

ROAD TRAFFIC AMENDMENT ACT

NO. 39 OF 1993

[ASSENTED TO 25 MARCH, 1993][DATE OF
COMMENCEMENT TO BE PROCLAIMED]

(Unless otherwise indicated)

(English text signed by the State President)

ACT

To amend the Road Traffic Act, 1989, so as to ~~de~~fine or further define certain expressions; to provide for certain administrative procedures concerning the suspension or cancellation of drivers' licences when such licences are being severed from identity documents; to provide for the substitution of drivers' licences issued before a certain date; to make further provision in connection with notification by the holder of a driver's licence of his change of address; to provide that the holder of a driver's licence issued before 1 January 1993 by a department of State may, on the prescribed conditions, obtain a driver's licence; to provide that on conviction of certain offences, the driver's licence or the licence and permit of a person shall be suspended for a minimum period, and that he will for a definite period be disqualified from obtaining a learner's or driver's licence or a licence and permit; to make further provision for the procedure subsequent to endorsement, suspension or cancellation of a licence or permit; to make further provision in connection with the registration of operators; to provide that an Administrator shall not be compelled to suspend all operator cards of an operator who fails to comply with the provisions of the Act; to provide that rescue vehicles may in certain circumstances disregard road traffic signs, exceed the general speed limit and stop or park a vehicle at any place; to extend the duties of the drivers of motor cycles and motor tricycles to include the drivers of motor quadricycles; to provide that a pedestrian may be prohibited from walking on the righthand side of the roadway if there is no sidewalk or footpath; to prohibit the use of motor quadricycles on freeways, to make other provision concerning the places where persons performing service in the Citizen Force may be picked up on a freeway and to delete the provision in terms of which a driver of a motor vehicle on a freeway may in an audible manner signal to a driver of a vehicle which he intends to overtake to move to a lane to his left; to prohibit the unauthorized removal of a vehicle involved in an accident from the scene of the accident; to make further provision in connection with the records to be kept by a garage in respect of a motor vehicle showing signs or marks of having been involved in an accident and which is brought to the garage for repairs; to provide that a person shall be guilty of an offence if he drives a vehicle on a public road or occupies the driver's seat of the vehicle the engine of which is running, if the alcohol in his breath exceeds a certain concentration; to further regulate parking by persons with physical disabilities; to make other provision in connection with the issue of a duplicate of a document or token; to provide for a penalty in respect of the offence committed by persons in whose breath the alcohol exceeds a certain concentration; and to provide for the financing of expenditure; and to provide for matters connected therewith.

1. Amends section 1 of the Road Traffic Act, No. 29 of 1989, as follows:—paragraph (a) substitutes the definition of

"department of State" as follows:-

" 'department of State' means a department as defined in section 1 (1) of the Public Service Act, 1984 (Act No. 111 of 1984);";

paragraph (b) substitutes the definition of "motor dealer" (date of commencement 9 April, 1993); paragraph (c) inserts the definition of "motor quadrucycle" (date of commencement 9 April, 1993); paragraph (d) insertsthe definition of "rescue vehicle" (date of commencement 9 April, 1993); and paragraph (e) substitutes the definition of "vehicle" (date of commencement 9 April, 1993).

2. Amendment of section 19 of Act 29 of 1989, as amended by section 6 of Act 40 of 1992.—Section 19 of the principal Act is hereby amended—

(a)by the substitution for the words preceding the proviso to subsection (3) of the following words:

"When a licence is submitted in terms of subsection (2) the Administrator shall cancel it, and if the licence was issued in a prescribed territory he shall notify the competent authority which issued it of the cancellation:";

(b)by the substitution at the end of subparagraph (iii) of paragraph (a) of the proviso to subsection (3) for the word "and" of the word "or"; and

(c)by the deletion of subparagraph (iv) of paragraph (a) of the proviso to subsection (3).

3. Insertion of section 24A in Act 29 of 1989—The following section is hereby inserted in the principal Act after section 24:

"Substitution of driver's licence issued before certain date

24A. (1) The holder of a driver's licence issued in terms of section 24 (5) before the commencement of this section, may

(a)if such licence is contained in an identity document, apply to a driver's licence testing centre; or

(b)if such licence is not contained in an identity document, apply to the driver's licence testing centre where such holder was tested for such licence,

for a driver's licence to be issued to him in substitution of his existing licence.

(2) The application in terms of subsection (1) shall be made in the prescribed manner and be accompanied by the prescribed documents.

(3) Upon receipt of an application in terms of subsection (2) the examiner for driver's licences or person authorized thereto, if he is satisfied that the existing licence is a valid licence and that the applicant is the holder thereof, shall, subject to section 30, issue or authorize the issue of a driver's licence in the prescribed form, in the prescribed manner and upon payment of the prescribed fee, in respect of the class of motor vehicle to which the existing licence relates."

4. Substitution of section 26 of Act 29 of 1989, as substituted by section 9 of Act 40 of 1992—The following section is hereby substituted for section 26 of the principal Act:

"Holder of licence to drive motor vehicle shall give notice of change of place of residence

26. When the holder of a licence to drive a motor vehicle which was issued in terms of this Chapter, has changed his place of residence permanently, he shall, within 14 days after such change, notify in the prescribed manner the registering authority in whose area he is ordinarily resident of his new residential and postal address."

5. Amends section 29 of the Road Traffic Act, No. 29 of 1989, by substituting subsection (3) (date of commencement 9 April, 1993).

6. Amendment of section 30 of Act 29 of 1989, as amended by section 11 of Act 40 of 1992—Section 30 of the principal Act is hereby amended by the substitution for subsections (7) and (8) of the following subsections, respectively:

"(7) (a) When a licence is cancelled or suspended in terms of subsection (1) or is cancelled in terms of subsection (3) (a), the holder thereof shall forthwith submit the licence or, in the case where it is contained in an identity document, such document to the Administrator or an inspector of licences authorized thereto by him.

(b) If the licence is not contained in an identity document—

(i) but particulars thereof are contained in the register for drivers' licences, the Administrator or the inspector of licences, as the case may be, shall record particulars of the cancellation or suspension in such register; or

(ii) and particulars thereof are not contained in the register for drivers' licences, the Administrator or the inspector of licences, as the case may be, shall notify the competent authority which issued the licence of the cancellation or suspension,

and where the licence has been suspended the Administrator or inspector of licences, as the case may be, shall retain the licence until the period of suspension expires, whereafter it shall be returned to the holder thereof.

(c) If the licence is contained in an identity document, the Administrator or inspector of licences, as the case may be, shall effect an appropriate endorsement on the licence, record particulars of the cancellation or suspension in the register for drivers' licences and return the identity document to the holder thereof.

(8) The Administrator may, where he deems it expedient and on such conditions as he may deem fit, in the prescribed manner reinstate a licence suspended in terms of this section."

7. Amendment of section 32 of Act 29 of 1989, as amended by section 12 of Act 40 of 1992—Section 32 of the principal Act is hereby amended by the deletion of subparagraph (ii) of paragraph (b) of subsection (4).

8. Substitution of section 38 of Act 29 of 1989-The following section is hereby substituted for section 38 of the principal Act:

"Voidness of learner's licence or driver's licence issued contrary to provisions of this Chapter

38. A learner's or driver's licence issued contrary to the provisions of this Chapter, shall be void, and upon the request of an Administrator, the authority which issued such licence or a traffic officer, as the case may be, the holder of such licence shall forthwith submit it or, in the case where it is contained in an identity document, such document to such Administrator, the authority which issued it or such traffic officer, as the case may be, who shall cancel the licence in the prescribed manner: Provided that the traffic officer may cancel such licence only with the prior approval of the Administrator concerned."

9. Substitution of section 55 of Act 29 of 1989, as substituted by section 15 of Act 40 of 1992-The following section is hereby substituted for section 55 of the principal Act:

"Court may issue order for suspension or cancellation of licence or permit or disqualify person from obtaining licence or permit

55. (1) Subject to section 55A, a court convicting a person of an offence under this Act, or of an offence at common law, relating to the driving of a motor vehicle may, in addition to imposing a sentence, issue an order, if the person convicted is

(a) the holder of a licence, or of a licence and permit, that such licence or licence and permit be suspended for such period as the court may deem fit or that such licence or licence and permit be cancelled, and any such licence shall be dealt with as provided for in subsection (3);

(b) the holder of a licence, or of a licence and permit, that such licence or licence and permit be cancelled, and that the person convicted be disqualified from obtaining a licence, or a licence and permit, for any class of motor vehicle for such period as the court may deem fit, and any such licence shall be dealt with as provided for in subsection (3); or

(c) not the holder of a licence, or of a licence and permit, declaring him to be disqualified from obtaining a licence, or a licence and permit, either indefinitely or for such period as the court may deem fit.

(2) The making of an endorsement in terms of subsection (3) may be postponed by the court issuing the order until any appeal against the conviction or sentence or both has been disposed of.

(3) Where a court has issued an order under subsection (1) (a) or (b) the registrar or clerk of the court shall, subject to subsection (2), in the case where the licence

(a) is included in an identity document, endorse such licence accordingly and return the identity document to the holder thereof; or

(b) is not included in an identity document, retain such licence and deal with it in the prescribed manner."

10. Inserts section 55A in the Road Traffic Act, No. 29 of 1989 (date of commencement 1 December, 1993).

11. Amendment of section 56 of Act 29 of 1989, as substituted by section 16 of Act 40 of 1992—Section 56 of the principal Act is hereby amended—

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

"(1) Where a court has issued an order that a licence or any permit be suspended or cancelled, the prescribed procedure shall be followed.";

(b) by the deletion of subsections (2), (3) and (4); and

(c) by the substitution for subsection (5) of the following subsection:

"(5) Whenever a licence is or a licence and permit are suspended or cancelled in terms of an order of court, the suspension or cancellation shall apply to every other licence, or licence and permit, as the case may be, held by the person concerned.".

12. Amends section 74 of the Road Traffic Act, No. 29 of 1989, by substituting subsection (2) (date of commencement 9 April, 1993).

13. Amends section 79 (3) (d) of the Road Traffic Act, No. 29 of 1989, by substituting subparagraph (iii) (date of commencement 9 April, 1993).

14. Amends section 84 of the Road Traffic Act, No. 29 of 1989, by substituting subsection (3) (date of commencement 9 April, 1993).

15 to 17 inclusive. Substitute respectively sections 86, 99 and 102 of the Road Traffic Act, No. 29 of 1989.

(Date of commencement of ss. 5 to 17 inclusive 9 April, 1993.)

18. Amends section 110 of the Road Traffic Act, No. 29 of 1989, by substituting subsection (2) (date of commencement 9 April, 1993).

19. Amends section 117 of the Road Traffic Act, No. 29 of 1989, as follows:— paragraph (a) substitutes subsection (1) (d); paragraph (b) substitutes subsection (2) (a) (iii); paragraph (c) substitutes subsection (2) (c) (iv); paragraph (d) substitutes subsection (4) (b) (iv); paragraph (e) substitutes subsection (4) (c) (i) (aa); paragraph (f) substitutes subsection (4) (c) (iv); paragraph (g) substitutes subsection (5); and paragraph (h) deletes subsection 6 (a).

(Date of commencement of s. 19: 9 April, 1993.)

20. Amends section 118 of the Road Traffic Act No. 29 of 1989, by inserting subsection (2A) (date of commencement 9 April, 1993).

21. Amends section 119 of the Road Traffic Act, No. 29 of 1989, by substituting subsection (1) (date of commencement 9

April, 1993).

22. Substitution of section 122 of Act 29 of 1989—The following section is hereby substituted for section 122 of the principal Act:

"Driving while under the influence of intoxicating liquor or drug having narcotic effect, or with excessive amount of alcohol in blood or breath

122. (1) No person shall on a public road

(a) drive a vehicle; or

(b) occupy the driver's seat of a motor vehicle the engine of which is running,

while under the influence of intoxicating liquor or a drug having a narcotic effect.

(2) No person shall on a public road

(a) drive a vehicle; or

(b) occupy the driver's seat of a motor vehicle the engine of which is running,

while the concentration of alcohol in any specimen of blood taken from any part of his body is not less than 0,08 grams per 100 millilitres.

(3) If, in any prosecution for a contravention of the provisions of subsection (2), it is proved that the concentration of alcohol in any specimen of blood taken from any part of the body of the person concerned was not less than 0,08 grams per 100 millilitres at any time within two hours after the alleged offence, it shall be presumed, until the contrary is proved, that such concentration was not less than 0,08 grams per 100 millilitres at the time of the alleged offence.

(4) Where in any prosecution under this Act evidence is tendered of the analysis of a specimen of the blood of any person, it shall be presumed, until the contrary is proved, that any syringe used for obtaining such specimen and the receptacle in which such specimen was placed for despatch to an analyst, were free from any substance or contamination which could have affected the result of such analysis.

(5) No person shall on a public road

(a) drive a vehicle; or

(b) occupy the driver's seat of a motor vehicle the engine of which is running,

while the concentration of alcohol in any specimen of breath exhaled by such person is not less than 0,38 milligram per 1 000 millilitres.

(6) If, in any prosecution for a contravention of the provisions of subsection (5), it is proved that the concentration of alcohol in any specimen of breath of the person concerned was not less than 0,38 milligram per 1 000 millilitres of breath taken at any time within two hours after the alleged offence, it

shall be presumed, until the contrary is proved, that such concentration was not less than 0,38 milligrams per 1 000 millilitres at the time of the alleged offence.

(7) For the purposes of subsection (5) the concentration of alcohol in any breath specimen shall be ascertained by using the prescribed equipment.

(8) Any person detained for a contravention of this section shall not during his detention consume any substance that contains alcohol of any nature, except on the instruction of or when administered by a medical practitioner."

23. Substitutes section 137 of the Road Traffic Act, No. 29 of 1989 (date of commencement 1 September, 1995).

24. Substitution of section 144 of Act 29 of 1989, as amended by section 25 of Act 73 of 1991—The following section is hereby substituted for section 144 of the principal Act:

"Duplicate of document or token

144. (1) A registering authority which is satisfied that a certificate, licence or other document or token issued in terms of this Act or which is deemed to be so issued, other than a licence issued in terms of section 28 (1), has been lost, destroyed or defaced, or that the figures or particulars thereon have become illegible, shall, upon receipt of an application in the prescribed form, in the prescribed manner and upon payment of the prescribed fee, issue a duplicate in the prescribed form of such certificate, licence or other document or token to the person who, in the opinion of such authority, is entitled thereto: Provided that a duplicate of a clearance certificate as prescribed, shall not be issued, and where such clearance certificate has been lost, destroyed or defaced or the figures or particulars thereon have become illegible, the person to whom such clearance certificate was issued, shall

(a) in the case of a motor vehicle licence, apply for the issue of such a licence; or

(b) in the case of a motor trade number, apply for the cancellation of the motor trade number concerned and the issue of a new motor trade number in the prescribed manner.

(2) If, after the issue of a duplicate in terms of subsection (1), the original certificate, licence or other document or token is found, the person to whom the duplicate was issued shall take all reasonable steps to obtain possession thereof and return it forthwith to the authority which issued the duplicate."

25. Amendment of section 149 of Act 29 of 1989, as amended by section 28 of Act 73 of 1991 and section 30 of Act 40 of 1992.—Section 149 of the principal Act is hereby amended by the substitution for subsection (2) of the following subsection:

"(2) Any person convicted of an offence in terms of subsection (1) read with section 77 (2), 91 (2) or 122 (1), (2) or (5) shall be liable to a fine, or to imprisonment for a period not exceeding six years."

26. Inserts section 151A in the Road Traffic Act, No. 29 of 1989 (date of commencement 9 April, 1993).

27. Short title and commencement—(1) This Act shall be called the Road Traffic Amendment Act, 1993, and shall come into operation on a date fixed by the State President by proclamation in the Gazette.

(2) Different dates may be so fixed in respect of different provisions of this Act, and dates so fixed may differ in respect of different—

(a) persons or goods or categories of persons or goods transported by means of a motor vehicle;

(b) kinds or classes of motor vehicles used in the transportation of persons or goods;

(c) persons or categories of persons; or

(d) areas in the Republic.

(3) More than one of the elements referred to in paragraphs (a) to (d), inclusive, of subsection (2) may be combined for the purposes of that subsection.