section 21 of the principal Act:

"Directions to applicant for learner's or driving licence

21. Notwithstanding anything to the contrary contained in this Act **[contained]**, the **[MEC]** chief executive officer may, whenever he or she deems it necessary, direct where and by which examiner for driving licences an applicant for a learner's or driving licence shall be examined and tested, and at which driving licence testing centre such applicant may apply for a driving licence.''.

Amendment of section 25 of Act 93 of 1996

15. Section 25 of the principal Act is amended by the substitution for the expressions ''MEC of the province concerned'', ''MEC concerned'' and ''MEC'', wherever they occur, including in the heading, of the expression ''chief executive officer''.

Polity.org.za

Polity.org.za

Amendment of section 27 of Act 93 of 1996

16. Section 27 of the principal Act is amended—

(a) by the substitution for the expression ''MEC of the province in which he or she is permanently or ordinarily resident'', in subsection (1), of the expression ''chief executive officer'';

(b) by the substitution for the expression ''MEC concerned'' in subsection (2)*(b)* of the expression ''chief executive officer''; and

(c) by the substitution for the expression ''MEC'', wherever it occurs in subsections (3) and (4), of the expression ''chief executive officer''.

Substitution of section 28 of Act 93 of 1996

17. The following sections are substituted for section 28 of the principal Act:

''Instructor to be registered

28. (1) No person shall act as instructor unless he or she is registered in terms of section 28B.

(2) No person shall employ any other person as an instructor, or make use of any other person's services as instructor, unless that other person is registered as an instructor in terms of section 28B.''.

Application for registration as instructor

28A. Any person desiring to be registered as an instructor shall in the prescribed manner apply to the chief executive officer.

Registration and grading of instructors

28B. (1) No person shall be registered to act as instructor unless he or she—

(a) has passed the prescribed examination;

(b) is of good character; and

(c) is mentally and physically fit to act as instructor, and was medically examined to ascertain such fitness.

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

(3) The chief executive officer shall, if satisfied that an applicant referred to in section 28A complies with subsections (1) and (2), register and grade such applicant in the prescribed manner.

Suspension and cancellation of registration of instructor

28C. The chief executive officer may, for the period he or she deems fit, in the prescribed manner, suspend or cancel the registration of an instructor if that instructor—

(a) in the opinion of the chief executive officer, is guilty of misconduct in the exercise of his or her powers or the performance of his or her duties; or

(b) failed within the prescribed period to attend an appropriate refresher course at a training centre approved by the Shareholders Committee.''.

Substitution of section 29 of Act 93 of 1996

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

''Voidness of licence issued contrary to Chapter

29. A learner's or driving licence issued contrary to this Chapter, shall be void, and upon the request of the **[MEC concerned]** inspectorate of driving

Creamer Media Pty Ltd +27 11 622 3744 polity@creamermedia.co.za www.polity.org.za Polity.org.za

licence testing centres, the authority which issued such licence or a traffic officer, as the case may be, the holder of such licence shall forthwith submit it or, in the case where it is contained in an identity document, that document, to **[that MEC]** the inspectorate of driving licence testing centres, the authority which issued it or the traffic officer, as the case may be, who shall cancel the licence in the prescribed manner: Provided that the traffic officer may only cancel the licence with the prior approval of the **[MEC concerned]** inspectorate of driving licence testing centres.''.

Substitution of section 38 of Act 93 of 1996

19. The following section is substituted for section 38 of the principal Act:

''Application for registration of testing station

38. Any person, department of State or registering authority desiring to operate a testing station shall apply in the prescribed manner to the **[MEC concerned]** inspectorate of testing stations for the registration of such testing station.''.

Substitution of section 39 of Act 93 of 1996

20. The following section is substituted for section 39 of the principal Act:

''Registration and grading of testing station

39. If, upon receipt of an application referred to in section 38, the **[MEC]** inspectorate of testing stations is satisfied that the prescribed requirements for registration of the testing station concerned have been met, it shall register and grade such testing station on the conditions and in the manner prescribed, and shall give notice of such registration in the **[Provincial Gazette]** *Gazette* **[:Provided that the MEC may provisionally register and grade a testing station operated by a registering authority, on the conditions and in the manner prescribed.]**''.

Substitution of section 40 of Act 93 of 1996

21. The following section is substituted for section 40 of the principal Act:

''Suspension or cancellation of registration of testing station

40. The **[MEC]** inspectorate of testing stations may, if a registered testing station no longer complies with the requirements contemplated in section 39, suspend, for such period as it may deem fit, or cancel the registration of such testing station or regrade the testing station in the prescribed manner.''.

Substitution of section 41 of Act 93 of 1996

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

''Appointment of inspectorate of testing stations

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

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

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

Amendment of section 45 of Act 93 of 1996, as amended by section 9 of Act 8 of 1998

23. Section 45 of the principal Act is amended by the substitution for the expressions ''MEC concerned'' and ''MEC'', wherever they occur in subsections (2), (4) and (5), of the expression ''chief executive officer''.

Amendment of section 46 of Act 93 of 1996

24. Section 46 of the principal Act is amended by the substitution for the expression ''MEC'', wherever it occurs in subsection (4), of the expression ''chief executive officer''.

Substitution of section 50 of Act 93 of 1996, as amended by section 11 of Act 8 of 1998

25. The following section is substituted for section 50 of the principal Act:

''Power of chief executive officer in respect of motor vehicles, drivers and activities of operators

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

(a) notify such operator that such motor vehicle is suspected of being unroadworthy and that the operator should forthwith take adequate steps to ensure its continued roadworthiness in accordance with Chapter V;

(b) require from such operator to indicate in writing what precautions he or she has taken to ensure the continued roadworthiness of such motor vehicle in accordance with Chapter V;

(c) direct such operator to produce such motor vehicle for inspection, examination or testing at a time and place specified in such notice; and

(d) suspend the operator card issued in respect of such motor vehicle, if such motor vehicle has been examined or tested under paragraph *(c)* and found to be unroadworthy in terms of Chapter V, for such period as such motor vehicle is so unroadworthy.

(2) The chief executive officer may, on account of the record of a driver of a motor vehicle in respect of which an operator is registered, by written notice—

(a) inform such operator that it is suspected that he or she does not exercise proper control over the driver under his or her authority as required by section 49;

(b) require such operator to indicate in writing what precautions he or she has taken in order to ensure proper control over drivers under his or her authority;

(c) require such operator to produce for examination the records regarding drivers which an operator is required to keep in terms of this Act; and

(d) direct that the driver concerned be retested in terms of section 25.

(3) The chief executive officer may, if the record of an operator indicates that such operator does not comply with the provisions of this Act, by written notice—

(a) direct such operator to carry out his or her duties in terms of section 49 properly;

(b) appoint a person whom he or she deems fit, to investigate the activities or specific activities of such operator and direct the person so appointed to make a written recommendation to him or her regarding what measures should be taken in respect of such operator;

Polity.org.za

(c) direct such operator to appear before him or her or before any other person appointed by him or her, in order to furnish reasons for his or her failure to carry out his or her duties in terms of section 49; and

(d) notify such operator—

(i) that an operator card shall only be issued to him or her on such conditions as the chief executive officer may deem fit;

(ii) that no further operator card shall be issued to him or her for such period as the chief executive officer may specify in the notice; or

(iii) that the operator card or cards relating to such motor vehicle or vehicles as the chief executive officer may determine in respect of which he or she is registered as the operator is or are suspended until the chief executive officer is satisfied that the grounds for the suspension have lapsed:

Provided that—

(aa) the period of any suspension under subparagraph (iii) shall not exceed 12 months;

(bb) any decision by the chief executive officer under this paragraph shall only be taken on the basis of a recommendation by a person appointed under paragraph *(b)*; and

(cc) the chief executive officer shall, within 21 days after the date of the notice, in writing furnish such operator with the reasons for his or her decision.

(4) The chief executive officer may, in the exercise of his or her powers under this section—

(a) require any operator, subject to any lawful objection, to make discovery of documents by way of affidavit or by answering interrogatories on oath and to produce such documents for inspection;

(b) require any operator to allow inspection of any records and documents required to be kept by the operator in terms of this Act;

(c) appoint a commission to take the evidence of any person in the Republic or in a prescribed territory or in a foreign state and to forward such evidence to him or her in the same manner as if the commission were a commissioner appointed by a court; and

(d) at any time require that an inquiry be instituted into the operational activities of an operator by a person appointed by him or her for that purpose and, if such operator is a company, also into those of any other company in a group of companies to which the operator belongs or of which the operator is the controlling company.''.

Insertion of Chapter VI A in Act 93 of 1996

26. The following Chapter is inserted in the principal Act after section 51:

"CHAPTER VI A

Right of appeal

Right of appeal to Shareholders Committee

51A. (1) Any person, department of State or registering authority who or which is aggrieved—

(a) at the refusal of the chief executive officer to register him or her in any capacity referred to in section 3C, or as an instructor;

(b) at any decision of the chief executive officer regarding the activities of an operator, the refusal of the chief executive officer to have an operator card issued to an operator or the suspension or cancellation of such operator card;

(c) at the refusal of the inspectorate of driving licence testing centres or the inspectorate of testing stations to register a driving licence testing centre or a testing station, respectively; or

Polity.org.za

(d) at the suspension or cancellation of any such registration,

may within 21 days after such refusal, suspension, cancellation or decision, in writing lodge an appeal with the Shareholders Committee against such refusal, suspension, cancellation or decision, and such person, department of State or registering authority shall at the same time serve a copy of the appeal on the chief executive officer, inspectorate of driving licence testing centres or inspectorate of testing stations, as the case may be.

(2) After receipt of the copy of appeal referred to in subsection (1), the chief executive officer, the inspectorate of driving licence testing centres or inspectorate of testing stations, as the case may be, shall forthwith furnish the Shareholders Committee with his, her or its reasons for the refusal, suspension, cancellation or decision, to which the appeal refers.

(3) The Shareholders Committee may after considering an appeal under subsection (1) give the decision it deems fit.

(4) An appeal referred to in subsection (1) shall include an appeal against any refusal, suspension, cancellation or decision of the chief executive officer taken in terms of the laws of any province.

Right of appeal to chief executive officer

51B. (1) Any person who is aggrieved at the refusal of an examiner for driving licences to issue or authorise the issue to him or her of a learner's or driving licence, may, within 21 days after such refusal, in writing appeal to the chief executive officer, and such person shall at the same time serve a copy of the appeal on the examiner concerned.

(2) Any person who is aggrieved at the refusal of an examiner of vehicles or a testing station to issue certification of roadworthiness in respect of a motor vehicle or to authorise the issue of such certification to him or her, or at the conditions subject to which such certification was issued to him or her, may, within 21 days after such refusal or after the issue of certification subject to the conditions concerned, in writing appeal against any such refusal or conditions concerned to the chief executive officer, and such person shall at the same time serve a copy of the appeal on the examiner or the testing station.

(3) After receipt of the copy of appeal referred to in subsection (1) or (2), the examiner for driving licences or the examiner of vehicles or the testing station, as the case may be, shall forthwith furnish the chief executive officer with his or her reasons for the decision to which such appeal refers.

(4) For the purpose of deciding an appeal under subsection (1), the chief executive officer may nominate any person to examine and test the appellant as to his or her competency to drive the class of motor vehicle concerned and may in addition require each party to the appeal to furnish such information and evidence as he or she deems expedient.

(5) For the purpose of deciding an appeal under subsection (2), the chief executive officer may—

(a) where the appeal concerns a certification of roadworthiness, cause the motor vehicle concerned to be examined and tested by an examiner of vehicles nominated by him or her; and

(b) require each party to the appeal to furnish such information and evidence as he or she deems necessary.

(6) The chief executive officer may after considering the appeal give such decision as he or she deems fit.

(7) An appeal referred to in subsections (1) and (2), shall include an appeal against any refusal, suspension, cancellation or decision in terms of the laws of any province.''.

Substitution of section 52 of Act 93 of 1996

27. The following section is substituted for section 52 of the principal Act:

"Powers and functions of chief executive officer

52. (1) The chief executive officer may—

(a) prepare a comprehensive research programme to effect road safety in the Republic, carry it out systematically and assign research projects to persons who, in his or her opinion, are best equipped to carry them out;

(b) give guidance regarding road safety in the Republic by means of the organising of national congresses, symposiums, summer schools and study weeks, by means of mass-communication media and in any other manner deemed fit by the chief executive officer.

(2) In order to perform his or her functions properly the chief executive officer may—

(a) publish a periodical to promote road safety in the Republic;

(b) give guidance to associations or bodies working towards the promotion of road safety in the Republic;

(c) organise national congresses, symposiums, summer schools and study weeks;

(d) with a view to promoting road safety in the national sphere, publish advertisements in the mass-communication media.

(3) The chief executive officer shall exercise his or her powers and perform his or her functions subject to the control and directions of the Shareholders Committee.''.

Substitution of section 53 of Act 93 of 1996

28. The following section is substituted for section 53 of the principal Act:

"Delegation by chief executive officer

53. (1) The chief executive officer may, subject to such conditions as he or she may deem necessary—

(a) delegate to any person employed by the Corporation any power conferred upon him or her by section 52; or

(b) authorise any person employed by the Corporation to carry out any duty assigned to him or her by section 52.

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

(3) Any delegation or authorisation under subsection (1) shall not prevent the chief executive officer from exercising that power or carrying out that duty himself or herself.''.

Amendment of section 57 of Act 93 of 1996

29. Section 57 of the principal Act is amended by inserting the following subsection after subsection (1):

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

Polity.org.za

Amendment of section 59 of Act 93 of 1996

30. The following section is substituted for section 59(3) of the principal Act:

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

Amendment of section 75 of Act 93 of 1996, as amended by section 13 of Act 8 of 1998

31. Section 75 of the principal Act is amended—

(a) by the substitution for the expression ''after consultation with the MECs'' in subsection (1), of the expression ''after a decision has been taken in the Shareholders Committee''; and

(b) by—

(i) the deletion of the word ''and'' at the end of paragraph *(y)* of subsection (1);

(ii) the insertion of the phrase ''; and'' at the end of paragraph *(z)* of subsection (1); and

(iii) the insertion of the following paragraph in subsection (1) after paragraph *(z)*:

''*(*zA*)* any matter for which—

(i) it is necessary or convenient to assist the transition from the operation of the laws repealed by this Act to the operation of this Act; and

(ii) this Act does not, in the Minister's opinion, make provision or enough provision.''; and

(c) by the insertion of the following subsection after subsection (2):

''(2A) *(a)* A regulation made under subsection (1)*(*zA*)* may be given retrospective effect from a date earlier than the day this Act comes into force.

(b) To the extent to which a regulation under subsection (1)*(*zA*)* takes effect from a date earlier than the date of its publication in the *Gazette*, the regulation does not operate so as—

(i) to affect in a prejudicial manner the rights of any person existing before that date of publication; or

(ii) to impose liabilities on any person in respect of anything done or omitted to be done before that date of publication.

(c) This subsection and subsection (1)*(*zA*)* expire one year after they come into force.''.

Amendment of section 77 of Act 93 of 1996

32. Section 77 of the principal Act is amended—

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

''*(g)* the **[Director-General]** chief executive officer;'' ; and

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

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

Amendment of section 78 of Act 93 of 1996

33. Section 78 of the principal Act is amended—

Creamer Media Pty Ltd +27 11 622 3744 polity@creamermedia.co.za www.polity.org.za Polity.org.za

(a) by the substitution for paragraph *(b)* of subsection (2) of the following paragraph:

"*(b)* any person authorised thereto by the Minister, the MEC concerned, the Shareholders Committee or the chief executive officer to demand such furnishing;";

(b) by deleting the word "and" at the end of paragraph *(d)* of subsection (2);

(c) by inserting the word "and" at the end of paragraph *(e)* of subsection (2); and

(d) by inserting the following paragraph after paragraph *(e)* of subsection (2):

"*(f)* an inspectorate appointed under this Act,".

Substitution of section 79 of Act 93 of 1996

34. The following section is substituted for section 79 of the principal Act:

"Cognisance may be taken of information contained in register or record

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

Insertion of section 80A in Act 93 of 1996

35. The following section is inserted after section 80 of the principal Act:

"Power of local authority to make by-laws

80A. (1) Subject to the provisions of any law in relation to the procedure to be followed in the making, approval and promulgation of any by-law by a local authority, any local authority may, with the concurrence of the Premier concerned, make by-laws not inconsistent with the provisions of this Act or the laws of the province, in respect of—

(a) the safety of traffic on any public road, the duty of any user of such road and the use of any such road by any vehicle;

(b) subject to the provisions of the Business Act, 1991 (Act No. 71 of 1991), and any regulation or by-law made thereunder in relation to the restriction, regulation or control of the carrying on of the business of street vendor, pedlar or hawker, the stopping and parking of any vehicle on any public road or portion thereof, including by-laws relating to the installation, regulation, supervision, maintenance and control of parking meters and parking places;

(c) the appointment and licensing of parking attendants and the withdrawal of any such licence;

(d) the driver or conductor of, or other person providing a service involving, a vehicle plying for hire or a vehicle which transports or conveys passengers for a tariff;

(e) subject to the provisions of the Business Act, 1991 (Act No. 71 of 1991), and any regulation or by-law made thereunder in relation to the restriction, regulation or control of the carrying on of the business of street vendor, pedlar or hawker, any public road which is not to be used by any vehicle, either generally or at specific times;

(f) the relative position of traffic of differing speeds and classes on the public road;

(g) the place where and time when a vehicle may not turn so as to face in the opposite direction to that in which it was proceeding or where it may only so turn under specified conditions;

(h) the loading and off-loading of any vehicle on a public road;

(i) the rules as to priority of entry of certain motor vehicles into a main thoroughfare;

(j) the use of a hooter, bell or other warning device and the conditions under which any such warning device may be used within any specified area, whether at all times or during specified periods;

(k) the appointment of an advisory traffic control board consisting of no fewer than three members to advise the local authority on all questions of traffic control;

(l) the use of any public road by traffic in general;

(m) the limitation of age of drivers of vehicles drawn by animals;

(n) any form or token which a local authority may deem expedient for the purposes of any by-law, and the nature and extent of any information to be furnished for the purpose of any such form;

(o) the enabling of any local authority in the event of any person failing to do anything required of him or her under any by-law to do such act and to recover the expenses thereof from the person in default;

(p) the mass of any goods which or the number of passengers who or animals which may be conveyed on a pedal cycle;

(q) the regulation, restriction, prohibition or control of the parking upon public roads of vehicles owned, kept or used by dealers or which have been placed in their custody or under their control in the course of any dealer's business carried on by them; and

(r) any other matter in regard to which a local authority may make by-laws under this Act.

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

(3) Any by-law under subsection (1) may be made to apply generally throughout the area of the local authority or within any specified part thereof or to any specified category of vehicle or person.

(4) In so far as any by-law of a local authority, irrespective of whether it has been made under this Act or any other law, is incompatible with any regulation made under this Act, the regulation is in force.

(5) Any by-law made under this section may provide for penalties for a contravention thereof, and may also provide for different penalties in case of successive or continuous breaches, but no penalty may exceed a fine or imprisonment for a period of six months.''.

Amendment of section 83 of Act 93 of 1996

36. Section 83 of the principal Act is amended by the substitution for the expression ''Minister'' of the expression ''chief executive officer''.

Repeal of section 90 of Act 93 of 1996

37. Section 90 of the principal Act is repealed.

Repeal of section 92 of Act 93 of 1996

38. Section 92 of the principal Act is amended by deleting paragraph *(a)*.

Amendment of Schedule to Act 93 of 1996

39. The Schedule to the principal Act is amended by the substitution for the expression ''Sections 7A, 14 and 26'' in the first line of the third column of the expression ''The whole''.

Short title and commencement

40. This Act is called the National Road Traffic Amendment Act, 1999, and comes into operation on a date fixed by the President by Proclamation in the *Gazette*.

Polity.org.za

MEMORANDUM ON THE OBJECTS OF THE NATIONAL ROAD TRAFFIC AMENDMENT BILL, 1999

1. The Road Traffic Management Corporation requires for its establishment and operation, besides an amendment to the Administrative Adjudication of Road Traffic Offences Act, 1998, an amendment of the National Road Traffic Act, 1996 (Act No. 93 of 1996).

Since the need to institutionalise co-operation in road traffic is so pressing, reliance must be placed on functions as they exist in current legislation. This Amendment Bill forms part of a package of legislation (which includes provincial legislation) that is closely associated with the Corporation's functions.

2. The Amendment Bill provides for certain functions to be performed by the organs of the Corporation. The Amendment Bill and the provincial bills have been aligned with the Road Traffic Management Corporation Bill, to reflect the new intergovernmental relationship.

3. The National Road Traffic Amendment Bill —

(a) repeals certain provisions of the principal Act;

(b) assigns certain functions to the organs of the Corporation; and

(c) incorporates portions of provincial enactments relevant to the Corporation at the national level.

Competent authorities have not necessarily been changed. Certain functions may be performed by the Shareholders Committee of the Corporation and others by the chief executive officer of the Corporation. The Corporation may contract agents to perform functions, and the MEC exercises certain powers on his or her own and others in consultation with the Shareholders Committee.

In terms of the Amendment Bill, the MECs retain all powers which, if transferred to the Corporation, would result in the taking away of a source of income for provincial authorities. None of the competencies of local authorities are affected. The local government bodies also retain their powers in respect of the appointment of traffic personnel.

4. Clause 1 amends section 1 of the National Road Traffic Act, 1996, by inserting the definitions of ''authorised officer'', ''chief executive officer''; ''Corporation'' and ''Shareholders Committee'' and amending certain other definitions.

Clause 2 amends the National Road Traffic Act, 1996, by inserting provisions that relate to—

(a) the appointment of registering authorities by the Shareholders Committee, acting in consultation with the relevant MEC;

(b) the appointment of officers by the chief executive officer of the Corporation, MECs and local authorities;

(c) the application for registration as officers;

(d) the registration and grading of officers;

(e) the requirements for registration of officers;

(f) the suspension and the cancellation of registration of officers by the inspectorate concerned;

(g) the powers and duties of—

* inspectors of licences;
* examiners of vehicles;
* examiners for driving licences; and
* traffic officers;

(h) failure to comply with instructions or directions of inspectors of licences, traffic officers, examiners of vehicles or peace officers;

(i) impersonation of an authorised officer or a peace officer or inducing such an officer to forsake his or her duty; and

(j) approval of training centres by the Shareholders Committee.

In Chapter III, entitled ''Registration and licensing of motor vehicles'', clause 3 replaces section 4 of the principal Act and provides that all motor vehicles must be registered and licensed. It holds that the registration and licensing system of motor vehicles for each province shall be as prescribed. Clause 4 obliges every manufacturer, builder, importer or manufacturer of number plates to be registered. Manufacturers of number plates are prohibited from manufacturing, selling or distributing number plates unless they have been registered as such. Clause 5 amends section 6 dealing with the

Polity.org.za

right of appeal to the Minister. The Amendment Bill renders the chief executive officer of the Corporation responsible for this function. Clauses 6, 7 and 8 amend sections 8, 9 and 10, relating to the registration and grading of driving licence testing centres and suspension or cancellation of the registration of such centres, so that the inspectorate concerned takes responsibility instead of the MEC.

In Chapter IV, entitled ''Fitness of drivers'', clause 9 amends section 11 of the principal Act and provides for the appointment of a person, an authority or a body as an inspectorate of driving licence testing centres. The Minister may prescribe fees to be paid in respect of inspections carried out. Clause 10 amends section 15(2) of the principal Act by substituting the MEC with the chief executive officer of the Corporation, who may declare that a person is no longer subject to a disqualification, suspension or cancellation of a licence by a competent authority. Clause 11 amends section 16 of the principal Act by substituting the MEC with the chief executive officer of the Corporation in subsections (2) and (3). This would enable the chief executive officer to decide on the cancellation of the licence of a person who is subject to a disqualification. Clause 12 amends section 18(6) to provide that a driving licence contained in an identity document is only deemed to have been issued under this Act until a date fixed by the Minister. In terms of the amendment by clause 13 of section 19, a person authorised by an examiner for driving licences, may no longer issue a driving licence. Clause 14 amends section 21 of the principal Act by empowering the chief executive officer of the Corporation to direct where and by which examiner for driving licences an applicant for a learner's or driving licence must be examined and tested. Clause 15 amends section 25 of the principal Act by substituting the MEC with the chief executive officer of the Corporation as the person who cancels or suspends a driving licence. Clause 16 amends section 27 of the principal Act by substituting the MEC with the chief executive officer of the Corporation as the authority who may cancel or amend an endorsement on a licence. Clause 17 adds to section 28 of the principal Act a prohibition of employing any person as an instructor who has not been registered as an instructor in terms of sections 28A and 28B. Clause 17 inserts after section 28B a provision that enables the chief executive officer of the Corporation to suspend or cancel the registration of an instructor. Clause 18 replaces section 29 of the principal Act by substituting the MEC with the inspectorate of driving licence testing centres as one of the authorities which must cancel a learner's or driving licence issued contrary to the Chapter. A traffic officer may only cancel a void licence with the prior approval of the inspectorate of driving licence testing centres.

Under Chapter V, entitled ''Fitness of vehicles'', clauses 19, 20 and 21 amend sections 38, 39 and 40 of the principal Act by substituting the MEC with the inspectorate of testing stations as the authority responsible for the registration of testing stations. Clause 22 amends section 41 so that it only refers to the inspectorate of testing stations. By clauses 23 and 24 the functions of the MEC in sections 45 and 46 in respect of operators are transferred to the chief executive officer. Clause 25 amends section 50 to assign the powers of the MEC in respect of motor vehicles, drivers and the activities of operators to the chief executive officer.

Clause 26 inserts Chapter VI A into the principal Act, following on Chapter VI, dealing with operator fitness, which concerns—

(a) the right of appeal to the Shareholders Committee of any aggrieved person, department or registering authority against a refusal, suspension, cancellation or a decision by the chief executive officer, the inspectorate of driving licence testing centres or inspectorate of testing stations, respectively; and

(b) the right of appeal to the chief executive officer against the refusal of—

* an examiner for driving licences to issue or to authorise the issue of a learner's or driving licence; and
* an examiner of vehicles or a testing station to issue certification of roadworthiness.

In Chapter VII, entitled ''Road Safety'', clauses 27 and 28 replace sections 52 and 53 of the principal Act and empowers the chief executive officer to prepare research programmes to effect road safety and give guidance regarding road safety. He or she may further delegate these powers or authorise a person to carry out the duties.

Chapter VIII, that deals with dangerous goods, remains unamended.

In Chapter IX, entitled ''Road traffic signs and general speed limit'', clause 29 amends section 57 by inserting a provision also enabling the chief executive officer to display road traffic signs. Clause 30 relates to the power of the Minister to prescribe a speed limit that is higher or lower than the general speed limit. The clause amends section 59(3) of the principal Act by replacing the expression ''after consultation with the MECs'', with the expression ''after a decision has been taken in the Shareholders Committee''.

Chapter X and Chapter XI remain unchanged.

In Chapter XII, clause 31 amends section 75(1), which relates to the power of the Minister to make regulations, by:

(a) replacing the expression ''after consultation with the MECs'', with the expression ''after a decision has been taken in the Shareholders Committee''; and

(b) inserting a paragraph enabling the Minister to make transitional regulations necessary or convenient for the entry into force of the Amendment Bill and in respect of matters which the Act does not make enough provision or no provision at all. This paragraph expires one year after its entry into force.

Clause 32 amends section 77 of the principal Act by replacing paragraph *(g)* of subsection (1) with the following paragraph: ''*(g)* the chief executive officer;'', and by replacing subsection (3) with a subsection obliging institutions or persons referred to in subsection (1) to furnish the Shareholders Committee, or any person or body designated by the Shareholders Committee, with the prescribed information recorded in a register or record of such institution or person. The chief executive officer must, from the information so furnished, see to the compilation of a register.

Clause 33 amends section 78 of the principal Act by replacing paragraph *(b)* of subsection (2) with the following paragraph: ''*(b)* any person authorised thereto by the Minister, the MEC concerned, the Shareholders Committee or the chief executive officer, to demand such furnishing.''. Clause 33 further effects certain stylistic changes and adds an inspectorate to the institutions to which recorded information must be furnished.

Clause 34 amends section 79 of the principal Act by replacing it with a section enabling the Minister, MECs, Shareholders Committee or chief executive officer, in exercising a discretion or taking a decision in terms of this Act or any other law, to take cognisance of the information contained in a register or record contemplated in section 77.

Clause 35 inserts after section 80 of the principal Act a section concerning the power of a local authority to make by-laws. The power to make by-laws for any purpose referred to in subsection (1) includes the power to restrict or prohibit any matter or thing in relation to that purpose, either absolutely or conditionally.

Clause 36 amends section 83 of the principal Act by substituting the Minister with the chief executive officer as the person to decide on the use or classification of a vehicle in case of doubt.

Clause 37 repeals section 90 of the principal Act, which relates to the apportionment of fines.

Clause 38 amends section 92 of the principal Act by deleting paragraph *(a)*, which provides for a right of appeal in terms of the laws of a province.

As part of the process of reform, the National Road Safety Act, 1972, is repealed in its entirety by clause 39.

5. Numerous consultative meetings were held during the drafting of the legislation. The draft legislation was published for general comment on 19 October 1998. Moreover, in the course of January 1999, one national workshop and nine provincial workshops were held to discuss and elicit comment on the legislation.

The legislation was revised in accordance with comments received from stakeholders whenever possible.

6. The State Law Advisers and the Department of Transport are of the opinion that the procedure contemplated in section 76 of the Constitution applies to this Bill, since it deals with ''Road traffic regulation'', referred to in Schedule 4 to the Constitution.

CONSULTATION

The model impacts on all spheres of Government. Opportunity for comment and input, discussion and consultation, has been allowed and used to clarify issues surrounding the Corporation and its organs. The following departments, bodies and individuals participated in consultative meetings or commented on the Draft Bill:

1. **National departments**
   All national departments were consulted, and specifically, the Department of Finance.
2. **Provincial departments**
   All provincial departments were consulted. The first meetings with officials commenced in May 1998. On 18 September, MINCOM decided to consult the executive councils. Provinces took it upon themselves to approach the various executive councils. All executive councils have been consulted.
   MINCOM also decided that the consultation process with the local authorities, labour unions, licensing officials, law enforcement officers and the public must be undertaken by the provinces.
3. **Local government**
   SALGA and a vast number of mayors and officials from Western Cape, KwaZulu-Natal and Mpumalanga were consulted, including councilors and all mayors in Gauteng. The Durban metropolitan substructure had an opportunity to give input.
4. **Conferences**
   The consultation process went ahead during the 1998 Annual Transport Conference, which was held in Pretoria.
5. **Individuals and institutions**
   Individuals and institutions who were consulted and supplied comments, include:
   Mr AWJF Everson, Municipality of Ashton
   Mr GTJ Geldenhuys, CEO Malelane Municipality
   Mr JC Putter
   Mr RJ Rakgoale, Public Works, Roads and Transport, Free State
   Mr F Steyn, Secretary Local Government, White River
   Mr G Tighy, SABOA
   Mr GP de Wet, Centurion Traffic Department
   Mr Engelbrecht, Advocate & Gauteng KODOK
   Mr H Lemmer, Road Freight Association
   Road Freight Association Head Office and Gauteng, Eastern Cape, Western Cape and KwaZulu-Natal Offices
   Ms T Msibi, International Relations Officer, Department of Transport
   Mr P Meyer, Transport and Works, Western Cape
   Dr T Geldenhuys, South African Police Service
   TR Grimbeek, Institute of Traffic and Municipal Police Officers of Southern Africa
   Mr AM Peters/Mr EJ Moller, City Engineer's Unit
   Mr RF Peterson, DDG, Transport and Works, Western Cape
   Mr OA Retief, Moorreesburg Municipality
   Mr GDN Tsotsetsi, Chief Registrar of Deeds
   Mr S van den Bergh, Port Elizabeth, Traffic & Licensing Services
   Mr HJK Müller, Khayalami Metropolitan Council
   ILO
   ITO
   IMATU
   SALGA
   SATCC-TU
   Gauteng Transport Co-ordinating Committee
   Standing Committee of the Gauteng Provincial Legislature
   Gauteng Traffic Management Group