

**REPUBLIC OF SOUTH AFRICA
REPUBLIEK VAN SUID-AFRIKA**

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Cape Town, 27 August
Kaapstad, 27 Augustus 2008

No. 31366

THE PRESIDENCY

No. 923

27 August 2008

It is hereby notified that the President has assented to the following Act, which is hereby published for general information:—

No. 12 of 2008: Cross-Border Road Transport Amendment Act, 2008.

DIE PRESIDENSIE

No. 923

27 Augustus 2008

Hierby word bekend gemaak dat die President sy goedkeuring geheg het aan die onderstaande Wet wat hierby ter algemene inligting gepubliseer word:—

No. 12 van 2008: Wysigingswet op Oorgrenspadvervoer, 2008.

Act No. 12, 2008 CROSS-BORDER ROAD TRANSPORT AMENDMENT ACT, 2008**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.

*(English text signed by the President.)
(Assented to 22 August 2008.)*

ACT

To amend the Cross-Border Road Transport Act, 1998, so as to insert a Table of Contents; to amend and insert certain definitions; to further regulate the granting of permits; to provide for transformation in the cross-border road transport industry; to provide for special emergency measures; to update references to traffic legislation; and to create certain offences; to amend the National Land Transport Transition Act, 2000, so as to omit provisions that passengers may only be set down at or near an international border by a person holding a permit required by the Cross-Border Road Transport Act, 1998; and to provide for matters connected therewith.

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

Insertion of Table of Contents in Act 4 of 1998

1. The following Table of Contents is hereby inserted in the Cross-Border Road Transport Act, 1998 (hereinafter referred to as the principal Act), before Part 1: 5

“TABLE OF CONTENTS”**PART 1*****Definitions***

1. Definitions

PART 2***Road transport agreements with other states***

2. Authorisation to conclude road transport agreements
3. Equal treatment

5

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ALGEMENE VERDUIDELIKENDE NOTA:

- [] Woorde in vet druk tussen vierkantige hake dui skrappings uit bestaande verordenings aan.
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- _____ Woorde met 'n volstreep daaronder dui invoegings in bestaande verordenings aan.
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*(Engelse teks deur die President geteken.)
(Goedgekeur op 22 Augustus 2008.)*

WET

Om die Wet op Oorgrenspadvervoer, 1998, te wysig ten einde 'n inhoudsopgawe in te voeg; sekere woordomskrywings te wysig en in te voeg; [die Oorgrenspadvervoeragentskap te magtig om tolgeld namens Die Suid-Afrikaanse Nasionale Padagentskap Beperk te hef en in te vorder;]die toestaan van permitte verder te reël; voorsiening te maak vir transformasie in die oorgrenspadvervoerbedryf; voorsiening te maak vir spesiale noodmaatreëls; verwysings na verkeerswetgewing op datum te bring; sekere misdrywe te skep; [sekere bepalings van die Oorgangswet op Nasionale Landvervoer,] die “National Land Transport Transition Act”, 2000 (Wet No. 22 van 2000), te wysig; bepalings te skrap dat passasiers slegs by of naby 'n internasionale grens op- of afgelaai kan word deur 'n persoon wat 'n permit hou wat vereis word deur die Wet op Oorgrenspadvervoer, 1998; en voorsiening te maak vir aangeleenthede wat daarmee [in] verband [staan] hou.

DAAR WORD BEPAAL deur die Parlement van die Republiek van Suid-Afrika, soos volg:—

Invoeging van [inhoudsopgawe] Inhoudsopgawe in Wet 4 van 1998

1. Die volgende [inhoudsopgawe] Inhoudsopgawe word hierby voor Deel 1 van die Wet op Oorgrenspadvervoer, 1998 (Wet No. 4 van 1998) (hierna die Hoofwet genoem), ingevoeg: 5

“INHOUDSOPGAWE**DEEL 1****Woordomskrywing**

1. Woordomskrywing

10

DEEL 2**Padvervoerooreenkomste met ander state**

2. Magtiging om padvervoerooreenkomste te sluit
3. Gelyke behandeling

Act No. 12, 2008 CROSS-BORDER ROAD TRANSPORT AMENDMENT ACT, 2008**PART 3*****Cross-Border Road Transport Agency***

4.	Establishment of Agency	5
5.	Representation by Board	
6.	Disqualifications	10
7.	Period of office of Chairperson, Deputy Chairperson and other members	
8.	Chairperson and Deputy Chairperson	
9.	Alternate members	
10.	Notice of appointment	
11.	Vacation of, and removal from, office	
12.	Conditions of service of members or alternative members of Board	
13.	Regulatory Committee	
14.	Staff of Agency	
15.	Appointment of experts	
16.	Meetings and decisions	
17.	Procedures	
18.	Financing of Agency	
19.	Bookkeeping and auditing	
20.	Banking account	
21.	Financial year	
22.	Reporting	20
22A.	Performance agreement	

PART 4***Scope and functions of Board***

23.	Functions of Board	25
-----	--------------------	----

PART 5***Advisory functions of Board***

24.	Advisory functions	30
-----	--------------------	----

PART 6***Regulatory functions of Board***

25.	Permit application	35
26.	Temporary permits	
27.	Freight transport	
28.	Passenger transport	
29.	Temporary replacement of vehicle	
30.	Withdrawal, suspension or variation of permit	
31.	Cabotage	
32.	Delegation of powers	
33.	Publication	
34.	Appeals	

PART 7***Facilitatory functions of Board***

35.	Facilitatory functions	40
36.	Consultation	

DEEL 3*Oorgrenspadvervoeragentskap*

4.	Vestiging van Agentskap	
5.	Verteenwoordiging deur Raad	
6.	Onbevoegdheidsgronde	5
7.	Dienstermy van die Voorsitter, Adjunkvoorsitter en ander lede	
8.	Voorsitter en Adjunkvoorsitter	
9.	Plaasvervangende lede	
10.	Kennisgewing van aanstelling	
11.	Ontruiming van en ontslag uit amp	10
12.	Diensvooraardes van lede of alternatiewe lede van Raad	
13.	Reëlingskomitee	
14.	Personeel van Agentskap	
15.	Aanstelling van deskundiges	
16.	Vergaderings en besluite	15
17.	Prosedures	
18.	Finansiering van Agentskap	
19.	Bokhouding en ouditering	
20.	Bankrekening	
21.	Bockjaar	20
22.	Verslagdoening	
22A.	Prestasie-ooreenkoms	

DEEL 4*Bestek en werksaamhede van Raad*

23.	Werksaamhede van Raad	25
-----	-----------------------	----

DEEL 5*Adviserende werksaamhede van Raad*

24.	Adviserende werksaamhede	
-----	--------------------------	--

DEEL 6*Reguleringswerksaamhede van Raad*

30

25.	Permitaansoek	
26.	Tydelike permitte	
27.	Goedereervoer	
28.	Passasiervervoer	
29.	Tydelike vervanging van voertuig	35
30.	Terugtrekking, opskorting of wysiging van permit	
31.	Cabotage	
32.	Delegering van bevoegdhede	
33.	Publikasie	
34.	Appelle	40

DEEL 7*Fasiliterende werksaamhede van Raad*

35.	Fasiliterende werksaamhede	
36.	Raadpleging	

Act No. 12, 2008 CROSS-BORDER ROAD TRANSPORT AMENDMENT ACT, 2008**PART 8***Law enforcement*

37. Road Transport Inspectorate		
38. Powers of national road transport inspector		
39. Functions of road transport inspectors	5	
40. Offences and penalties		
41. Forfeiture		
42. Evidential matters		
43. Jurisdiction		
44. Limitation of liability	10	
45. Points demerit system		
46. Co-operation between Board and cross-border road transport industry		
46A. Special emergency measures		

PART 9*Duties of permit-holder*

47. General duties		
48. Discontinuation of cross-border passenger road transport		
49. Return of consignment notes and passenger lists	15	

PART 10*Procedural matters*

50. Minute-keeping by Board and Regulatory Committee		
51. Regulations		
52. Transitional provisions	20	
53. Partial repeal of Act 74 of 1977, and savings		
54. Short title and commencement	25	

SCHEDULE 1.”.**Amendment of section 1 of Act 4 of 1998**

2. Section 1 of the principal Act is hereby amended—		
(a) by the substitution for paragraph (a) of the definition of “cabotage” of the following paragraph:		
“(a) the onloading [or] and offloading of freight or passengers between two points in the Republic; or”;	30	
(b) by the substitution for the definition of “cross-border road transport” of the following definition:		
“‘cross-border road transport’ means the transport of passengers and their personal effects or freight for reward or [the transport of freight] in the course of an industry, trade or business, to or from the Republic, crossing or intending to cross its borders into the territory of another state or in transit across the Republic or the territory of another state with a vehicle on a public road;”;	35	
(c) by the substitution for the definition of “foreign carrier” of the following definition:		
“‘foreign carrier’ means a carrier who undertakes cross-border road transport or cabotage with a vehicle which is registered in a state other than the Republic;”;	40	
(d) by the substitution for paragraphs (a) and (b) of the definition of “permit” of the following paragraphs, respectively:		
“(a) a cabotage permit issued in respect of a vehicle for a maximum period of [three months, six months or one year] five years or for a fixed number of journeys;	45	
(b) a cross-border road transport permit issued in respect of a vehicle for a maximum period of [three months, six months or one year]	50	

DEEL 8*Wetstoepassing*

37.	Padvervoerinspektoraat	
38.	Bevoegdhede van nasionale padvervoerinspekteur	
39.	Werksaamhede van padvervoerinspekteurs	5
40.	Misdrywe en strawwe	
41.	Verbeurdverklaring	
42.	Bewysregtlike aangeleenthede	
43.	Jurisdiksie	
44.	Beperking van aanspreeklikheid	10
45.	Strafpuntestelsel	
46.	Samewerking tussen Raad en oorgrenspadvervoerbedryf	
46A.	Spesiale noodmaatreëls	

DEEL 9*Pligte van [permithouers] permithouer*

15

47.	Algemene pligte	
48.	Beëindiging van oorgrenspadvervoer vir passasiers	
49.	Terugbesorging van vragbrieue en passasierslyste	

DEEL 10*Prosedure-aangeleenthede*

20

50.	Notules van Raad en Reëlingskomitee	
51.	Regulasies	
52.	Oorgangsbepalings	
53.	Gedeeltelike herroeping van Wet 74 van 1977, en voorbehoud	
54.	Kort titel en inwerkingtreding	25

BYLAE 1.”.**Wysiging van artikel 1 van Wet 4 van 1998**

2.	Artikel 1 van die Hoofwet word hierby gewysig—	
(a)	deur paragraaf (a) van die omskrywing van “ cabotage ” deur die volgende paragraaf te vervang: “(a) goedere of passasiers tussen twee punte in die Republiek op- [of] en afgelai word; of”;	30
(b)	deur die omskrywing van “ oorgrenspadvervoer ” deur die volgende omskrywing te vervang: “ oorgrenspadvervoer ” die vervoer van passasiers <u>en hulle persoonlike besittings of van goedere vir vergoeding [of die vervoer van goedere] of in die loop van 'n bedryf, handel of besigheid na of van die Republiek oor die grens of met die bedoeling om die grens oor te steek na die grondgebied van 'n ander staat of in transito deur die Republiek of die grondgebied van 'n ander staat met 'n voertuig op 'n openbare pad;”;</u>	35
(c)	deur die omskrywing van “ buitelandse karweier ” deur die volgende omskrywing te vervang: “ buitelandse karweier ” 'n karweier wat oorgrenspadvervoer of cabotage onderneem met 'n voertuig wat in 'n ander staat as die Republiek geregistreer is;”;	40
(d)	deur paragrawe (a) en (b) van die omskrywing van “ permit ” deur onderskeidelik die volgende [omskrywing] paragrawe te vervang: “(a) 'n cabotage-permit wat ten aansien van 'n voertuig uitgereik is vir 'n maksimum tydperk van [drie maande, ses maande of een jaar] vyf jaar of vir 'n vasgestelde getal ritte;	45
	(b) 'n oorgrenspadvervoerpermit wat ten aansien van 'n voertuig uitgereik is vir 'n maksimum tydperk van [drie maande, ses	50

Act No. 12, 2008 CROSS-BORDER ROAD TRANSPORT AMENDMENT ACT, 2008

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- five years or for a fixed number of journeys authorising the transport of freight or passengers on specified routes; or”;
- (e) by the substitution for the definition of “**reward**” of the following definition: “‘**reward**’ means any reward or compensation whether monetary or otherwise received in terms of a contract concluded for the hiring of a vehicle and a driver or the hiring of a vehicle and the separate hiring of a driver;”;
- (f) by the substitution for the definition of “**unauthorised transport**” of the following definition: “‘**unauthorised transport**’ means transport with a vehicle on a public road [without an applicable permit or in conflict with the permit conditions] in contravention of this Act; and”;
- (g) by the substitution for the definition of “**vehicle**” of the following definition: “‘**vehicle**’ means—
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- (a) in relation to cross-border freight road transport, any mechanically-propelled road vehicle[—]
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- (i)] or combination of vehicles which is constructed, adapted or used for the carriage of freight[, excluding a semi-trailer and trailer in the case of an articulated vehicle; and]
- 20
- (ii) which either by itself or as part of an articulated vehicle] and which exceeds a maximum gross mass of 3 500 kg;
- (b) in relation to cross-border passenger road transport, any mechanically-propelled road vehicle which is constructed or adapted for the conveyance of passengers or any other vehicle which is used to convey passengers; and
- 25
- (c) in relation to cabotage, any mechanically-propelled road vehicle and, in the case of [an articulated vehicle] a combination of vehicles, also a trailer and semi-trailer, which are regarded as separate vehicles;”.

Amendment of section 23 of Act 4 of 1998

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3. Section 23 of the principal Act is hereby amended by the substitution for paragraph (b) of the following paragraph:

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“(b) regulate access to the market by the road transport freight and passenger industry in respect of cross-border road transport and cabotage by issuing permits;”.

Amendment of section 25 of Act 4 of 1998

4. Section 25 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:

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“(1) No person may undertake cross-border road transport or, subject to section 31, cabotage, unless he or she is the holder of a permit.”.

Amendment of section 27 of Act 4 of 1998

5. Section 27 of the principal Act is hereby amended—

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

maande of een jaar] vyf jaar of vir 'n vasgestelde getal ritte en wat die vervoer van goedere of passasiers op bepaalde roetes magig; of";

- (e) deur die omskrywing van "**vergoeding**" deur die volgende omskrywing te vervang:

"**vergoeding**" enige vergoeding of kompensasie, het sy geldelik of andersins, [of] wat ontvang word ingevolge 'n kontrak wat gesluit is vir die huur van 'n voertuig en 'n bestuurder of die huur van 'n voertuig en die afsonderlike huur van 'n bestuurder;" en

- (f) deur die omskrywing van "**ongemagtigde vervoer**" deur die volgende 10 omskrywing te vervang:

"**ongemagtigde vervoer**" vervoer op 'n openbare pad met 'n voertuig [sonder 'n toepaslike permit of strydig met die voorwaardes van 'n permit] in stryd met hierdie Wet;"

- (g) deur die omskrywing van "**voertuig**" deur die volgende omskrywing te 15 vervang:

"**voertuig**"—

- (a) met betrekking tot die oorgrenspadvervoer van goedere, enige meganies aangedrewe padvoertuig [—

(i) of kombinasie van voertuie wat gebou of aangepas is of 20 gebruik word vir die vervoer van goedere[, behalwe 'n leunwa en 'n sleepwa in die geval van 'n geartikuleerde voertuig; en

(ii) wat óf op sy eie óf as deel van 'n geartikuleerde voertuig] en 'n maksimum bruto massa van 3 500 kg oorskry;

- (b) met betrekking tot die oorgrenspadvervoer van passasiers, enige meganies aangedrewe padvoertuig wat gebou of aangepas is vir die vervoer van passasiers of enige ander voertuig wat vir die vervoer van passasiers gebruik word; en

(c) met betrekking tot cabotage, enige meganies aangedrewe 30 padvoertuig en, in die geval van [**'n geartikuleerde voertuig**] 'n kombinasie van voertuie, ook 'n leunwa en 'n sleepwa, wat as afsonderlike voertuie beskou word";.

Wysiging van artikel 23 van Wet 4 van 1998

3. Artikel 23 van die Hoofwet word hierby gewysig deur paragraaf (b) deur die volgende paragraaf te vervang:

"(b) toegang tot die mark deur die padvervoerbedryf vir goedere en passasiers ten opsigte van oorgrenspadvervoer en cabotage reguleer deur die uitreiking van permitte;".

Wysiging van artikel 25 van Wet 4 van 1998

4. Artikel 25 van die Hoofwet word hierby gewysig deur subartikel (1) deur die volgende subartikel te vervang:

"(1) Geen persoon mag oorgrenspadvervoer of, behoudens artikel 31, cabotage onderneem nie, tensy hy of sy die houer van 'n permit is [nie].".

Wysiging van artikel 27 van Wet 4 van 1998

5. Artikel 27 van die Hoofwet word hierby gewysig—

- (a) deur die bewoording wat paragraaf (a) in subartikel (1) voorafgaan deur die volgende gedeelte te vervang:

Act No. 12, 2008 CROSS-BORDER ROAD TRANSPORT AMENDMENT ACT, 2008

“The Regulatory Committee must take the following into consideration in making a decision in relation to any application for the granting, renewal[~~, transfer~~] or amendment of permits for cross-border freight road transport based on the information presented to it by the Chief Executive Officer:”;

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

“(a) whether the applicant [~~complies~~] and the vehicle comply with the relevant provisions of the National Road Traffic Act, [1989 (Act No. 29 of 1989)] 1996 (Act No. 93 of 1996);”;

- (c) by the deletion in subsection (1) of the word “and” at the end of paragraph (e) and the insertion of the following paragraphs after paragraph (e):

“(eA) whether a South African carrier has submitted a valid tax clearance certificate from the South African Revenue Services indicating that the applicant’s tax affairs are in order;

- (eB) any conditions, factors or criteria specified in a relevant agreement contemplated in section 2 or specified or determined by a joint committee or similar body in terms of such an agreement;”;

- (d) by the insertion of the following subsection after subsection (1):

“(1A) Where the applicant is a South African carrier the Board must take into account—

- (a) the promotion of small business;
 (b) the empowerment of persons historically disadvantaged by unfair discrimination; and
 (c) any relevant code of good practice or transformation charter published in terms of the Broad-Based Black Economic Empowerment Act, 2003 (Act No. 53 of 2003).”; and

- (e) by the addition of the following subsection:

“(3) In the case of a combination of vehicles, a single permit must be issued for the truck-tractor and its trailers and semi-trailers, but not in the case of cabotage, where separate permits must be issued in accordance with section 31(3).”.

Amendment of section 28 of Act 4 of 1998**6. Section 28 of the principal Act is hereby amended—**

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

“The Regulatory Committee must take the following into consideration in making its decision in relation to any application for the granting, renewal[~~, transfer~~] or amendment of permits for cross-border passenger road transport based on the information presented to it by the Chief Executive Officer:”;

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

“(a) the considerations referred to in section 27(1)(a), (b), (d), [~~and~~] (e), (~~eA~~) and (~~eB~~) and (1A);”;

- (c) by the substitution in subsection (1) for paragraph (e) of the following paragraph:

“(e) the ability of the applicant to provide the particular service safely and effectively;”.

Amendment of section 30 of Act 4 of 1998**7. Section 30 of the principal Act is hereby amended—**

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

“(1) The Regulatory Committee may, subject to the provisions of subsections (2) and (3) where—

<p>“Die Reëlingskomite moet die volgende in aanmerking neem wanneer hy ’n besluit neem ten aansien van enige aansoek om die toestaan, hernuwing[<u>, oordrag</u>] of wysiging van permitte vir die oorgrens padvervoer van goedere op grond van die volgende inligting wat deur die Hoof-Uitvoerende Beamppte aan die Komitee voorgelê word.”;</p> <p>(b) deur paragraaf (a) van subartikel (1) deur die volgende paragraaf te vervang:</p> <p>“(a) of die aansoeker <u>en die voertuig</u> voldoen aan die toepaslike bepalings van die Nasionale Padverkeerswet, [1989 (Wet 29 van 1989)] 1996 (Wet No. 93 van 1996);”;</p> <p>(c) deur die woord “en” aan die einde van paragraaf (e) van subartikel (1) te skrap en die volgende paragrawe ná paragraaf (e) in te voeg:</p> <p>“(eA) of ’n Suid-Afrikaanse karweier ’n geldige belastingklaring-sertifikaat van die Suid-Afrikaanse Inkomstediens ingedien het wat aandui dat die aansoeker se belastingaangeleenthede in orde is;</p> <p>(eB) enige voorwaardes, faktore of maatstawwe gespesifiseer in ’n toepaslike ooreenkoms beoog in artikel 2 of gespesifiseer of vasgestel deur ’n Gesamentlike Komitee of soortgelyke liggaam kragtens so ’n ooreenkoms;”;</p> <p>(d) deur die volgende subartikel ná subartikel (1) in te voeg:</p> <p>“(1A) Indien die aansoeker ’n Suid-Afrikaanse karweier is, moet die Raad in ag neem—</p> <p>(a) die bevordering van kleinsake; en</p> <p>(b) die bemagtiging van persone wat histories benadeel is deur onbillike diskriminasie; en</p> <p>(c) enige toepaslike goeiepraktykskode of transformasiehandvies gepubliseer kragtens die “Broad-Based Black Economic Empowerment Act”, 2003[<u>7</u>] (Wet No. 53 van 2003);”;</p> <p>(e) deur die volgende subartikel ná subartikel (2) in te voeg:</p> <p>“(3) In die geval van ’n kombinasie van voertuie moet ’n enkele permit toegestaan word vir die voorspanmotor en die sleepwaens en leunwaens daarvan, behalwe in die geval van cabotage, waarvoor afsonderlike permitte ooreenkomsdig artikel 31(3) toegestaan moet word.”.</p>	5 10 15 20 25 30 35
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Wysiging van artikel 28 van Wet 4 van 1998

6. Artikel 28 van die Hoofwet word hierby gewysig—

- (a) deur die bewoording wat paragraaf (a) in subartikel (1) voorafgaan deur die volgende gedeelte te vervang:

“Die Reëlingskomite moet die volgende in aanmerking neem wanneer hy ’n besluit neem ten aansien van enige aansoek om die toestaan, hernuwing[, oordrag] of wysiging van permitte vir die oorgrens padvervoer van passasiers op grond van die volgende inligting wat deur die Hoof-Uitvoerende Beamppte aan die Komitee voorgelê word.”;

- (b) deur paragraaf (a) van subartikel (1) deur die volgende paragraaf te vervang:

“(a) die oorwegings bedoel in artikel 27(1)(a), (b), (d), [en] (e), (eA), (eB) en (1A);”;

- (c) deur paragraaf (e) van subartikel (1) deur die volgende paragraaf te vervang:

“(e) die vermoë van die aansoeker om die betrokke diens [doelmatig] doeltreffend en veilig te lewer;”.

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Wysiging van artikel 30 van Wet 4 van 1998

7. Artikel 30 van die Hoofwet word hierby gewysig—

- (a) deur subartikel (1) deur die volgende subartikel te vervang:

“(1) Die Reëlingskomite kan, behoudens die bepalings van subartikels (2) en (3), [waar] indien—

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Act No. 12, 2008 CROSS-BORDER ROAD TRANSPORT AMENDMENT ACT, 2008

<p>(a) a permit holder or a person in his or her employ has been convicted of a road transport or road traffic offence in the Republic or in a state with which an agreement as contemplated in section 2(1), has been concluded;</p> <p>(b) <u>in the opinion of the Regulatory Committee, a permit holder has not complied with the conditions of the permit; or</u></p> <p>(c) <u>a permit holder has ceased to operate the services or a part of such services authorised by the permit,</u> of its own accord or upon a request from the state with which such an agreement has been concluded, take one or more of the following steps:</p> <p>[(a)](i) withdraw or suspend for such period as it may deem fit, any permit granted by it[;</p> <p>(b) revoke the permit] subject to such conditions as may be imposed;</p> <p>[(c)](ii) declare such permit-holder either permanently or for a specified period of time unfit to apply for a permit;</p> <p>[(d)](iii) amend the conditions and requirements applicable to the permit held by the permit-holder, or determine such new conditions and requirements as the Regulatory Committee may deem fit.”; and</p> <p>(b) by the addition of the following subsection:</p> <p style="padding-left: 2em;">“(7) Where the Regulatory Committee decides to follow any of the steps in subsection (1), the Regulatory Committee must notify the permit holder of the right to appeal in terms of section 34 and of the right to request reasons.”.</p>	5 10 15 20 25
Amendment of section 31 of Act 4 of 1998	
8. Section 31 of the principal Act is hereby amended—	
<p>(a) by the substitution for subsection (1) of the following subsection:</p> <p style="padding-left: 2em;">“(1) Cabotage is prohibited, except as specifically allowed in subsection (2).”;</p> <p>(b) by the substitution in subsection (2) for paragraph (b) of the following paragraph:</p> <p style="padding-left: 2em;">“(b) it is satisfied that—</p> <p style="padding-left: 3em;">(i) there is no South African carrier who can provide a similar service;</p> <p style="padding-left: 3em;">(ii) the granting of the permit will not be in conflict with transport plans prepared in terms of Part 7 of the National Land Transport Transition Act, 2000 (Act No. 22 of 2000); and</p> <p style="padding-left: 3em;">(iii) [where] lifting the prohibition is in the best interest of the Republic.”; and</p> <p>(c) by the substitution for subsection (3) of the following subsection:</p> <p style="padding-left: 2em;">“(3) Where cabotage is permitted, any truck-tractor and trailer and semi-trailer used in combination for the purposes of such transport, [must] may be registered in [the same country] different countries, but a separate permit is required for each such truck-tractor, trailer and semi-trailer.”.</p>	30 35 40 45

Amendment of section 32 of Act 4 of 1998

9. Section 32 of the principal Act is hereby amended—	
<p>(a) by the substitution in paragraph (a) for the words preceding subparagraph (i) of the following words:</p> <p style="padding-left: 2em;">“consider applications, in accordance with the prescribed procedure, for the granting, renewal[, transfer] or amendment of—”;</p> <p>(b) by the deletion in paragraph (a) of the word “and” at the end of subparagraph (ii); and</p> <p>(c) by the addition to paragraph (a) of the following subparagraphs:</p>	50

- (a) 'n permithouer of 'n persoon in sy of haar diens skuldig bevind is aan 'n padvervoer- of padverkeersoortreding in die Republiek of in 'n staat met wie 'n ooreenkoms soos beoog in artikel 2(1) aangegaan is; 5
- (b) 'n permithouer na die mening van die Reëlingskomitee nie aan die voorwaardes van die permit voldoen het nie; of 10
- (c) 'n permithouer opgehou het om sodanige dienste, of 'n deel van sodanige dienste, as wat die permit magtig, te bedryf, na goeddunke of ná ontvangs van 'n versoek van die staat met wie so 'n ooreenkoms aangegaan is, een of meer van die volgende stappe doen:
- [(a)](i) enige permit wat deur die komitee uitgereik is, terugtrek of opskort vir die tydperk wat [goedgedink word] hy goeddink,; 15
- (b) die permit terugtrek behoudens die voorwaardes wat opgelê mag word;
- [(c)](ii) sodanige permithouer óf permanent óf vir 'n vasgestelde tydperk ongeskik verklaar om vir 'n permit aansoek te doen;
- [(d)](iii) die voorwaardes en vereistes van toepassing op die permit waaroer die permithouer beskik, wysig of die nuwe voorwaardes en vereistes wat die Reëlingskomitee nodig ag, vasstel.''; en 20
- (b) deur die volgende subartikel in te voeg:
- "(7) Indien die Reëlingskomitee besluit om enige van die stappe in subartikel (1) te doen, moet hy die permithouer in kennis stel van die reg op appèl kragtens artikel 34 en van die reg om redes aan te vra." 25

Wysiging van artikel 31 van Wet 4 van 1998

8. Artikel 31 van die Hoofwet word hierby gewysig—

- (a) deur subartikel (1) deur die volgende subartikel te vervang:
- "(1) Cabotage is verbode, behalwe indien dit uitdruklik kragtens subartikel (2) toelaatbaar is."; 30
- (b) deur paragraaf (b) van subartikel (2) deur die volgende paragraaf te vervang:
- "(b) die Komitee [tevrede] oortuig is—
- (i) dat daar geen Suid-Afrikaanse karweier is wat 'n soortgelyke diens kan lewer nie;
- (ii) dat die toestaan van die permit nie in stryd sal wees nie met die vervoerplanne opgestel ingevolge Deel 7 van die [Oorgangswet op Nasionale Landvervoer] "National Land Transport Transition Act", 2000;
- (iii) dat die opheffing van die verbood in die beste belang van die Republiek is.''; en 35
- (c) deur subartikel (3) deur die volgende subartikel te vervang:
- "(3) Waar cabotage toelaatbaar is, [moet] kan enige voorspanmotor en sleepwa en leunwa wat in kombinasie vir die doeleindes van sodanige vervoer gebruik word, in [dieselde staat] verskillende state geregistreer word, maar 'n afsonderlike permit word vir elke sodanige voorspanmotor, sleepwa of leunwa vereis.".

Wysiging van artikel 32 van Wet 4 van 1998

9. Artikel 32 van die Hoofwet word hierby gewysig—

- (a) deur die inleidende gedeelte van paragraaf (a) deur die volgende inleidende gedeelte te vervang:
- "(a) aansoeke te oorweeg in ooreenstemming met die voorgeskrewe prosedure vir die toestaan, hernuwing[, oordrag] of wysiging van—"; 50
- (b) die woord "en" ná subparagraaf (ii) van paragraaf (a) te skrap; 55
- (c) die volgende subparagrawe ná subparagraaf (ii) van paragraaf (a) in te voeg:

Act No. 12, 2008 CROSS-BORDER ROAD TRANSPORT AMENDMENT ACT, 2008

- “(iii) cabotage permits for a maximum of 14 days to foreign carriers who have not transgressed a prescribed points demerit threshold;
- (iv) permits for a maximum of three months where the application relates to the transporting of passengers who are employees, workers, contractors or agents of the applicant being transported in the course of the applicant’s industry, trade or business; and”.

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Amendment of section 33 of Act 4 of 1998**10.** Section 33 of the principal Act is hereby amended—

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

“(1) The Regulatory Committee must, before considering any application for the granting[, **renewal, transfer**] or amendment of a permit [issued for either three months, six months or one year] authorising cabotage or for the granting[, **renewal, transfer**] or amendment of a [**three month, six month, or one year**] permit for cross-border passenger road transport, except where the application relates to passengers who are employees, workers, contractors or agents of the applicant being transported in the course of the applicant’s industry, trade or business, publish in the *Gazette* the particulars of any application as may be prescribed and invite any person to make representations in the manner and within the time prescribed, in respect of such application, except where the agreement provides otherwise and subject to [the provisions of subsection] subsections (1A) and (2).”; and

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

“(1A) The Regulatory Committee may publish in the same manner an application for renewal of a permit contemplated in subsection (1), and must do so if the conditions or requirements of the permit are to be amended in the process.”.

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Amendment of section 34 of Act 4 of 1998, as substituted by section 1 of Act 70 of 1998

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11. Section 34 of the principal Act is hereby amended by the substitution in subsection (1) for the words preceding paragraph (a) of the following words:

“Where the Regulatory Committee has published or otherwise made known its decision in respect of any application for the granting, renewal[,] or amendment [**or transfer**] of a cross-border road transport permit or a cabotage permit for freight or passengers—”.

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Amendment of section 35 of Act 4 of 1998**12.** Section 35 of the principal Act is hereby amended—

(a) by the deletion in subsection (1) of the word “and” at the end of paragraph (i);

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

“(j) [**any other designated stakeholder**] provincial and local authorities; and”; and

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

“(k) any other designated stakeholder.”.

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Amendment of section 37 of Act 4 of 1998**13.** Section 37 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:

“(1) (a) The [**Board**] Chief Executive Officer must appoint the national Road Transport Inspectorate, consisting of the national road transport inspectors.

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- “(iii) cabotage-permitte vir hoogstens 14 dae aan buitelandse karweiers wat nie in voorgeskrewe afsnypunt ten aansien van die strafpuntestelsel oorskry nie;
- (iv) permitte vir hoogstens drie maande, indien die aansoek betrekking het op die vervoer van passasiers wat werknekers, werkers, kontrakteurs of agente van die aansoeker is wat in die loop van die aansoeker se bedryf, handel of besigheid vervoer word; en”.

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Wysing van artikel 33 van Wet 4 van 1998

10. Artikel 33 van die Hoofwet word hierby gewysig—

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(a) deur subartikel (1) deur die volgende subartikel te vervang:

“(1) Die Reëlingskomitee moet, alvorens enige aansoek oorweeg word om die toestaan[, **hernuwing, oordrag**] of wysiging van ‘n cabotage-permit [**vir óf drie maande óf ses maande óf een jaar uitgereik,**] of om die toestaan[, **hernuwing, oordrag**] of wysiging van ‘n permit [**van drie maande, ses maande of 'n jaar**] vir die oorgrenspadvervoer van passasiers, behalwe indien die aansoek betrekking het op die vervoer van passasiers wat werknekers, werkers, kontrakteurs of agente van die aansoeker is wat in die loop van die aansoeker se bedryf, handel of besigheid vervoer word, die besonderhede van enige aansoek soos voorgeskryf in die *Staatskoerant* publiseer en enige persoon uitnooi om op die voorgeskrewe wyse en binne die voorgeskrewe tydperk [**komentaar te lewer op**] vertoë te rig met betrekking tot sodanige aansoek, behalwe wanneer ‘n ooreenkoms anders bepaal en behoudens die bepalings van [subartikel] subartikels (1A) en (2).”; en

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(b) deur die volgende subartikel ná subartikel (1) in te voeg:

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“(1A) Die Reëlingskomitee kan op dieselfde wyse ‘n aansoek om die hernuwing van ‘n permit beoog in subartikel (1) publiseer en moet dit doen indien die voorwaardes of vereistes van die permit in die proses gewysig moet word.”.

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Wysing van artikel 34 van Wet 4 van 1998, soos gewysig by artikel 1 van Wet 70 van 1998

11. Artikel 35 van die Hoofwet word hierby gewysig deur die woorde wat paragraaf

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(a) van subartikel 1 voorafgaan deur die volgende woorde te vervang:

“Wanneer die Reëlingskomitee sy besluit ten opsigte van enige aansoek om die toestaan, hernuwing[,] of wysiging [**of oordrag**] van ‘n permit vir oorgrenspadvervoer of ‘n cabotage-permit vir goedere of passasiers gepubliseer of andersins bekendgemaak het, kan—”.

Wysing van artikel 35 van Wet 4 van 1998

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12. Artikel 35 van die Hoofwet word hierby gewysig—

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(a) deur die woorde “en” aan die einde van paragraaf (i) van subartikel (1) te skrap;

(b) deur paragraaf (j) van subartikel (1) deur die volgende paragraaf te vervang:

“(j) [**enige ander aangewese belanghebbende party**] provinsiale en plaaslike owerhede; en”; en

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(c) deur die volgende paragraaf ná paragraaf (j) van subartikel (1) in te voeg:

“(k) enige ander aangewese belanghebbende.”.

Wysing van artikel 37 van Wet 4 van 1998

13. Artikel 37 van die Hoofwet word hierby gewysig deur subartikel (1) deur die volgende subartikel te vervang:

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“(1)(a) Die nasionale Padvervoerinspektoraat, wat bestaan uit die nasionale padvervoerinspekteurs, word deur die [Raad] **Hoof- Uitvoerende Beampte** aangestel.

Act No. 12, 2008 CROSS-BORDER ROAD TRANSPORT AMENDMENT ACT, 2008

(b) Section 14(3) applies to national road transport inspectors appointed in terms of paragraph (a).”.

Amendment of section 38 of Act 4 of 1998**14. Section 38 of the principal Act is hereby amended—**

- (a) by the substitution in subsection (1) for paragraph (e) of the following paragraph:
 - “(e) confiscate a permit which authorises cross-border road transport or cabotage if the vehicle is so defective as to be a possible danger to persons or property and must hand over the permit to the Chief Executive Officer;”; and
- (b) by the substitution in subsection (1) for paragraph (h) of the following paragraph:
 - “(h) impound a vehicle which is reasonably suspected of being or having been used for [cross-border road transportation contrary to the Act or an agreement] unauthorised transport;”. 15

Amendment of section 40 of Act 4 of 1998**15. Section 40 of the principal Act is hereby amended—**

- (a) by the substitution in subsection (1) for paragraph (y) of the following paragraph:
 - “(y) is the registered owner of a vehicle and allows cross-border road transport or cabotage without a permit;”; 20
- (b) by the substitution in subsection (1) for paragraph (zA) of the following paragraph:
 - “(zA) [contravenes or fails to comply with any provision of this Act, if such contravention or failure is not elsewhere declared an offence,] cedes, alienates, hires out or hires the authority conferred by a permit in contravention of section 47(7);”; and 25
- (c) by the addition of the following paragraph in subsection (1) after paragraph (zA):
 - “(zB) contravenes or fails to comply with any provision of this Act if such contravention or failure is not elsewhere declared an offence.”. 30

Amendment of section 41 of Act 4 of 1998

16. Section 41 of the principal Act is hereby amended by the substitution for the expression “unauthorised road transport”, wherever it occurs, in subsection (1) of the expression “unauthorised transport”. 35

Amendment of section 44 of Act 4 of 1998

17. Section 44 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:

“(1) Any person in the employ of the Board[, as contemplated in section 14], 40 is not personally liable for any damage caused by reason of any act done or omitted to be done in good faith by that person.”.

Amendment of section 45 of Act 4 of 1998

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

“(1) The Minister, in consultation with the Board may, subject to [the provisions of] subsection (2), devise a points demerit system, based on contraventions of this Act [as well as contraventions contemplated in] and of the National Road Traffic Act, [1989] 1996 (Act No. 93 of 1996), and may devise such penalties[,] as may be prescribed.”. 50

(b) Artikel 14(3) is van toepassing op die nasionale padvervoerinspekteurs wat ingevolge paragraaf (a) aangestel is.”.

Wysiging van artikel 38 van Wet 4 van 1998

14. Artikel 38 van die Hoofwet word hierby gewysig—

- (a) deur paragraaf (e) van subartikel (1) deur die volgende paragraaf te vervang:
 - “(e) ‘n permit konfiskeer wat oorgrenspadvervoer of cabotage magtig indien die voertuig in so ‘n swak toestand is dat dit moontlik gevaaar inhou vir persone of eiendom en moet die permit aan die Hoof-Uitvoerende Beämptie oorhandig;”; en
- (b) deur paragraaf (h) van subartikel (1) deur die volgende paragraaf te vervang:
 - “(h) beslag lê op ‘n voertuig indien redelikerwys vermoed word dat sodanige voertuig gebruik word of gebruik is vir [oorgrenspadvervoer wat strydig is met die Wet of ‘n ooreenkoms] ongemagtigde vervoer;”.

Wysiging van artikel 40 van Wet 4 van 1998

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15. Artikel 40 van die Hoofwet word hierby gewysig—

- (a) deur paragraaf (y) van subartikel (1) deur die volgende paragraaf te vervang:
 - “(y) die geregistreerde eienaar van ‘n voertuig is en oorgrenspadvervoer of cabotage sonder ‘n permit toelaat;”;
- (b) deur paragraaf (zA) van subartikel (1) deur die volgende paragraaf te vervang:
 - “(zA) [enige bepaling van hierdie Wet oortree of versuim om daaraan te voldoen, indien sodanige oortreding of versuim nie elders as ‘n misdryf aangedui word nie,] in stryd met artikel 47(7) ‘n permit sedear, vervaam, verhuur of huur;”; en
- (c) deur die volgende paragraaf ná paragraaf (zA) in subartikel (1) in te voeg:
 - “(zB) enige bepaling van hierdie Wet oortree of versuim om daaraan te voldoen, indien sodanige oortreding of versuim nie elders tot misdryf verklaar word nie,.”.

Wysiging van artikel 41 van Wet 4 van 1998

16. Artikel 41 van die Hoofwet word hierby gewysig deur die uitdrukking “ongemagtigde padvervoer”, waar dit ook al in subartikel (1) voorkom, te vervang deur die uitdrukking “ongemagtigde vervoer”.

Wysiging van artikel 44 van Wet 4 van 1998

17. Artikel 44 van die Hoofwet word hierby gewysig deur subartikel (1) deur die volgende subartikel te vervang:

“(1) ‘n Persoon in diens van die Raad [soos bedoel in artikel 14,] is nie persoonlik aanspreeklik vir enige skade wat veroorsaak is deur enige handeling wat te goeder trou deur daardie persoon verrig is of deur enige versuim te goeder trou aan sy of haar kant nie.”.

Wysiging van artikel 45 van Wet 4 van 1998

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18. Artikel 45 van die Hoofwet word hierby gewysig deur subartikel (1) deur die volgende subartikel te vervang:

“(1) Die Minister mag, in oorleg met die Raad en behoudens [die bepalings van] subartikel (2), ‘n strafpuntestelsel [bedink] ontwerp wat op oortredings van hierdie Wet [berus asook op oortredings soos beoog in] en die Nasionale Padverkeerswet, [1989] 1996 (Wet No. 93 van 1996), berus, en mag sodanige strawwe formuleer soos voorgeskryf word.”.

Act No. 12, 2008 CROSS-BORDER ROAD TRANSPORT AMENDMENT ACT, 2008**Insertion of section 46A in Act 4 of 1998**

19. The following section is hereby inserted in the principal Act after section 46:

“Special emergency measures

46A. (1) The Minister may, after consulting the Regulatory Committee, the Member of the Executive Council of the relevant province responsible for public transport and the South African Police Services, by notice in the *Gazette*, declare an area in which the special measures provided for in this section will apply, where he or she is of the opinion that this is necessary to normalize the situation in the area characterised by violence, unrest or instability.

(2) The Minister may make regulations providing that the operation of any specified permit is, or all permits are, temporarily suspended in so far as they authorise cross-border road transport or cabotage in such an area or part thereof, or on a specified route or routes in that area, for a period not exceeding 21 days.

(3) Regulations under subsection (2) may provide that the contravention thereof constitute an offence and may prescribe penalties in respect thereof.

(4) Before making regulations under subsection (2), the Minister must cause a notice to be published in the *Gazette* or in a newspaper circulating in the declared area, stating—

- (a) a brief description of the nature and purpose of the intended action;
- (b) the period for which the proposed regulations will be in force;
- (c) that interested or affected persons may request reasons for the proposed regulations;
- (d) that any interested or affected persons may make representations;
- (e) the time within which representations may be made, which may not be less than 24 hours;
- (f) the address to which representations must be submitted; and
- (g) the manner in which representations may be made.

(5) The Minister must consider any representations received under subsection (4) before making regulations under subsection (2).”.

Amendment of section 47 of Act 4 of 1998

20. Section 47 of the principal Act is hereby amended by the addition of the following subsections:

“(6) All holders of permits which are valid for more than one year, must submit to the Regulatory Committee annually, together with the registration certificate mentioned in subsection (2)—

- (a) a valid roadworthy certificate for the vehicle;
 - (b) where it is a condition of the permit that the holder must purchase insurance, proof that such insurance is still in force in respect of the vehicle and that all premiums have been paid;
 - (c) proof that other conditions of the permit are being met, if required by the Regulatory Committee; and
 - (d) any other prescribed requirement,
- failing which the permit shall lapse on the date of lapsing of such registration certificate and the holder must return it to the Chief Executive Officer within 10 days of such lapsing by delivering it by hand or by registered post.

(7) The authority conferred by a permit may not—

- (a) be ceded or otherwise alienated by the holder of the permit, and no person may be a party to such a cession or alienation; or
- (b) be hired out by the holder of the permit or be hired by any other person, and any such cession, alienation or hiring of a permit shall be of no legal force or effect.”.

Invoeging van artikel 46A in Wet 4 van 1998

19. Die volgende artikel word hierby ná artikel 46 van die Hoofwet ingevoeg:

“Spesiale noodmaatreëls

46A. (1) Die Minister kan, ná oorleg met die Reëlingskomitee, die Lid van die Uitvoerende Raad van die betrokke provinsie verantwoordelik vir openbare vervoer, en die Suid-Afrikaanse Polisiediens, 'n gebied waarin die spesiale maatreëls van krag sal wees waarvoor hierdie artikel voorsiening maak, by kennisgewing in die *Staatskoerant* verklaar indien hy of sy van mening is dat dit nodig is om die situasie te normaliseer in die gebied wat dour geweld, onrus of onstabilitet gekenmerk word.

(2) Die Minister kan regulasies uitvaardig wat bepaal dat die werking van enige bepaalde permit of alle permitte tydelik, vir 'n tydperk van hoogstens 21 dae, opgeskort word vir sover dit oorgrenspadvervoer of cabotage in sodanige gebied of deel daarvan, of op 'n bepaalde roete of bepaalde roetes in daardie gebied, magtig.

(3) Regulasies kragtens subartikel (2) kan bepaal dat die oortreding daarvan 'n misdryf uitmaak en kan strawwe ten opsigte daarvan voorskryf.

(4) Voordat die Minister regulasies kragtens subartikel (2) uitvaardig, moet hy of sy 'n kennisgewing in die *Staatskoerant* of in 'n nuusblad in omloop in die verklaarde gebied laat publiseer wat—

- (a) 'n kort beskrywing van die aard en doel van die beoogde optrede gee;
- (b) die tydperk vermeld waarvoor die beoogde regulasies van krag sal wees;
- (c) vermeld dat belanghebbende of geaffekteerde persone redes vir die beoogde regulasies kan aanvra;
- (d) vermeld dat enige belanghebbende of geaffekteerde persone vertoë kan rig;
- (e) die tydperk vermeld waarbinne vertoë gerig moet word, welke tydperk nie minder as 24 uur mag wees nie;
- (f) die adres verstrek waar vertoë ingedien moet word; en
- (g) die wyse bepaal waarop vertoë gerig moet word.

(5) Die Minister moet enige vertoë wat kragtens subartikel (4) ontvang word, oorweeg voordat hy of sy regulasies kragtens subartikel (2) uitvaardig.”.

Wysiging van artikel 47 van Wet 4 van 1998

20. Artikel 47 van die Hoofwet word hierby gewysig deur die volgende subartikels by te voeg:

“(6) Alle houers van permitte wat vir meer as een jaar geldig is, moet jaarliks, saam met die registrasiesertifikaat bcoog in subartikel (2)—

- (a) 'n geldige padwaardigheidsertifikaat vir die voertuig;
- (b) indien dit 'n voorwaarde van die permit is dat die houer versekering moet uitneem, bewys dat sodanige versekering steeds ten opsigte van die voertuig van krag is en dat alle premies betaal is;
- (c) bewys dat die ander voorwaardes van die permit nagekom word, indien dit deur die Reëlingskomitee vereis word; en
- (d) enige ander voorgeskrewe vereiste,

aan die Reëlingskomitee voorlê, by gebreke waarvan die permit verval op die datum waarop bedoelde registrasiesertifikaat verval, en die houer moet dit dan binne 10 dae nadat dit aldus verval het, aan die Hoof- Uitvoerende Beamppte terugbesorg deur dit per hand of per geregistreerde pos af te lewer.

(7) Die magtiging by 'n permit verleen, mag nie—

- (a) deur die houer van die permit gesedeer of andersins vervreem word nie en geen persoon mag 'n party by so 'n sessie of vervreemding wees nie; of
- (b) deur die houer van die permit verhuur of deur enige ander persoon gehuur word nie,

en geen sodanige sessie, vervreemding, verhuring of huur van 'n permit het enige regskrag of -gevolg nie.”.

Act No. 12, 2008 CROSS-BORDER ROAD TRANSPORT AMENDMENT ACT, 2008**Amendment of section 49 of Act 4 of 1998**

21. Section 49 of the principal Act is hereby amended by the substitution for the expression “21 days”, wherever it occurs, of the expression “30 days”. 5

Amendment of section 52 of Act 4 of 1998

22. Section 52 of the principal Act is hereby amended by the insertion of the following subsection after subsection (2): 5

“(2A) All permits and operating licences issued by the National Transport Commission, local road transportation boards and operating licensing boards in terms of the Road Transportation Act, 1977 (Act No. 74 of 1977), the National Land Transport Transition Act, 2000 (Act No. 22 of 2000), or provincial legislation contemplated in the definition of ‘replacing provincial law’ in section 1 of the lastmentioned Act, which authorise or purport to authorise cross-border road transport and with a validity period exceeding 12 months, lapse within six months after the entry into force of section 25 of the Cross-Border Road Transport Amendment Act, 2008: Provided that the holder of such a permit or operating licence may apply to the Regulatory Committee for the granting of a permit in terms of this Act.”. 10 15

Amendment of section 46 of Act 22 of 2000

23. Section 46 of the National Land Transport Transition Act, 2000, is hereby amended by the deletion of subsection (2). 20

Amendment of section 127 of Act 22 of 2000

24. Section 127 of the National Land Transport Transition Act, 2000, is hereby amended by the deletion in subsection (1) of paragraph (p). 25

Short title

25. This Act is called the Cross-Border Road Transport Amendment Act, 2008. 25

Wysiging van artikel 49 van Wet 4 van 1998

21. Artikel 49 van die Hoofwet word hierby gewysig deur die uitdrukking “21 dae”, waar dit ook al voorkom, te vervang deur die uitdrukking “30 dae”.

Wysiging van artikel 52 van Wet 4 van 1998

22. Artikel 52 van die Hoofwet word hierby gewysig deur die volgende subartikel ná subartikel (2) in te voeg:

“(2A) Alle permitte en bedryfslisensies uitgereik deur die Nasionale Vervoerkommissie, plaaslike padvervoerrade en bedryfslisensierade kragtens die Wet op Padvervoer, 1977 (Wet No. 74 van 1977), “National Land Transport Transition Act”, 2000 (Wet No. 22 van 2000), of provinsiale wetgewing heoog in die omskrywing van “replacing provincial law” in artikel 1 van laasgenoemde Wet, wat oorgrens padvervoer magtig of heet te magtig en ’n geldigheidsduur van hoogstens 12 maande het, verval binne ses maande ná die inwerkingtreding van artikel 25 van die Wysigingswet op Oorgrens padvervoer, 2008: Met dien verstande dat die houer van so ’n permit of bedryfslisensie by die Reëlingskomitee aansoek kan doen om ’n permit toegestaan kragtens hierdie Wet.”.

Wysiging van artikel 46 van Wet 22 van 2000

23. Artikel 46 van die Oorgangswet op Nasionale Landvervoer 2000, word hierby gewysig deur subartikel (2) te skrap.

Wysiging van artikel 127 van Wet 22 van 2000

24. Artikel 127 van die Oorgangswet op Nasionale Landvervoer 2000, word hierby gewysig deur paragraaf (*p*) van subartikel (1) te skrap.

Kort titel

25. Hierdie Wet heet die Wysigingswet op Oorgrens padvervoer, 2008.