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**THE GOVERNMENT PRINTING WORKS****PUBLICATIONS DIVISION**

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(i.e. CORNER OF PAUL KRUGER AND PROES STREETS)**
with effect from **3 May 2005**.

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GENERAL NOTICE

NOTICE 147 OF 2006

DEPARTMENT OF TRANSPORT

PUBLICATION OF THE EXPLANATORY SUMMARY OF THE NATIONAL ROAD TRAFFIC AMENDMENT BILL

The Minister of Transport intends introducing the National Road Traffic Amendment Bill in the National Assembly. The explanatory summary of the Bill is hereby published for comments in accordance with the Rules of the National Assembly.

The Bill seeks to enhance professionalism of law enforcement officers; combat fraudulent and corrupt practices in law enforcement; limit and control fraudulent and corruptive practices generally; clarify conduct that constitutes an offence; increase the range of sanctions for offenders who continuously transgress the laws governing road traffic through the introduction of provisions permitting the seizure of vehicles and loads and the forfeiture of vehicles and loads; empower the Minister to set fees payable in respect of overloaded vehicles and to provide for matters connected thereto.

Copies of the bill are attached for ease of reference.

Comments may be submitted to: Mr John Motsatsing
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MEMORANDUM ON THE OBJECTS OF THE NATIONAL ROAD TRAFFIC SECOND AMENDMENT BILL, 2005**1. OBJECTS OF BILL**

The Bill proposes to amend the National Road Traffic Act, 1996 (Act No.93 of 1996), in order to—

- (a) enhance the professionalism of traffic officers and combat fraudulent and corruptive practices in law enforcement;
- (b) limit and control fraudulent and corruptive practices generally;
- (c) clarify conduct that constitutes an offence;
- (d) prohibit private persons from operating driving licence testing centers;
- (e) ensure that applicants for driving licences apply at the centers nearest to their place of residence;
- (f) expand the range of human resource development in respect of traffic officers;
- (g) enhance the quality of learner and driving licence evaluation;
- (h) provide for the endorsement or suspension of a driving licence if a driver is convicted on a charge of excessive speeding;
- (i) enhance the quality of roadworthiness certification, the quality of road accident reporting and the regulation of overloading control;
- (j) increase the range of sanctions for offenders through the introduction of provisions permitting the seizure of vehicles and loads and the forfeiture of vehicles and loads; and
- (k) empower the Minister to set fees payable in respect of overloaded vehicles.

2. CONSULTATION

Members of the Executive Council responsible for traffic or transport in the nine provinces were consulted and consensus regarding the proposed changes was reached.

3. IMPLICATIONS FOR PROVINCES

None.

4. FINANCIAL IMPLICATIONS FOR STATE

None.

5. PARLIAMENTARY PROCEDURE

The State Law Advisers and the Department of Transport are of the opinion that this Bill must be dealt with in accordance with the procedure prescribed by section 76(1) or (2) of the Constitution since it falls within a functional area listed in Schedule 4 to the Constitution, namely road traffic regulation.

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.

B I L L

To amend the National Road Traffic Act, 1996, so as to insert certain definitions and to amend others; to prohibit the unauthorised use of an authorised officer's infrastructure number; to provide for visible display of nametags by traffic officers; to regulate the conduct of traffic officers in relation to the examination of the loading of motor vehicles; to prohibit the impersonation of traffic officers and the wearing of a traffic officer's uniform without official written permission; to create new offences; to empower the Minister to prescribe training procedures and qualifications of persons appointed as national inspectors at driving licence testing centres and testing stations; to make new provision regarding the process of issuance of driving licences; to recognise foreign road worthiness related documentation issued in a prescribed territory; to empower the Minister to prescribe the manner and form of accident reporting; to provide for circumstances when emergency vehicles may ignore road traffic signs and speed limits; to provide for liability of managers, agents and employees; to provide for an administrative overloading control system; to provide for the seizure of vehicles and loads; to provide for the forfeiture of vehicles and loads; and to empower the Minister to

set fees and to amend the National Road Traffic Amendment Act, 1999, so as to delete obsolete provisions; and to provide for matters connected therewith.

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

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

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

- (a) the insertion after the definition of "certification of roadworthiness" of the following definition:

" 'chief executive officer' means the chief executive officer of the Road Traffic Management Corporation appointed in terms of section 15 of the Road Traffic Management Corporation Act, 1999 (Act No. 20 of 1999);"

- (b) the insertion after the definition of "gross vehicle mass" of the following definition:

" 'haulage tractor' means a motor vehicle, other than a truck-tractor and tractor, designed or adapted mainly for drawing other vehicles, and with a gross combination mass exceeding 24 000kg;"

- (c) the substitution for the definition of "owner" of the following definition:

" 'owner' , in relation to a vehicle, means—

- (a) the person who has the right to the use and enjoyment of a

vehicle in terms of the common law or a contractual agreement with the title holder of such vehicle;

- (b) any person referred to in paragraph (a), for any period during which such person has failed to return that vehicle to the title holder in accordance with the contractual agreement referred to in paragraph (a); or
- (c) a motor dealer who is in possession of a vehicle for the purpose of sale,

and who is **[registered]** licensed as such or obliged to be licensed in accordance with the regulations under section 4, and “owned” or any like word has a corresponding meaning;”;

- (d) the insertion after the definition of “rescue vehicle” of the following definitions:

“ ‘reserve traffic officer’ means a person who complies with the requirements of section 3D and is registered as a traffic officer in terms of section 3C or any person who is a peace officer in terms of section 334 of the Criminal Procedure Act, 1977 (Act No. 51 of 1977), and has been appointed as a reserve traffic officer by the chief executive officer or the MEC, as the case may be, on a temporary basis for a specific period;

‘reserve traffic warden’ means a person who has been declared a peace officer by the Minister of Justice in terms of section 334 of the Criminal Procedure Act, 1977 (Act No. 51 of 1977), and has been appointed as a reserve traffic warden by the chief executive officer or the MEC, as the case may be, on a temporary basis for a specific

period;”;

- (e) the substitution for the definition of "tractor" of the following definition:

" **'tractor'** means a motor vehicle, designed or adapted mainly for drawing other vehicles **[and not to carry any load thereon]** and with a gross combination mass not exceeding 24 000kg, but does not include a truck-tractor;”;

- (f) the insertion after the definition of "traffic officer" of the following definition:

" **'traffic warden'** means a person who has been declared by the Minister of Justice to be a peace officer in terms of section 334 of the Criminal Procedure Act, 1977 (Act No. 51 of 1977), and has been appointed as a traffic warden by the chief executive officer, the MEC or another authority with the competence to appoint a traffic warden, as the case may be;” and

- (g) the substitution for the definition of "truck-tractor" of the following:

" **'truck-tractor'** means a motor vehicle designed or adapted—

(a) for drawing other vehicles; and

(b) not to carry any load other than that imposed by a semi-trailer or by ballast,

but does not include a tractor or a haulage tractor;”.

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

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

- (a) the substitution for subsection (3) of the following subsection:

"(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—

- (a) 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 such further period **[approved by]** as the MEC [on the understanding that it is] may approve but it must be a condition of appointment that such person must during **[that]** such probation period **[complies]** comply with the competency and registration requirements prescribed for the specific **[appointment]** category of appointment; and
- (b) any person appointed under paragraph (a) may not use an authorised officer's infrastructure number to certify a vehicle tested by such person."; and

- (b) the addition of the following subsection:

"(7) A traffic officer must at all times when wearing a full or partial traffic officer's uniform display his or her official name tag above the right breast pocket in such a manner that it is completely visible and easily legible."

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

3. Section 3I of the principal Act is hereby amended by the substitution for paragraph (d) of the following paragraph:

“(d) exercise any prescribed power or perform any prescribed duty in relation to the loading of motor vehicles in the prescribed manner;”.

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

4. Section 3K of the principal Act is hereby amended by —
(a) the substitution for subsection (1) of the following subsection:

“(1) Any person who is not an authorised officer or a peace officer shall not act in a way which may create an impression that he or she is an authorised officer or a peace officer and no person shall by way of word, action, conduct or demeanour, pretend that he or she is an authorised officer or peace officer.”; and

(b) the addition of the following subsections:

“(3) Any person who is not qualified, registered and duly appointed as a traffic officer under this Act may not wear a traffic officer's uniform, any part of such uniform or any other garment or badge that distinguishes a person as a traffic officer without the written

permission of the enforcement authority.;

(4) Notwithstanding subsection (3), the Minister or the MEC, as the case may be, may if accompanied by law enforcement officials, wear a traffic officer's uniform."

Amendment of section 4 of Act 93 of 1996, as substituted by section 3 of Act 21 of 1999

5. Section 4 of the principal Act is hereby amended by the addition of the following subsection:

"(3) No person shall operate a motor vehicle on a public road unless such motor vehicle is registered and licensed in accordance with this Act."

Amendment of section 8 of Act 93 of 1996

6. Section 8 of the principal Act is hereby amended by—

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

"(1) A department of State or registering authority desiring to operate a driving licence testing centre shall in the prescribed manner apply to [the MEC in whose province that centre will be operated,] the inspectorate of driving licence testing centres for the registration of such testing centre."; and

(b) the addition of the following subsection:

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

Amendment of section 11 of Act 93 of 1996

7. Section 11 of the principal Act is hereby amended by the addition of the following subsection:

"(4) The Minister shall prescribe the training procedures and qualifications of a person appointed under subsection (1)."

Amendment of section 17 of Act 93 of 1996

8. Section 17 of the principal Act is hereby amended by—

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

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

(b) the insertion after subsection (1) of the following subsection:

"(1A) Notwithstanding subsection(1), if there is no appropriately graded driving licence testing centre in a particular municipal area, any person residing in that area who wishes to apply for a learner's licence must apply to the MEC of the province

concerned in writing, whereupon the MEC may —

- (a) give written permission for the person to apply for a learner's licence in a municipal area other than that in which the applicant resides; or
- (b) may allocate a specific appropriately graded testing centre for that municipal area."

(c) the substitution for subsection (2) of the following subsection:

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

(d) the substitution for subsection (3) of the following subsection:

"(3) If the **[examiner for driving licences]** driving licence testing centre is satisfied that the applicant, after being evaluated in the prescribed manner has sufficient knowledge of the matters **[as]** prescribed in respect of the class of vehicle concerned, and is not disqualified in terms of section 15 from obtaining a learner's licence, the **[examiner]** driving licence testing centre shall issue **[or authorise the issue of]** a learner's licence in the prescribed manner to

such applicant in respect of the appropriate class of motor vehicle, and the [examiner or the person authorised thereto by him or her] driving licence testing centre shall—

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

“(5) Any applicant for a learner’s licence who makes use of any unauthorised aid during a test for a learner’s licence shall be guilty of an offence and upon conviction shall, in addition to any other sentence which the court may impose, be disqualified from re-applying for a learner’s licence for a period not exceeding 12 months from the date of conviction.

(6) If the court makes an order disqualifying the applicant from re-applying for a learner’s licence, and the State leads evidence to the effect that the applicant has obtained a learner’s licence in the meanwhile, any such learner’s shall be null and void and the court shall require the accused to produce any such licence and shall cancel it.”.

Amendment of section 18 of Act 93 of 1996, as substituted by section 12 of Act 21 of 1999

9. Section 18 of the principal Act is hereby amended by—

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

"(1) Subject to section 24, the holder of a learner's licence issued under section 17(3) who desires to obtain a driving licence shall apply in person in the prescribed manner to an appropriately graded driving licence testing centre in the municipal area in which the person resides for a licence to drive a motor vehicle of a class the driving of which is authorised by his or her learner's licence.";

(b) the insertion after subsection (1) of the following subsection:

"(1A) Notwithstanding subsection (1), if there is no appropriately graded driving licence testing centre in a particular municipal area, any person residing in that area who wishes to apply for a driving licence must apply to the MEC of the province concerned in writing, whereupon the MEC may—

(a) give written permission for the person to apply for a driving licence in a municipal area other than that in which the person resides; or

(b) may allocate a specific appropriately graded testing centre for that municipal area.";

(c) the substitution in subsection (4) for the words preceding paragraph (a) of the

following words:

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

(d) the insertion, after subsection (5) of the following subsections:

“(5A) Any applicant for a driving licence who makes use of any unauthorised aid during a test for a driving licence shall be guilty of an offence and upon conviction shall, in addition to any other sentence which the court may impose, be disqualified from re-applying for a driving licence for a period not exceeding 12 months from the date of conviction.”.

“(5B) If the court makes an order disqualifying the applicant from re-applying for a driving licence, and the State leads evidence to the effect that the applicant has obtained a driving licence in the meanwhile, any such driving licence shall be null and void and the court shall require the accused to produce any such licence and shall cancel it.”.

Amendment of section 20 of Act 93 of 1996

10. Section 20 of the principal Act is hereby amended by the substitution for subsection (3) of the following subsection:

“(3) Upon receipt of an application under subsection (1), the prescribed authority shall satisfy itself in the prescribed manner as to the authenticity of the document referred to in subsection (2)(a) and, if satisfied that—

(a) the existing licence is a valid licence;

(b) the applicant is the holder thereof; and

(c) the holder is not disqualified as contemplated in section 15(1)(f)(iv),
authorise and issue a driving licence in the manner prescribed in section 18(4) to the applicant and, if applicable, endorse such driving licence in accordance with section 18(4).”.

Substitution of section 21 of Act 93 of 1996

11. The following section is hereby 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 may, whenever he or she deems it necessary—

- (a) direct where and by which examiner for driving licences an applicant for a **[learner's or]** driving licence shall be **[examined and tested,]** evaluated and at which driving licence testing centre such applicant may apply for a driving licence;
- (b) direct where an applicant for a learner's licence shall be evaluated and at which driving licence testing centre such applicant may apply for a learner's licence."

Amendment of section 27 of Act 93 of 1996

12. Section 27 of the principal Act is hereby amended by the substitution in subsection (4)(b) for subparagraph (ii) of the following subparagraph:

- "(ii) notify the authority which issued the licence **[or, in the case where it is contained in an identity document, the Director-General of Home Affairs]** accordingly."

Amendment of section 35 of Act 93 of 1996

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

- (a) the insertion in subsection (1) after paragraph (a) of the following paragraph:

"(aA) section 59(4), in the case of a conviction for an offence,
where—

- (i) a speed in excess of 30 kilometres per hour over the
applicable speed limit in an urban area was recorded; or

(ii) a speed in excess of 40 kilometres per hour over the applicable speed limit outside an urban area or on a freeway, was recorded; and

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

"(3) If a court convicting any person of an offence referred to in subsection (1), is satisfied, after the presentation of evidence under oath, that circumstances relating to the offence exist which do not justify the suspension or disqualification referred to in subsection (1) or (2), respectively, the court may, notwithstanding the provisions of those subsections, order that the suspension or disqualification shall not take effect, or shall be for such shorter period as the court may deem fit."

Amendment of section 41 of Act 93 of 1996

14. Section 41 of the principal Act is hereby amended by the addition of the following subsection:

"(4) The Minister shall prescribe the training procedures and qualifications of a person appointed under subsection (1)."

Amendment of section 42 of Act 93 of 1996, as substituted by section 6 of Act 8 of 1998

15. Section 42 of the principal Act is hereby amended by the substitution

for subsection (5) of the following subsection:

“(5) Any document issued by a competent authority in a prescribed territory relating to any vehicle registered in the 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 relating to any such vehicle registered in the prescribed territory for the purpose of subsection (2) or (3), as the case may be.”.

Amendment of section 58 of Act 93 of 1996

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

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

(a) he or she shall drive the vehicle concerned with due regard to the safety of other traffic; **[and]**

- (b) in the case of any such fire-fighting vehicle, fire-fighting response vehicle, rescue vehicle, emergency medical response vehicle, ambulance or vehicle driven by a person while he or she is so engaged in civil protection, such vehicle shall be fitted with a device capable of emitting a prescribed sound and with an identification lamp, as prescribed, and such device shall be so sounded and such lamp shall be in operation while the vehicle is driven in disregard of the road traffic sign; and
- (c) for the purposes of this section, the phrase 'in the performance of his or her duties means only those duties performed in cases of real emergencies where it is on the face of it urgently necessary to ignore road traffic signs in order to move quickly to prevent the death or injury of a human being, the imminent commission of a crime or the escape of a suspected criminal'.

Substitution of section 60 of Act 93 of 1996

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

“Certain drivers may exceed general speed limit

60. Notwithstanding the provisions of section 59, the driver of a fire-fighting vehicle, a fire-fighting response vehicle, a rescue vehicle, an emergency medical response vehicle or an ambulance who drives such vehicle in the carrying out of his or her duties, a traffic officer who drives a vehicle in the carrying out of his or her duties or any person driving a vehicle while engaged in civil protection as contemplated in any ordinance made in terms of section 3 of the Civil Protection Act, 1977 (Act No. 67 of 1977), may exceed the applicable general speed limit: Provided that—

- (a) he or she shall drive the vehicle concerned with due regard to the safety of other traffic; **[and]**
- (b) in the case of any such fire-fighting vehicle, fire-fighting response vehicle, rescue vehicle, emergency medical response vehicle, ambulance or vehicle driven by a person while he or she is so engaged in civil protection, such vehicle shall be fitted with a device capable of emitting a prescribed sound and with an identification lamp, as prescribed, and such device shall be so sounded and such lamp shall be in operation while the vehicle is driven in excess of the applicable general speed limit; and
- (c) for the purposes of this section, the phrase 'in the performance of his or her duties means only those duties performed in cases of real

emergencies where it is on the face of it urgently necessary to ignore any speed limit referred to in section 59 (4) in order to move quickly to prevent the death or injury of a human being, the imminent commission of a crime or the escape of a suspected criminal'."

Amendment of section 61 of Act 93 of 1996

18. Section 61 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:

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

- (a) immediately stop the vehicle;
- (b) ascertain the nature and extent of any injury sustained by any person;
- (c) if a person is injured, render such assistance to the injured person as he or she may be capable of rendering;
- (d) ascertain the nature and extent of any damage sustained;
- (e) if required to do so by any person having reasonable grounds for so requiring, give his or her name and address, the name and address of the owner of the vehicle driven by him or her and, in the case of a motor vehicle, the **[registration or similar mark]** licence number thereof;
- (f) if he or she has not already **[furnished the information referred to in**

paragraph (e)] reported the accident to a police or traffic officer at the scene of the accident, and unless he or she is incapable of doing so by reason of injuries sustained by him or her in the accident, as soon as is reasonably practicable, and in [any case] the case where a person is killed or injured, within 24 hours after the occurrence of such accident, or in any other case on the first working day after the occurrence of such accident, report the accident to any police officer at a police station or at any office set aside by a competent authority for use by a traffic officer, and there produce his or her driving licence and furnish his or her identity number and such information as is referred to in **[that]** paragraph (e):

- (fA)** the driver shall report the accident on the prescribed form and in the prescribed manner and the officer concerned shall deal with the report in the prescribed manner;
- (fB)** the MEC of the province in whose area the accident occurred shall ensure that the accident is recorded onto the register of accidents in the prescribed manner and within the prescribed period; and
- (g)** not, except on the instructions of or when administered by a medical practitioner in the case of injury or shock, take any intoxicating liquor or drug having a narcotic effect unless he or she has complied with the provisions of paragraph (f), where it is his or her duty to do so, and has been examined by a medical practitioner if such examination is required by a traffic officer.”.

Amendment of section 68 of Act 93 of 1996, as substituted by section 12 of Act 8 of 1998

- 19.** Section 68 of the principal Act is hereby amended by—
- (a) the substitution for the heading to section 68 of the following heading:
- "Unlawful acts in relation to [registration] number plates, registration number, registration mark or certain documents";** and
- (b) the insertion after subsection (3) of the following subsection:
- "(3A) No person shall produce any document to be used for the purposes of this Act which differs in any way from a format or in content from a document prescribed in terms of this Act."**

Insertion of sections 74A and 74B in Act 93 of 1996

- 20.** The following sections are hereby inserted in the principal Act after section 74:

"Act or omission of manager, agent or employee of consignor and consignee

74A. (1) Whenever any manager, agent or employee of a consignor or consignee, as the case may be, does or fails to do anything

which, if the consignor or consignee had done or failed to do it, would have constituted an offence in terms of this Act, the consignor or consignee, as the case may be, shall be deemed to have done or failed to do that thing personally in the absence of evidence—

- (a) that he or she did not connive at or permit such act or omission;
- (b) that he or she took all reasonable measures to prevent such act or omission; and
- (c) that such act or omission did not fall within the scope of the authority of or in the course of the employment of such manager, agent or employee,

be deemed to have committed or omitted that act and be liable to be convicted and sentenced in respect thereof.

(2) In the circumstances contemplated in subsection (1) the conviction of the consignor or consignee shall not absolve the manager, agent or employee in question from liability or criminal prosecution.

Proof of certain facts

74B. (1) In any prosecution under this Act, a goods declaration or any other document relating to the load of a vehicle and confiscated from such vehicle shall be proof of the truth of the matters stated in such document unless credible evidence to the contrary is adduced.

(2) Any copy or extract from any document referred to in subsection (1), and certified as a true copy or extract by the officer in whose

custody the original document is, shall, unless credible evidence to the contrary is adduced, be admissible as evidence and be proof of the truth of all matters stated in such document without the production of the original document from or of which such extract or copy was made."

Amendment of section 75 of Act 93 of 1996, as amended by section 13 of Act 8 of 1998 and section 31 of Act 21 of 1999

21. Section 75 of the principal Act is hereby amended by—

(a) the substitution in subsection (1) for paragraph (b) of the following paragraph:

"(b) the identification of vehicles or parts of vehicles and, in relation to a motor vehicle, the size and shape of the **[registration]** licence mark or number to be displayed in terms of this Act and the means to be applied to validate such mark or number and to render any such mark or number easily distinguishable, whether by night or by day, when any such vehicle is operated on a public road.";

(b) the substitution in subsection (1) for paragraph (r) of the following paragraph:

"(r) an accident reporting system and the furnishing of accident reports and statistics of any nature;" and

(c) the addition to subsection (1) of the following paragraphs:

"(zB) the regulation of any person who offers goods for transportation on a public road or accepts goods after transportation, in relation to the mass of such goods, the documentation relating

- to such goods, the agreements that have to be concluded for such transportation, insurance in respect of the transportation of such goods and any other matter relating to the offering of goods for transportation or the acceptance of transported goods;
- (zC) the criteria in terms of which a person is classified as an habitual overloader, the offences to which such classification applies, the criteria for rehabilitation, if necessary and the sanctions for classification as an habitual overloader;
- (zD) the equipment to be used for law enforcement purposes, the certification of such equipment and requirements in respect of records obtained from the equipment; and
- (zE) equipment to limit speed.”.

Amendment of section 78 of Act 93 of 1996, as inserted by section 33 of Act 21 of 1999

22. Section 78 of the principal Act is hereby amended by the addition of the following subsection:

- “(5) The Minister may, for the purposes of this Act, determine:
- (a) Information that may be provided to any person subject to the Promotion of Access to Information Act, 2000 (Act No. 2 of 2000); and
- (b) the fees for the provision of such information.”.

Substitution of section 81 of Act 93 of 1996

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

"Vehicle and load may be exempted from provisions of Act

81. An MEC may, after consulting with the MECs of the other provinces, subject to such conditions and upon payment of such fees or charges as he or she may determine, authorise in writing, either generally or specifically, the operation on a public road in the relevant province of a vehicle which, **[does]** due to such vehicle's original design cannot comply with the provisions of this Act or the conveyance in a safe manner on a public road in the province of passengers or any load otherwise than in accordance with the provisions of this Act."

Amendment of section 89 of Act 93 of 1996

24. Section 89 of the principal Act is hereby amended by:
(a) the substitution for subsection (2) of the following subsection:

"(2) Any person convicted of an offence in terms of subsection (1) read with section 42(1) or (2), 44(1), 45(2), 46(1), 49 or 65(1), (2), (5) or (9) shall be liable to a fine or to imprisonment for a

period not exceeding six years.”; and

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

“(3) Any person convicted of an offence in terms of subsection (1) read with section 3A(3), 17(4), 17(5), 18(5), 18(7), 59(4), 61(2), 66(3) or 68(1), (2), (3), (4), **[or]** (5), (6) or (7) shall be liable to a fine or to imprisonment for a period not exceeding three years.”.

Insertion of sections 89A, 89B and 89C in Act 93 of 1996

25. The following sections are hereby inserted after section 89:

"Overloading fund account

89A. (1) For the purposes of this section 'overloading fund account' means a fund contemplated in subsection (3).

(2) The Minister may, after consultation with the Minister of Finance and the MEC's of the various provinces prescribe—

(a) a tariff of fees payable in respect of overloaded vehicles, which fees must be exponentially linked to the level of overloading and the resultant damage to any road on which an overloaded vehicle might travel;

(b) the classes of vehicles whose owners or operators are liable for payment of overloading fees, with reference to the amount of the fee;

(c) the classes of vehicles whose owners or operators may be exempted

from paying overloading fees;

(d) the manner in which overloading fees are to be paid into the overloading fund account contemplated in subsection (3);

(e) the date from which the tariff of fees becomes applicable;

(3) The Minister shall, after consultation with the MEC's of the various provinces, prescribe the procedure regarding the opening and management of an overloading fund account or accounts, as the case may be.

(4) The money allocated to, or standing to the credit of the overloading fund account may be utilised by the MEC's of the various provinces, after consultation with the Minister and the Minister of Finance for—

(a) the upgrading and maintenance of roads;

(b) the maintenance and administration of weigh bridges; and

(c) the administration of the overloading fund account.

(5) After the date contemplated in subsection (2)(e) no person may operate a vehicle which has been found on a public road to be overloaded—

(a) until the prescribed overloading fee has been paid into the designated overloading fund account; and

(b) until the load of the vehicle has been rectified to conform with the prescribed mass requirements for such vehicle and its load; or

(c) unless such vehicle is of a class contemplated in subsection (2)(c).

(6) Any person who contravenes subsection (4) is guilty of an offence and liable on conviction to a fine in addition to the overloading fee or to imprisonment for a period not exceeding ten years or to both a fine and such

imprisonment.

(7) The amount of an overloading fee paid by an owner or operator must be refunded if—

- (a) the accused is acquitted by a court on a charge relating to the overloading in respect of which the overloading fee was paid;
- (b) the charge contemplated in paragraph (a) has been withdrawn by the State in terms of section 6 of the Criminal Procedure Act, 1977 (Act No. 51 of 1977);
- (c) the person has made a successful representation to the Road Traffic infringement Agency in terms of section 18 of the Administrative Adjudication of Road Traffic Offences Act, 1998 (Act No. 46 of 1998).

(8) A court convicting an owner or operator on a charge contemplated in subsection (7)(a) may take into account the fact that an amount has been paid into the overloading fund account when sentencing the owner or operator.

Seizure of vehicle

89B. (1) A traffic officer may seize any vehicle which is being driven in contravention of section 89A(4), together with its load.

(2) Any vehicle and its load seized in terms of subsection (1) shall be held in safekeeping in the prescribed place and manner until the relevant overloading fee has been paid.

Forfeiture

89C. If a person is convicted of contravening section 89A(4) and the vehicle in question, with or without its load, has not yet been released in terms of section 89B(2), the court may declare the convicted person's rights in and to the vehicle or its load or both to be forfeited to the State."

Substitution of section 92 of Act 93 of 1996, as amended by section 38 of Act 21 of 1999

28. The following section is hereby substituted for section 92 of the principal Act:

"Fees

92. (1) The fees payable in respect of any application or request made, or document issued, or any other matter, relating to the registration and licensing system of motor vehicles, shall be determined under the laws of the province concerned.

(2) The fees payable in respect of any application or request made, or document issued, or any other matter referred to in this Act, other than the fees which relate to the registration and licensing system of motor vehicles, shall be prescribed.

(3) The fees payable by driving licence testing centres to

defray the costs incurred by the Corporation with respect to the issuance of driving licences, shall be prescribed.

(4) The fees referred to in subsection (1) shall be administered in accordance with the laws of the province concerned and the fees referred to in subsection (2) and (3) shall be administered as prescribed."

Amendment of Act 21 of 1999

29. The National Road Traffic Amendment Act, 1999, is hereby amended by the deletion of sections 6, 14 and 22.

Short title

30. This Act is called the National Road Traffic Second Amendment Act, 2005 and comes into operation on a date fixed by the President by Proclamation in the *Gazette*.
