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GOVERNMENT NOTICE

DEPARTMENT OF TRANSPORT

No. R. 252

27 March 2012

THE SOUTH AFRICAN NATIONAL ROADS AGENCY LIMITED AND NATIONAL ROADS ACT, 1998 (ACT No. 7 of 1998)

THE SOUTH AFRICAN NATIONAL ROADS AGENCY LIMITED AND NATIONAL ROADS ACT REGULATIONS, 2012

The Minister of Transport hereby, in terms of section 54(1) and section 58(1)(d) and (e) of The South African National Roads Agency Limited and National Roads Act, 1998 (Act No. 7 of 1998) ("the Act") hereby, make the Regulations in the Schedule..

Interested persons are invited to send written comments on the draft regulations to the Director General, Department of Transport within 20 days from the date of publication to the attention of

Mr Trevor Mphahlele at the following address

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The Department of Transport

Private bag x 193

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SCHEDULE

Definitions

1. In these regulations an expression that has been defined in the Act has that meaning and, unless the context indicates otherwise –

“Act” means the South African National Roads Agency Limited and National Roads Act, 1998 (Act No. 7 of 1998);

“authorised employee” means an employee who is empowered to enforce the provisions of the Act and appointed in terms of section 54 of the Act;

“National Road Traffic Act” means the National Road Traffic Act, 1996 (Act No. 93 of 1996); and

“National Road Traffic Regulations” means the National Road Traffic Regulations, 2000 promulgated in terms of the National Road Traffic Act.

“owner” means an owner defined as such in section 1 of the National Road Traffic Act.

Manner and conditions of authorisation of employee in terms of section 54 of the Act

- 2.(1) The Chief Executive Officer may appoint as many persons as authorised employees in terms of section 54 of the Act as he or she deems fit and such employees shall be appointed on the conditions contemplated in sub-regulation (2).
- (2) No person shall be appointed as an authorised employee in terms of section 54 of the Act unless—
- (a) in the case of an employee who is appointed to enforce the provisions of the Act on a national road, he or she is in possession of a diploma referred to in regulation 1B of the National Road Traffic Regulations; or
 - (b) in the case of an employee who is appointed to process documentation administratively to charge persons who fail to comply with the requirement to pay tolls as contemplated in section 27 of the Act, he or she has completed a training course as approved by the Chief Executive Officer.
- (3) An employee who has been appointed in terms of section 54 of the Act must be appointed as a peace officer in terms of section 334 of the Criminal

Procedure Act, 1977 (Act No. 51 of 1977), before such employee is empowered to exercise or perform any duty or power in terms of these regulations.

- (4) An authorised employee shall not exercise any such power or perform any such duty unless he or she is in possession of a certificate of appointment issued by the Chief Executive Officer.
- (5) An authorised employee must produce his or her certificate of appointment at the request of any person having a material interest in the matter concerned.
- (6) An authorised employee must at all times when wearing a full or partial uniform, display his or her official name tag above the right breast pocket of his or her uniform in such a manner that it is completely visible and easily legible.

Powers of employees contemplated in regulation 2(2)(a)

3. An employee appointed in terms of regulation 2(2)(a) may, subject to the Act or any other law may—
 - (a) demand from any person immediately to produce a licence, operating licence permit or any other document or authorisation authorising him or her to drive or operate a motor vehicle, and to produce any other document or tag which he or she is required to have in respect of any motor vehicle in terms of the Act or these Regulations, or the regulations on the exemption from payment of toll promulgated in terms of the Act, or any like document issued by a competent authority outside the Republic, and question any person in relation to any such tag, document or equipment;
 - (b) impound or confiscate any document or tag referred to in paragraph (a) which appears to be or which that employee suspects to be invalid or which has been or appears to have been unlawfully altered or defaced or which is being put to unlawful use, and where any document or tag is so impounded, the employee must issue a receipt in respect thereof to the person concerned;

- (c) impound any licence, document or tag produced to him or her in terms of paragraph (a) which in his or her opinion may afford evidence of a contravention or evasion of any provision of the Act, and where any licence or document is so impounded, must issue a receipt in respect thereof to the person concerned;
 - (d) require any person, whether or not such person is in any vehicle, to furnish his or her name and address and to provide any other particulars required as to his or her identification, as well as such information as is within his or her power to furnish and which may lead to the identification of the owner, operator or driver of such vehicle;
 - (e) when in a uniform approved by the Chief Executive Officer, require the driver of any vehicle to stop such vehicle;
 - (f) In the event of an accident, emergency situation or other incident regulate and control traffic upon any public road, and give such directions as may, in his or her opinion, be necessary for the safe and efficient regulation of traffic and, where he or she is of the opinion that the driver of a motor vehicle is hampering or impeding the normal flow of traffic on a public road, direct the driver to remove the vehicle from such road and to follow another route;
 - (g) at any time enter any motor vehicle and inspect such vehicle and any electronic device installed therein for the purpose of toll collection;
 - (h) question the driver of a vehicle as to whether required tolls have been paid;
 - (i) issue a receipt if any tag, document or equipment has been impounded or confiscated under paragraph (b); and
 - (j) deliver such tag, document or equipment which has been impounded or confiscated under that paragraph to a police officer to be dealt with in terms of the Criminal Procedure Act, 1977 (Act No. 51 of 1977).
- (2) Where such an employee reasonably suspects that there are outstanding tolls or other surcharges, fees, fines or penalties payable in respect of the Act in respect of any vehicle, he or she must inform the driver of the vehicle that—
- (a) all outstanding tolls and other amounts payable in terms of the Act in respect of the vehicle must be paid;

- (b) he or she must not continue to use the toll road if he or she does not make arrangements to pay those tolls and other amounts; and
- (c) if the person disputes such tolls or amounts, that employee has issued to the person an invoice setting out the tolls and other amounts and instructing such person to contact SANRAL to resolve the outstanding tolls and amounts.

Power of employee appointed in terms of regulation 2(2)(b)

4. An employee appointed in terms of regulation 2(2)(b) may, subject to the provisions of the Act or any other law—
- (a) Investigate records kept by the Agency or its contractors or agents to determine if tolls have been paid;
 - (b) establish the ownership of vehicles in terms of the National Road Traffic Act and other road traffic laws; and
 - (c) compile evidence for the prosecution of persons who transgress section 27 of the Act.

Power to remove abandoned vehicles or vehicles causing an obstruction or danger

5. (1) Where any vehicle is parked or left on a national road in a position or in circumstances which in the opinion of an authorised employee appointed in terms regulation 2 (2) (a) is likely to cause danger or an obstruction to other traffic on such road, that employee may remove it forthwith to a Government facility and in the case where such a vehicle was carrying persons who will be left stranded at the scene if the vehicle is so removed, the authorised employee may arrange and contract with any other person to provide the necessary transport to such persons: Provided that such employee shall, in removing such vehicle, use such device or devices as may be necessary, having regard to the public safety.

- (2) The owner of a vehicle contemplated to in sub-regulation (1) shall be liable for all expenses incurred in the removal and storage of such vehicle and the arrangement and contracting of another vehicle or person to transport stranded persons.

Presumption that owner drove vehicle

6. (1) Where in any prosecution or process in terms of the Act, it is necessary to prove who the driver or user of a vehicle was, it shall be presumed, in the absence of evidence to the contrary, that such vehicle was driven or used by the owner thereof.

(2) For the purposes of sub-regulation (1) it shall be presumed, in the absence of evidence to the contrary, that, where the owner of the vehicle concerned is a corporate body, such vehicle was driven or used by a director or servant of the corporate body in the exercise of his or her powers or in the carrying out of his or her duties as such director or servant or in furthering or endeavouring to further the interests of the corporate body.

Duty of owner

7. (1) The owner of a motor vehicle who permits any person to drive or use such vehicle on a toll road or otherwise to exercise any control over such vehicle, must ascertain the -

- (a) full names;
- (b) acceptable identification; and
- (c) residential and postal address,

of such person and must upon request furnish such information to any authorised employee.

- (2) If the owner of a motor vehicle fails to comply with the provisions of sub-regulation (1) he or she shall be liable for all tolls and fees in relation to the use of such vehicle.

Short title and commencement

8. These Regulations are called the South African National Roads Agency Limited and National Roads Act, Regulations, 2012 and shall come into operation on a date to be determined by the Minister by notice in the *Government Gazette*.
