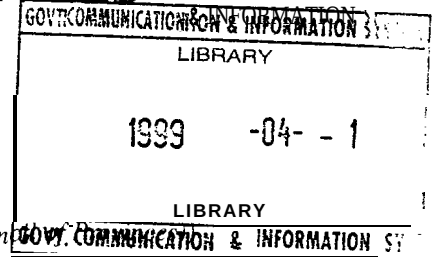


REPUBLIC OF SOUTH AFRICA

**ADMINISTRATIVE ADJUDICATION
OF ROAD TRAFFIC OFFENCES
AMENDMENT BILL**



(As amended by the Select Committee on Public Services (National Council of Provinces))

(SELECT COMMITTEE ON PUBLIC SERVICES)

[B 4B—99]

REPUBLIEK VAN SUID-AFRIKA

**WYSIGINGSWETSONTWERP OP
DIE ADMINISTRATIEWE
BEREGTING VAN
PADVERKEERSMISDRYWE**

(Soos gewysig deur die Gekose Komitee oor Openbare Dienste (Nasionale Raad van Provinsies))

(GEKOSE KOMITEE OOR OPENBARE DIENSTE)

[W 4B—99]

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GENERAL EXPLANATORY NOTE:

- [1 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 Administrative Adjudication of Road Traffic Offences Act, 1998, so as to substitute the definition of “issuing authority”; to further regulate the execution of warrants; to make further provision for the service of documents; to further regulate the apportionment of penalties; to repeal section 6 of the Finance and Financial Adjustments Acts Consolidation / ~~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 46 of 1998

1. Section 1 of the Administrative Adjudication of Road Traffic Offences Act, 1998 (hereinafter referred to as the principal Act) is hereby amended by the substitution for 5 the definition of “issuing authority”. of the following definition:

“ issuing authority. means—

(a) a local authority contemplated in Chapter 7 of the Constitution of the Republic of South Africa, 1996 (Act No. 108 of 1996), the Local Government Transition Act, 1993 (Act No. 209 of 1993), or any other applicable law; [or] 10

(b) a provincial administration; or

(c) the Road Traffic Management Corporation, established under section 4 of the Road Traffic Management Corporation Act, 1999.

in so far as such authority. [or] administration or Corporation is responsible for traffic matters [in its area of jurisdiction]:”.

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Amendment of section 21 of Act 46 of 1998

2. Section 21 of the principal Act is hereby amended by the substitution for subsections (3) and (4) of the following subsections:

“(3) A warrant that has been issued under this section is regarded as process of execution for the purposes of Chapter IX of the Magistrates, Courts Act, 1944 (Act No. 32 of 1944), which applies with the necessary changes, and in such application a reference to—

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(a) the judgment creditor or execution creditor, must be read as a reference to the agency; and

(b) the judgment debtor or execution debtor, must be read as a reference to the infringer.

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(4) Subject to the Rules of Court as defined in section 1 of the Magistrates' Courts Act, 1944, a warrant that has been issued under this section must be executed as prescribed.".

Substitution of section 30 of Act 46 of 1998

3. The following section is hereby substituted for section 30 of the principal Act: 5

"Service of documents

30. (1) Any document required to be served on an infringer in terms of this Act, must be served on the infringer personally or sent by registered mail to his or her last hewn address.

(2) A document which is sent by registered mail in terms of subsection (1), is regarded to have been served on the infringer on the tenth day after the date which is stamped upon the receipt issued by the post office which accepted the document for registration, unless evidence to the contrary is adduced, which may be in the form of an affidavit.'.. 10

Substitution of section 32 of Act 46 of 1998

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

"Apportionment of penalties

32. (1) [Despite section 6 of the Finance and Financial Adjustments Acts Consolidation Act, 1977 (Act No. 11 of 1977),] Any penalty received by the agency in terms of this Act must be paid over monthly, after deduction of an amount equal to the discount contemplated in section 17(1)(d), to the issuing authority under whose authority the infringement notice was issued, and if it was not issued under the authority of such authority, to the issuing authority within whose area of jurisdiction the infringement was committed. 20

(2) [Subject to section 6 of the Finance and Financial Adjustments Acts Consolidation Act, 1977 (Act No. 11 of 1977),] Any fine received in respect of any conviction under the national and provincial laws relating to road traffic, must be paid over monthly to the issuing authority under whose authority the infringement notice was issued, and if it was not issued under the authority of such authority, to the issuing authority within whose area of jurisdiction the infringement was committed.".. 25

Repeal of section 6 of Act 11 of 1977

5. Section 6 of the Finance and Financial Adjustments Acts Consolidation Act, 1977 (Act No. 11 of 1977), is hereby repealed. 35

Short title and commencement

6. This Act is called the Administrative Adjudication of Road Traffic Offences Amendment Act, 1999, and comes into operation on a date fixed by the President by proclamation in the *Gazette*.

**MEMORANDUM ON THE OBJECTS OF THE ADMINISTRATIVE
ADJUDICATION OF ROAD TRAFFIC OFFENCES AMENDMENT
BILL. 1999**

1. The main objects of the amendment Bill are to—
 - (a) amend the Administrative Adjudication of Road Traffic Offences Act, 1998. so as to substitute the definition of “issuing authority.”;
 - (b) further regulate the apportionment of penalties; and
 - (c) repeal section 6 of the Finance and Financial Adjustments Acts Consolidation Act. 1977.
2. Clause 1 amends section 1 of the Administrative Adjudication of Road Traffic Offences Act, 1998 (Act No. 46 of 1998). so as to include the Road Traffic Management Corporation in the definition of “issuing authority”. Fines imposed under this Act constitutes one of the major sources of income for the Corporation.
 Clause 4 substitutes section 32 of the Administrative Adjudication of Road Traffic Offences Act, 1998 (Act No. 46 of 1998). The purport of Clause 4 is that any penalty received by the agency in terms of Act No. 46 of 1998 must be paid over monthly. after deduction of an amount equal to the discount contemplated in section 17(1)(d). to the issuing authority under whose authority the infringement notice was issued. and if it was not issued under the authority of such authority. to the issuing authority within whose area of jurisdiction the infringement was committed. Any fine received in respect of any conviction under the national and provincial laws relating to road traffic. must be paid over monthly to the issuing authority under whose authority the infringement notice was issued. If the notice was not issued under the authority of such authority. the fine must be paid over to the issuing authority within whose area of jurisdiction the infringement was committed.
3. Clause 5 repeals section 6 of the Finance and Financial Adjustments Acts Consolidation Act. 1977 (Act No. 11 of 1977). according to which a traffic fine must be paid to the local authority in whose area of jurisdiction the relevant offence was committed.
4. Numerous consultative meetings were held during the drafting of the legislation. The bill was published for general comment on 19 October 1998 as part of a package comprising the Road Traffic Management Corporation Bill and the National Road Traffic Amendment Bill. Moreover. during January 1999, one national workshop and nine provincial workshops were held to discuss and elicit comment on the legislation.
5. The State Law Advisers and the Department of Transport are of the opinion that the procedure contemplated in section 76 of the Constitution of the Republic of South Africa, 1996 (Act No. 108 of 1996). applies to this Bill.

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 the 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 furnished 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 Tsotetsi, Chief Registrar of Deeds

Mr S van den Bergh, Port Elizabeth, Traffic & Licensing Services

Mr H-JK Müller, Khayalami

ILO

ITO

IMATU

SALGA

SATCC-TU

Gauteng Transport Co-ordinating Committee

Standing Committee of the Gauteng Provincial Legislature

Gauteng Traffic Management Group