

REPUBLIC OF SOUTH AFRICA

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**PORTFOLIO COMMITTEE AMENDMENTS  
TO**

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

**[B 38—2015]**

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*(As agreed to by the Portfolio Committee on Transport (National Assembly))*

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**[B 38A—2015]**

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## AMENDMENTS AGREED TO

### ADMINISTRATIVE ADJUDICATION OF ROAD TRAFFIC OFFENCES AMENDMENT BILL

[B 38—2015]

#### CLAUSE 1

1. On page 2, in line 7, to omit paragraph (a) and to substitute:
  - “(a) by the substitution in the definition of “acceptable identification” for subparagraph (i) of paragraph (d) of the following subparagraph:
    - “(i) a company, a certificate of incorporation or name change issued in terms of the [**Companies Act, 1973 (Act No. 61 of 1973)**] Companies Act, 2008 (Act No. 71 of 2008),”.
  
2. On page 2, after line 15, to insert the following paragraph:
  - “(d) by the substitution for the definition of “date of service” of the following definition:
    - “**‘date of service’** means the date on which an infringer has [**signed for**] received the relevant document served on him or her under section 30;”.
  
3. On page 2, from line 18, to omit the definition of “electronic service” and to substitute the following definition:
  - “**‘electronic service’** means service by electronic communication as defined in the Electronic Communications Act, 2005 (Act No. 36 of 2005), and as contemplated in section 19(4) of the Electronic Communication and Transactions Act, 2002 (Act No. 25 of 2002),”.
  
4. On page 2, after line 26, to insert the following paragraph:
  - “(e) by insertion after the definition of “enforcement order” of the following definition:
    - “**‘habitual infringer’** means an infringer, operator or a juristic person who, in terms of section 25, incurs demerit points resulting in a disqualification more than two times;”.
  
5. On page 2, from line 27, to omit the definition of “infringement” and to substitute the following definition:
  - “**‘infringement’** means any act or omission in contravention of this Act and any road traffic legislation or transport legislation;”.
  
6. On page 2, after line 28, to insert the following paragraph:
  - “(h) by the substitution for the definition of “issuing authority” of the following definition:
    - “**‘issuing authority’** means—
      - (a) local authority contemplated in Chapter 7 of the Constitution of the Republic of South Africa, 1996, [**(Act 108 of 1996)**] the Local Government Transition Act, 1993 (Act No. 209 of 1993), or any other applicable law;
      - (b) a provincial administration;

- (c) the Road Traffic Management Corporation, established under section 4 of the Road Traffic Management Corporation Act, 1999[,] or  
 (d) any other state institution declared by the Minister by regulation to be an issuing authority,  
 in so far as such authority, administration or state institution is responsible for road traffic and road transport matters;”.

7. On page 3, after line 12, to insert the following paragraphs:

- “(k) by the deletion of the definition of “sheriff”;
- (l) by the deletion of the word “and” after the definition of “sheriff”, the insertion of the word “and” after the definition of “this Act”, the deletion of the full-stop after the definition of “this Act” and the addition after the definition of “this Act” of the following definition:  
 “‘Tribunal’ means the Appeals Tribunal established by section 29A;”.

## CLAUSE 2

1. On page 3, from line 13, to omit clause 2 and to substitute the following clause:

### “Amendment of section 4 of Act 46 of 1998

2. Section 4 of the principal Act is hereby amended—

- (a) by the substitution in subsection (1) for paragraph (a) of the following paragraph:  
 “(a) to administer a procedure to discourage the contravention of road traffic [laws] legislation or transport legislation and to support adjudication of infringements as set out in subsection (2);”;
- (b) by the substitution in subsection (1) for paragraph (c) of the following paragraph:  
 “(c) [to provide specialised prosecution support services as set out in subsection (4)] to administer and manage a point demerit system for infringements and offences; and”;
- (c) by the substitution in subsection (2) for paragraph (b) of the following paragraph:  
 “(b) considering representations from an infringer in terms of section 18 with regard to an infringement notice or the non-compliance with the prescribed processes by an issuing authority relating to [a minor] an infringement;”;
- (d) by the deletion in subsection (2) of paragraph (e);
- (e) by the deletion in subsection (2) of the word “and” at the end of paragraph (f);
- (f) by the deletion in subsection (2) of the full-stop at the end of paragraph (g) and the insertion in that subsection of the word “and” at the end of that paragraph;
- (g) by the addition in subsection (2) of the following paragraph:  
 “(h) administering prescribed rehabilitation programmes for habitual infringers.”;
- (h) by the insertion in subsection (3) of the word “and” at the end of paragraph (a);

- (i) by the deletion in subsection (3) of the word “and” at the end of paragraph (b) and the insertion in that subsection of a full-stop at the end of that paragraph;
- (j) by the deletion in subsection (3) of paragraph (c); and
- (k) by the deletion in subsection (4) of paragraphs (a) and (c).”.

#### NEW CLAUSES

1. On page 3, after line 20, to insert the following clauses:

##### “Amendment of section 11 of Act 46 of 1998

3. Section 11 of the principal Act is hereby amended by the substitution for subsection (2) of the following subsection:

“(2) The [**agency**] Authority may pay to the persons in its employ such remuneration and allowances, and may provide them with pensions and other benefits, as the [**board**] Board may determine [**with the approval of the Minister acting in consultation with the Minister of Finance**] after consultation with the Minister.”

##### Repeal of section 12 of Act 46 of 1998

4. Section 12 of the principal Act is hereby repealed.”.

#### NEW CLAUSES

1. On page 3, after line 39, to insert the following clauses:

##### “Amendment of section 17 of Act 46 of 1998, as amended by section 8 of Act 72 of 2002

6. Section 17 of the principal Act is hereby amended—

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

“(e) inform the infringer that the demerit points position may be ascertained [**from the national contraventions register at the office of any issuing authority, registering authority or driving licence testing centre**] in the prescribed manner;”;

- (b) by the deletion in subsection (1)(f) of subparagraph (iv); and
- (c) by the substitution for subsection (5) of the following subsection:

“(5) The owner or operator of a motor vehicle who permits any person to drive such vehicle or otherwise to exercise any control over such vehicle, without having ascertained the full names, [**acceptable identification and**] identity document or residential [and], postal and, where applicable, business and e-mail address of an infringer, such person is [**guilty of an offence and**] liable [**upon conviction to a fine or imprisonment for a period not exceeding one year or to both a fine and such imprisonment**] for the prescribed penalty and fees.”.

##### Amendment of section 18 of Act 46 of 1998, as amended by Act 72 of 2002

7. Section 18 of the principal Act is hereby amended—

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

“(1) (a) An infringer who has been served with an

infringement notice alleging that he or she has committed **[a minor]** an infringement, may make **[representations]** a representation in the prescribed manner, with respect to that notice and infringement to the **[Agency]** Authority.

(b) In the event that a representation is successful as a result of prescribed procedures not being complied with, that infringement notice, courtesy letter or enforcement order may be served again on that infringer in the prescribed manner within 40 days from the date that the representation was finalised, provided that the infringement notice, courtesy letter or enforcement order must not be served later than 180 days from the date the infringement was committed.”;

(b) by the substitution in subsection (4) for paragraph (b) of the following paragraph:

“(b) Any representations contemplated in paragraph (a) must be submitted to the Authority, as prescribed **[issuing authority concerned, who must reply thereto within the prescribed time]**.”; and

(c) by the substitution for subsection (7) of the following subsection:

“(7) If the representations are rejected, the representations officer may advise the infringer **[to elect in the prescribed manner to be tried in court,]** of his or her right of review or appeal to the Tribunal and must serve or cause to be served on the infringer a prescribed written notification informing him or her—

(a) of the reasons for the decision, and provide the issuing authority concerned with a copy thereof;

(b) if the infringer does not **[elect to be tried in court]** exercise the right to review or appeal—

(i) that the penalty, the prescribed representations fee and the prescribed fee of the courtesy letter, if any, are payable to the **[agency]** Authority or that the arrangements are made with the **[agency]** Authority in the prescribed manner to pay in instalments, not later than 32 days after the date of service of the notification; and

(ii) that failure to pay the penalty and fees or to make arrangements to pay in instalments will result in an enforcement order being served on the infringer and that the infringer will become liable to pay the penalty and fees and the prescribed fee of the enforcement order; and

(c) if the infringer elects to **[be tried in court, which may only be done on the advice of the representations officer,]** exercise the right to review or appeal that the provisions of **[section 22]** Chapter IVA apply.”.

#### CLAUSE 5

1. On page 3, from line 40, to omit clause 5 and to substitute the following clause:

**“Amendment of section 19B of Act 46 of 1998, as inserted by section 11 of Act 72 of 2002**

**5.** Section 19B of the principal Act is hereby amended—

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

“If an infringer makes **[an]** insufficient payment to the **[agency]** Authority in terms of this Act in respect of a **[fine]**

- penalty or the cheque used for payment is dishonoured, a notice as prescribed must be served on an infringer, informing him or her—”;
- (b) by the substitution in subsection (1) for paragraph (b) of the following paragraph:  
 “(b) that failure to comply with the notice contemplated in paragraph (a) will lead to **[a warrant] an enforcement order** being issued against him or her in terms of section **[21] 20**.”; and
- (c) by the substitution in subsection (2) for paragraph (c) of the following paragraph:  
 “(c) that failure to comply with the notice will lead to **[a warrant] an enforcement order** in respect of the full amount owed being issued against him or her in terms of section **[21] 20**.”.

#### CLAUSE 6

1. On page 4, from line 4, to omit clause 6 and to substitute the following clause:

**“Amendment of section 20 of Act 46 of 1998, as amended by section 12 of Act 72 of 2002**

- 6.** Section 20 of the principal Act is hereby amended—
- (a) by the substitution in subsection (1) for the words preceding paragraph (a) of the following words:  
 “If an infringer fails to comply with the requirements of a notification contemplated in section 18(7) or a courtesy letter contemplated in section 19(2)(b) or has failed to **[appear in court as contemplated in section 22(3)(a)]** apply for review or appeal to the Tribunal, as the case may be, the registrar must, subject to subsection (2)—”;
- (b) by the substitution in subsection (1) for paragraph (d) of the following paragraph:  
 “(d) provide the infringer with a print-out of the demerit points incurred by him or her to date, together with an indication of the number of points left before his or her driving licence, professional driving permit, any permit or licence issued in terms of any road traffic legislation or transport legislation or operator card is suspended in terms of section 25 or cancelled in terms of section 27.”;
- (c) by the substitution for subsection (3) of the following subsection:  
 “(3) An enforcement order must [—  
 (a)] state that the infringer on whom it is served may, not later than 32 days after the date of service of the order, pay the penalty, representations fee and the fees of the courtesy letter, if any, and the prescribed fee of the enforcement order to the **[agency] Authority** at the specified place and in the specified manner, and that the prescribed demerit points will be recorded in the **[national contraventions register] National Road Traffic Offences Register** [; and  
 (b) state that a failure to comply with the requirements of the enforcement order within the period contemplated in paragraph (a) will result in a warrant being issued to recover the applicable penalty and fees].”;

- (d) by the insertion in subsection (5) after paragraph (b) of the following paragraph:  
 “(bA) any permit or licence issued in terms of any road traffic legislation or transport legislation;”; and
- (e) by the substitution in subsection (10) for paragraph (b) of the following paragraph:  
 “(b) the infringer must be informed about it in the prescribed manner and his or her driving licence, professional driving permit [or], operator’s card or permit or licence issued in terms of any road traffic legislation or transport legislation, must be returned [or the endorsement of a driving licence that is contained in an identity document must be cancelled,] unless he or she has been disqualified otherwise.”.

#### CLAUSE 8

1. On page 4, from line 20, to omit clause 8 and to substitute the following clause:

**“Repeal of section 22**

8. Section 22 of the principal Act is hereby repealed.”.

#### NEW CLAUSES

1. On page 4, after line 36, to insert the following clauses:

**Amendment of section 25 of Act 46 of 1998, as amended by Act 72 of 2002**

9. Section 25 of the principal Act is hereby amended—

- (a) by the substitution for subsection (1) of the following subsection:  
 “(1) If a person, operator or a juristic person who is not an operator, incurs demerit points which, when added to the points previously recorded against that person, operator or a juristic person who is not an operator in the [national contraventions register] National Road Traffic Offences Register and reduced as contemplated in section 28, exceed the total contemplated in section 29(d), that person, operator or a juristic person who is not an operator is disqualified [with effect from] within 32 days, after such excess points have been incurred, from driving or operating a motor vehicle on a public road.”;
- (b) by the substitution in subsection (2) for paragraph (b) of the following paragraph:  
 “(b) The Minister may prescribe different numbers under paragraph (a) in respect of a driver, a learner driver, [and] an operator of a motor vehicle and a juristic person who is not an operator.”;
- (c) by the substitution for subsection (3) of the following subsection:  
 “(3) A person [who is disqualified in terms of this section], operator, or a juristic person who is not an operator—  
 (a) must [immediately] within a period of 32 days hand in any driving licence card [or], professional driving permit, motor vehicle licence disc, operator card or any other permit, card or licence issued in terms of

- road traffic legislation or transport legislation, where applicable, in the prescribed manner to the relevant issuing authority contemplated in section 26(2) for retention by such issuing authority during the disqualification period, produce any driving licence **[contained in an identity document]** to such issuing authority for endorsement as suspended or must remove the prescribed operator card and deal therewith in the prescribed manner; and
- (b) may not apply for a driving licence, professional driving permit or operator card, motor vehicle licence disc, operator card or any other permit, card or licence disc issued in terms of road traffic legislation or transport legislation during the disqualification period.”;
- (d) by the substitution for subsection (4) of the following subsection:
- “(4) **[Any]** In the event that a person, operator or a juristic person who is not an operator, **[who]** fails to comply with the provisions of subsection (3)(a) or **[who]** drives or operates a motor vehicle during his or her disqualification period, his or her licence, permit, card or licence issued in terms of any road traffic legislation or transport legislation is suspended for a further period of one year for every subsequent driving or operation and such person is guilty of an offence and liable on conviction to a fine or imprisonment for a period not exceeding one year or both a fine and such imprisonment.”; and
- (e) by the substitution for subsection (5) of the following subsection:
- “(5) Upon expiry of **[his or her]** the disqualification period, a person referred to in subsection (3) may apply in the prescribed manner to the relevant issuing authority **[to]** for the return of **[his or her driving licence card or professional driving permit or to reissue an operator card]** the document referred to in subsection (3)(a).”.

#### **Amendment of section 29 of Act 46 of 1998**

**10.** Section 29 is hereby amended by the substitution for paragraph (a) of the following paragraph:

- “(a) prescribe infringements and offences **[, and categorise them into minor infringements, major infringements and other offences]**”.

#### **Insertion of CHAPTER IVA in Act 46 of 1998**

**15.** The following Chapter is hereby inserted in the principal Act after CHAPTER IV:

### **“CHAPTER IVA APPEALS TRIBUNAL**

#### **Establishment and constitution of Tribunal**

- 29A.** (1) The Appeals Tribunal is hereby established.
- (2) The Tribunal—
- (a) has jurisdiction throughout the Republic;
- (b) is a juristic person;
- (c) is a tribunal of record; and
- (d) must exercise its functions in accordance with this Act or any other applicable legislation.
- (3) The Tribunal consists of a Chairperson and eight other



persons appointed by the President, on a part-time basis, and on the recommendation of the Minister, from among those persons nominated by the Minister in response to a public call for nominations as prescribed.

- (4) The President must—
- (a) appoint the Chairperson and other members of the Tribunal no later than the date on which this Act comes into operation; and
  - (b) appoint a person to fill any vacancy which may occur on the Tribunal.
- (5) To be eligible for appointment or designation as a member of the Tribunal, and to continue to hold that office, a person must—
- (a) not be subject to any disqualification set out in subsection (6); and
  - (b) have submitted to the Minister a written declaration stating that the person—
    - (i) is not disqualified in terms of subsection (6); and
    - (ii) does not have any interests referred to in subsection (6)(b).
- (6) A person may not be a member of the Tribunal if that person—
- (a) personally or through a spouse, partner or associate—
    - (i) has or acquires a direct or indirect financial interest in a transport-related company or entity; or
    - (ii) has or acquires an interest in a business or enterprise, which may conflict or interfere with the proper performance of his or her duties as a member of the Tribunal;
  - (b) is an unrehabilitated insolvent or he or she becomes insolvent and the insolvency results in the sequestration of that person's estate;
  - (c) has ever been, or is, removed from an office of trust on account of a guilty finding in respect of a complaint of misconduct related to fraud or the misappropriation of money;
  - (d) is subject to an order of a competent court holding that person to be mentally unfit or mentally disordered;
  - (e) within the previous 10 years has been, or is, convicted in the Republic or elsewhere of theft, fraud, forgery or uttering a forged document, perjury, an offence under the Prevention and Combating of Corrupt Activities Act, 2004 (Act No. 12 of 2004), an offence under the Financial Intelligence Centre Act, 2001 (Act No. 38 of 2001), or an offence involving dishonesty; or
  - (f) has been convicted of any other offence committed after the Constitution of the Republic of South Africa, 1996, took effect, and sentenced to imprisonment without an option of a fine.
- (7) For the purpose of subsection (6)(a), a financial interest does not include an indirect interest held in any fund or investment if the person contemplated in that subsection has no control over the investment decisions of that fund or investment.
- (8) A member of the Tribunal must promptly inform the Minister in writing after acquiring an interest that is, or is likely to become, an interest contemplated in subsection (6)(a).
- (9) A member of the Tribunal must not—
- (a) engage in any activity that may undermine the integrity of the Tribunal;
  - (b) attend, participate in or influence the proceedings of the Tribunal, if, in relation to the matter before the Tribunal, that member has an interest—

- (i) contemplated in subsection (6)(a); or
- (ii) that precludes that member from performing the functions of a member of the Tribunal in a fair, unbiased and proper manner;
- (c) make private use of, or profit from, any confidential information obtained as a result of performing that person's functions as a member of the Tribunal; or
- (d) divulge any information referred to in paragraph (c) to any third party, except as required as part of that person's official functions as a member of the Tribunal.

(10) If, at any time, it appears to a member of the Tribunal that a matter being considered by the Tribunal during proceedings concerns an interest of that member referred to in subsection (9)(b), that member must—

- (a) immediately and fully disclose the nature of that interest to the members present; and
- (b) withdraw from the proceedings to allow the remaining members to discuss the matter and determine whether the member should be prohibited from participating in any further proceedings concerning that matter.

(11) The disclosure by a member of the Tribunal in terms of subsection (10)(a), and the decision by the Tribunal in terms of subsection (10)(b), must be expressly recorded in the records of the proceedings in question.

(12) The proceedings of the Tribunal, and any decisions taken by a majority of the members present and entitled to participate in those decisions, are binding despite—

- (a) a member of the Tribunal failing to disclose an interest as required by subsection (10); or
- (b) a member of the Tribunal, having an interest, attending or participating in those proceedings.

### **Functions of Tribunal**

**29B.** (1) The Tribunal may—

- (a) adjudicate on any matter brought to it by an infringer aggrieved by a decision taken by the representation officer in terms of this Act;
- (b) hear appeals against, or review, any decision of the representation officer that may in terms of this Act be referred to it; and
- (c) make any ruling or order necessary or incidental to the performance of its functions in terms of this Act.

(2) The appeal or review referred to in subsection (1)(b) must be lodged with the Tribunal within 30 days of receipt of the reasons for the decision, and lodged in the manner and on payment of fees, as prescribed by the Minister.

### **Qualifications of members of Tribunal**

**29C.** (1) The members of the Tribunal, viewed collectively—

- (a) must represent a broad cross-section of the population of the Republic; and
- (b) must comprise sufficient persons with legal qualifications and knowledge or experience in road traffic and road transport related matters.

(2) Each member of the Tribunal must—

- (a) be a citizen of South Africa, who is ordinarily resident in the Republic;
- (b) have suitable qualifications and experience in a field related to road traffic and transport legislation or any special skills, qualifications, expertise or experience in matters concerning legal, financial and economic matters; and
- (c) be committed to the purposes of this Act.

### Conditions of appointment and terms of office of members

**29D.** (1) The Chairperson and any other member of the Tribunal must, for each day or part of a day in any month on which the duties attached to the office concerned were performed, be remunerated and paid a travelling and subsistence allowance, at such daily rate as the Minister in consultation with the Minister of Finance may determine from time to time.

(2) A member of the Tribunal holds office for a period of five years and is, on the expiration of such member's term of office, eligible for reappointment by the President for one additional term only.

(3) The Chairperson, on one month's written notice addressed to the Minister, may—

(a) resign from the Tribunal;

(b) resign as a Chairperson, but remain as the member of the Tribunal.

(4) A member of the Tribunal other than the Chairperson may resign by giving at least one month's notice to the Minister.

(5)(a) The other conditions of appointment will be as prescribed by the Minister.

(b) Different categories of appointment may be prescribed in respect of different categories of members.

### Vacancies in Tribunal

**29E.** (1) A member of the Tribunal vacates office—

(a) if the member becomes subject to any disqualification referred to in section 29A(6); and

(b) in the case where the member has resigned by giving one month's notice in writing to the Minister, when the member's resignation takes effect.

(2) The President, on the recommendation of the Minister, may remove any member of the Tribunal from office—

(a) for misconduct;

(b) for failing to perform the duties of a member or to perform such duties diligently and efficiently; or

(c) if the member, because of any physical or mental illness or disability, has become incapable of performing a member's duties or performing the duties diligently and efficiently.

(3)(a) Any vacancy in the office of the Tribunal must be filled by the President through the appointment of another member in terms of section 29A within 90 days of the vacancy occurring.

(b) A member so appointed holds office for the unexpired portion of the predecessor's term of office.

### Acting member of Tribunal

**29F.** (1) If, on expiry of the term of office of a member of the Tribunal, that member is still considering a matter before the Tribunal, that member may continue to act as a member in respect of that matter only.

(2) If the matter the acting member was dealing with has been finalised but his or her position is still vacant, the Minister may appoint that member to act as a member of the Tribunal until his or her vacancy is filled by the President.

(3) If a member becomes disqualified in terms of section 29A(6), or is removed from office in terms of section 29E(2), the Minister may appoint a suitable person to act as a member of the Tribunal until the vacancy is filled.

### **Deputy Chairperson of Tribunal**

**29G.** (1) The President must designate a member of the Tribunal as Deputy Chairperson of the Tribunal.

(2) The Deputy Chairperson performs the functions of Chairperson whenever—

- (a) the office of Chairperson is vacant; or
- (b) the Chairperson is for any other reason temporarily unable to perform those functions.

### **Sittings of Tribunal**

**29H.** (1) The Tribunal must sit on such days and during such hours and at such a place as the Chairperson may determine.

(2) The presence of at least 50 per cent plus one of the members shall be necessary to constitute a sitting of the Tribunal.

(3) If both the Chairperson and the Deputy Chairperson are absent from a sitting of the Tribunal, the members present must from among their number elect a person to preside at the sitting.

(4) The Chairperson may for the purposes of hearing an appeal or reviewing a decision—

- (a) summon any person who may give material information concerning the subject matter of the hearing or who has in his or her possession or custody or under his or her control any document which has any bearing upon the subject of the hearing, to appear before him or her at a time and place specified in the summons, to be interrogated or to produce that document, and the Chairperson may retain for examination any document so produced;
- (b) administer an oath or affirmation from any person called as a witness at the hearing; and
- (c) call any person present at the hearing as a witness and interrogate him or her and require him or her to produce any document in his or her possession or custody or under his or her control, which has a bearing on the subject matter of the hearing.

### **Decisions of Tribunal**

**29I.** (1) The Tribunal may confirm, vary or set aside any decision against which an appeal or review has been lodged in terms of section 29B.

(2) The decision of a majority of the members present at a sitting of the Tribunal constitutes a decision of the Tribunal, and in the event of an equality of votes on any matter, the person presiding at the sitting must have a casting vote in addition to that person's deliberative vote.

### **Appeals against decision of Tribunal**

**29J.** (1) Any infringer affected by a decision of the Tribunal may appeal to any High Court having jurisdiction on the matter.

(2) An appeal contemplated in subsection (1) must be dealt with as if it were an appeal against a judgment of a Magistrate's Court in a civil case and all rules applicable to such an appeal apply to an appeal in terms of subsection (1).

### **Administrative work of Tribunal**

**29K.** The administrative work of the Tribunal must be performed by employees designated for that purpose by the Registrar.

## CLAUSE 9

1. On page 4, from line 43, to omit “as prescribed including postage or electronic services” and to substitute “by personal, postage and electronic services or communication as prescribed.”

## NEW CLAUSE

1. That the following be a new clause:

**“Amendment of section 31 of Act 46 of 1998**

**17.** Section 31 of the principal Act is hereby amended by the substitution for subsection (2) of the following subsection:

“(2) **[The]** Subject to section 18(1)(b), the laws on prescription are not applicable to penalties and fees payable in terms of this Act, and may be collected at any time.”

## CLAUSE 10

1. Clause rejected.

## NEW CLAUSE

That the following be a new clause:

**“Substitution of section 32 of Act 46 of 1998, as amended by section 21 of Act 72 of 2002**

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

**“Apportionment of penalties and fees**

**32.** (1) Any penalty received by the Authority in terms of this Act must, as prescribed, be paid over to the issuing authority that issued the infringement notice, after deduction of an amount equal to the discount contemplated in section 17(1)(d).

(2) Any prescribed fees contemplated in section 13(1)(dA), collected by an issuing authority in terms of this Act must, as prescribed, be paid to the Authority.

(3) Despite any other law, any penalties and fees received in respect of any conviction under the applicable road traffic and transport legislation must be disbursed as prescribed.”

## NEW CLAUSE

1. That the following be a new clause:

**“Amendment of section 34 of Act 46 of 1998**

**19.** Section 34 of the principal Act is hereby amended by the deletion of the word “and” at the end of paragraph (f), the insertion of the word “and” at the end of paragraph (g), the deletion of the full-stop at the end of paragraph (g), and the addition of the following paragraph:

“(h) the manner in which an infringement notice, courtesy letter or enforcement order may be reissued.”

CLAUSE 12

1. On page 5, after line 35, to add the following paragraph:

“(e) by the substitution for the expression “board”, wherever it occurs, of the expression “Board”.”

LONG TITLE

1. On page 2, to omit the Long Title and to substitute the following:

**“To amend the Administrative Adjudication of Road Traffic Offences Act, 1998, so as to substitute and insert certain definitions; to improve the manner of serving documents to infringers; to add to the functions of the Road Traffic Infringement Authority; to repeal certain obsolete provisions; to establish and administer rehabilitation programmes; to provide for the apportionment of penalties; to provide for the establishment of the Appeals Tribunal and matters related thereto; to effect textual corrections; and to provide for matters connected therewith”.**



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