

REPUBLIC OF SOUTH AFRICA

**NATIONAL ROAD TRAFFIC
AMENDMENT BILL**

(As introduced in the National Council of Provinces)

(SELECT COMMITTEE ON PUBLIC SERVICES)

[B 20—98]

REPUBLIEK VAN SUID-AFRIKA

**NASIONALE
PADVERKEERSWYSIGINGS-
WETSONTWERP**

(Soos ingedien in die Nasionale Raad van Provinsies)

(GEKOSE KOMITEE OOR OPENBARE DIENSTE)

[W 20—98]

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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 amend six definitions, insert three and delete one; to make provision for the registration of manufacturers of number plates; to provide anew for the class of motor vehicle for which a professional driving permit is required; to provide for certification of roadworthiness as a separate system from that of issuing of roadworthy certificates; to regulate anew the registration of operators; and to delete or replace certain obsolete expressions and references; and to provide 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

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 “builder” of the following definition: 5
 “ ‘builder’ means any person who **[for the purpose of his or her business of selling motor vehicles]** manufactures or assembles motor vehicles in whole or in part from used components, or modifies motor vehicles using new or used components;”;
 - (b) by the insertion after the definition of “by-law” of the following definition: 10
 “ ‘certification of roadworthiness’, in relation to a motor vehicle, means certification of roadworthiness in terms of section 42;”;
 - (c) by the substitution for the definition of “importer” of the following definition: 15
 “ ‘importer’ means any person who **[for the purpose of his or her business of selling motor vehicles]** imports new or used motor vehicles into the Republic;”;
 - (d) by the substitution for the definition of “manufacturer” of the following definition: 20
 “ ‘manufacturer’ means a person who **[for the purpose of his or her business of selling motor vehicles]** manufactures or assembles new motor vehicles;”;

- (e) by the insertion after the definition of “manufacturer” of the following definition:
 “ ‘manufacturer of number plates’ means a person who, for the purpose of selling number plates, manufactures number plates;”;
- (f) by the substitution for the definition of “MEC” of the following definition: 5
 “ ‘MEC’ means a member of the Executive Council appointed in terms of section [149] 132 of the Constitution of the Republic of South Africa, [1993 (Act No. 200 of 1993)] 1996 (Act No. 108 of 1996), and who is responsible for road traffic matters, or any other person authorised by him or her to exercise any power or perform any duty or function which such MEC is empowered or obliged to exercise or perform in terms of this Act;”;
- (g) by the insertion after the definition of “motor vehicle” of the following definition:
 “ ‘number plate’ means a prescribed plate on which the licence number of a motor vehicle or motor trade number is displayed;”;
- (h) by the substitution for the definition of “professional driver” of the following definition:
 “ ‘professional driver’ means the driver of a motor vehicle [in respect of which an operator is registered] referred to in section 32;”;
- (i) by the substitution for the definition of “province” of the following definition:
 “ ‘province’ means a province [established by] referred to in section [124] 103 of the Constitution of the Republic of South Africa, [1993] 1996;”;
- (j) by the deletion of the definition of “registration plate”. 25

Substitution of heading to Chapter III of Act 93 of 1996

2. The following heading is hereby substituted for the heading to Chapter III of the principal Act:

“Registration and licensing of motor vehicles and registration of manufacturers, builders, importers and manufacturers of number plates”. 30

Substitution of section 5 of Act 93 of 1996

3. The following section is hereby substituted for section 5 of the principal Act:

“Registration of manufacturers, builders, importers and manufacturers of number plates

5. (1) [Every manufacturer, builder or importer] The prescribed manufacturers, builders or importers, and every manufacturer of number plates shall apply in the prescribed manner to the MEC concerned for registration as a manufacturer, builder, [or] importer or manufacturer of number plates. 35

(2) If the MEC is satisfied that an applicant referred to in subsection (1) complies with the qualifications for competency as prescribed for the specific category in respect of which application is made, he or she shall register such applicant on the conditions and in the manner prescribed. 40

(3) The MEC may, in the prescribed manner, alter the conditions referred to in subsection (2). 45

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

(5) [Every manufacturer, builder or importer] The manufacturers, builders or importers referred to in subsection (1) shall, in the prescribed manner, register every motor vehicle manufactured, built or imported by him or her, before he or she distributes or sells such vehicle. 50

(6) Manufacturers, builders and importers shall not manufacture, build, modify, import, sell or distribute motor vehicles except in accordance with the prescribed conditions.” 55

Amendment of section 6 of Act 93 of 1996

4. 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 MEC to register him or her as a manufacturer, builder, **[or] importer or manufacturer of number plates**, or at the suspension or cancellation of his or her registration as a manufacturer, builder, **[or] importer or manufacturer of number plates**, or at the conditions on which he or she is so registered may, within 21 days after such refusal, suspension or cancellation, or notification of the conditions on which he or she is so registered, in writing appeal to the Minister against such refusal, suspension, cancellation or conditions, and such person shall at the same time serve a copy of the appeal on the MEC.”.

Amendment of section 32 of Act 93 of 1996

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

(a) by the substitution in subsection (1) for the words preceding the proviso of the following words:

“No person shall drive a motor vehicle **[in respect of which an operator is registered]** of a prescribed class on a public road except in accordance with the conditions of **[a permit (to be known as)]** a professional driving permit issued to him or her in accordance with this Chapter and unless he or she keeps such permit with him or her in the vehicle.”; and

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

“(b) A public driving permit issued in terms of the Road Traffic Act, 1989 (Act No. 29 of 1989), or a road traffic law contemplated in **[section 229 of the Constitution of the Republic of South Africa, 1993 (Act No. 200 of 1993)]** paragraph 2 of Schedule 6 to the Constitution of the Republic of South Africa, 1996 (Act No. 108 of 1996), shall, in accordance with the conditions thereof but subject to this Act, be deemed to be a professional driving permit for the purposes of this section for the period of validity of that public driving permit.”.

Substitution of section 42 of Act 93 of 1996

6. The following section is hereby substituted for section 42 of the principal Act:

“Certification of roadworthiness required in respect of motor vehicle

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

(2) No person shall operate a motor vehicle on a public road unless the requirements in respect of a certification of roadworthiness contemplated in subsection (4) in relation to such motor vehicle are complied with, and except in accordance with the conditions of such certification of roadworthiness.

(3) No person shall operate a motor vehicle on a public road unless the requirements in respect of a roadworthy certificate contemplated in subsection (4) in relation to such motor vehicle are complied with, and except in accordance with the conditions of such roadworthy certificate.

(4) Subject to this Chapter—

(a) the classes of motor vehicles requiring certification of roadworthiness and the classes of motor vehicles requiring roadworthy certificates;

(b) the period of validity of certification of roadworthiness and roadworthy certificates;

(c) the examination of motor vehicles;

- (d) the certification of roadworthiness and issue of roadworthy certificates; and
- (e) any other aspect regarding certification of roadworthiness and roadworthy certificates which the Minister may deem necessary or expedient, shall be as prescribed. 5
- (5) Any document issued by a competent authority in a prescribed territory and serving a similar purpose to that of certification of roadworthiness or a roadworthy certificate shall, in accordance with the conditions thereof but subject to this Act, be deemed to be certification of roadworthiness or a roadworthy certificate for the purpose of subsection (2) or (3), as the case may be.”. 10

Insertion of section 42A in Act 93 of 1996

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

“Roadworthy certificate to be displayed on motor vehicle 15

42A. Subject to section 42(5), no person shall operate a motor vehicle referred to in section 42(3) on a public road unless a valid roadworthy certificate disc issued in terms of this Act is displayed on such motor vehicle in the prescribed manner.”.

Substitution of section 43 of Act 93 of 1996 20

8. The following section is hereby substituted for section 43 of the principal Act:

“Application for certification of roadworthiness

43. Any person desiring to obtain [a roadworthy certificate] certification of roadworthiness shall apply in the prescribed manner to an appropriately graded testing station.”. 25

Substitution of section 45 of Act 93 of 1996

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

“Registration of operator

45. (1) (a) Subject to paragraph (b), the owner of a motor vehicle of a prescribed class is the operator thereof, and shall, upon licensing thereof, be registered as such in the prescribed manner and on the prescribed conditions. 30

(b) Notwithstanding the provisions of paragraph (a), a person who is not a manager, employee or agent of the owner of a motor vehicle referred to in that paragraph and who enters into a written agreement providing that such motor vehicle may be operated by such person for any period, shall for the purposes of section 49(c), (d), (e), (f) and (g) be deemed to be the operator thereof for that period. 35

(2) The registering authority concerned shall in such circumstances as the MEC may determine, submit the particulars of the operator to the MEC concerned within seven days after registration of such operator. 40

(3) The registering authority may issue a temporary operator card to the operator under the circumstances, in the manner and on the conditions prescribed.

(4) (a) The MEC shall, if satisfied that an operator card should be issued to the operator, notify the registering authority concerned accordingly. 45

(b) The registering authority referred to in paragraph (a) shall in the prescribed manner issue the operator with an operator card.

(5) If the MEC is not satisfied that the operator should be issued with an operator card, he or she shall notify the operator in the prescribed manner as contemplated in section 50(3)(d). 50

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

Amendment of section 49 of Act 93 of 1996

10. Section 49 of the principal Act is hereby amended by the substitution for paragraph (a) of the following paragraph: 5

“(a) notify the registering authority concerned within seven days of any change in the circumstances in relation to his or her registration as the operator of such vehicle and return the operator card in respect of that motor vehicle to that registering authority;”.

Amendment of section 50 of Act 93 of 1996 10

11. Section 50 of the principal Act is hereby amended by the deletion of subsection (5).

Amendment of section 68 of Act 93 of 1996

12. Section 68 of the principal Act is hereby amended— 15

(a) by the substitution for subsection (1) of the following subsection: 15

“(1) No person shall use, display or manufacture any **[registration]** number plate which does not comply with the prescribed specifications.”;

(b) by the substitution for paragraph (a) of subsection (2) of the following paragraph: 20

“(a) falsify or counterfeit or, with intent to deceive, replace, alter, deface or mutilate or add anything to a **[registration]** licence number or a **[registration]** licence mark or a similar number or mark issued by a competent authority outside the Republic; or”; and

(c) by the substitution in subsection (5) for the words preceding paragraph (a) of the following words: 25

“Where in a prosecution for a contravention of subsection (2)(b) or (3)(b) it is proved that a person was found in possession of a **[registration]** licence number or a **[registration]** licence mark or a similar number or mark or a document which has been falsified or counterfeited or replaced, altered, defaced or mutilated or to which anything has been added, it shall, in the absence of evidence to the contrary, be presumed that such person knew that—”. 30

Amendment of section 75 of Act 93 of 1996

13. Section 75 of the principal Act is hereby amended— 35

(a) by the deletion of the word “and” at the end of subparagraph (iii) of paragraph (h) of subsection (1);

(b) by the addition of the word “and” at the end of subparagraph (iv) of paragraph (h) of subsection (1); and

(c) by the addition to paragraph (h) of subsection (1) of the following subparagraph: 40

“(v) the training of persons performing any task in relation to the transportation of dangerous goods on public roads;”.

Short title and commencement

14. This Act shall be called the National Road Traffic Amendment Act, 1998, and shall come into operation on a date fixed by the President by proclamation in the *Gazette*. 45

MEMORANDUM ON THE OBJECTS OF THE NATIONAL ROAD TRAFFIC AMENDMENT BILL

1. The main objects of the National Road Traffic Amendment Bill are to rectify certain deficiencies identified in the National Road Traffic Act, 1996 (Act No. 93 of 1996) (“the Act”), to introduce the regulation of manufacturers, builders and importers who are not necessarily in the business of selling motor vehicles and of manufacturers of number plates, and to provide for the registration of the owners as the operators of certain classes of motor vehicles.
2. The Bill seeks to effect the following amendments to the Act:
 - 2.1 The need was identified, in the interest of road traffic safety, to regulate the manufacturer, builder or importer who does not necessarily manufacture, build or import motor vehicles for the purpose of his or her business of selling motor vehicles. The Bill thus proposes amending the definitions of “builder”, “importer” and “manufacturer” in the Act to include all manufacturers, builders and importers.
 - 2.2 The motor vehicles in respect of which operators have to be registered and those in respect of which professional driving permits must be held, have been separated into different classes of vehicles. The proposed amendment provides that the definition of “professional driver” in the Act refers to the prescribed motor vehicles instead of to motor vehicles in respect of which operators are required to be registered.
 - 2.3 It is being proposed that the definition of “registration plate” be replaced by the definition of “number plate” and thus a term that has long since been regarded as “incorrect” is rectified.
 - 2.4 The Bill proposes to amend sections 5 and 6 of the Act to include references to manufacturers of number plates. The insertion of the definition of “manufacturer of number plates” is also proposed. The intention is that those manufacturers must register as such in order to establish control over the manufacturing of number plates and to prevent the manufacture of illegal number plates. The Bill further proposes that the prescribed builders, importers and manufacturers must be registered. Only the manufacturers, builders and importers who are in the business of selling motor vehicles will be required to register as such.
 - 2.5 It is being proposed that the prescribed motor vehicles may not be driven without a professional driving permit being held. As indicated in paragraph 2.2, the purpose of this amendment is the separation of the classes of motor vehicles in respect of which professional driving permits must be held and those in respect of which an operator must be registered.
 - 2.6 The need was identified to clearly distinguish between the certification of roadworthiness and the issuing of roadworthy certificates. The system of certification of roadworthiness is administered differently from that of the issuance of roadworthy certificates and in some cases different classes of vehicles are involved. The proposed amendment of sections 42 and 43 effects this separation. The proposed insertion of section 42A in the Act provides that a roadworthy certificate disc must be displayed on the motor vehicles for which roadworthy certificates are a requirement.
 - 2.7 The difficulties experienced in identifying the operator of a motor vehicle and the administrative burden connected therewith prompted the proposed amendment of sections 45, 49 and 50 of the Act. It is proposed that the owner of a motor vehicle be registered as the operator thereof in all cases and that a person who concludes a contract in order to be allowed to operate a vehicle for a certain period, be deemed to be an operator (and therefore be held liable as if he or she is an operator in terms of the Act) for the purposes of the Act.
 - 2.8 The proposed amendment of section 68 of the Act intends to amend the references to “registration plate”, “registration number” and “registration mark” to “number plate”, “licence number” and “licence mark”.
 - 2.9 Various classes of persons who are involved in the transportation of dangerous

goods were identified for whom training needs to be provided. The proposed amendment of section 75 of the Act intends empowering the Minister to regulate aspects pertaining to the training of those classes of persons.

3. The draft Bill was published for comment in *Government Gazette* No. 18383, Notice No. 1520 of 27 October 1997. The Departments of Trade and Industry, Environmental Affairs and Tourism, Agriculture, Labour, Health, Finance, Minerals and Energy and Water Affairs were notified of the draft Bill and asked to comment. The Technical Committee on Road Traffic and Safety Legislation (TCRTSL) was informed of the draft Bill and a copy of it was put at the disposal of the representatives of the various provinces during a meeting of the Traffic Control Co-ordinating Committee (TCCC). The adapted Bill was circulated for comment to the Consultative Committee of Land Transport Officials, the Road Traffic Management Strategy, the TCCC and the TCRTSL. The Ministerial Committee has approved the tabling of the Bill in Parliament.
4. The draft Bill falls within a functional area listed in Schedule 4 to the Constitution of the Republic of South Africa, 1996 (Act No. 108 of 1996), and in accordance with section 76(3) of the said Constitution can be dealt with either in the manner prescribed in section 76(1) or 76(2).