



Wes-Kaapse Provinsiale Parlement
 Western Cape Provincial Parliament
 IPalamente yePhondo leNtshona Koloni

COMMITTEE REPORT

(Negotiating mandate stage) Report of the Standing Committee on Mobility on the National Road Traffic Amendment Bill [B 7B–2020], dated 23 August 2023, as follows:

The Standing Committee on Mobility, having considered the subject of the National Road Traffic Amendment Bill [B 7B–2020] referred to the Committee in accordance with Standing Rule 217, confers on the Western Cape’s delegation in the NCOP the authority to support the Bill. The Committee further proposes the following amendments:

Clause	Comment	Suggestion
Clause 1	<p>Definition of “motor vehicle”</p> <p>Clarity is sought as to whether any vehicles of the category “power assisted pedal cycle, except for a power assisted pedal cycle contemplated in subparagraph (iii)” will be required to register and licence, as well as under which category these vehicles will resort for the payment of licence fees. Alternatively, would a new category for the payment of licence fees need to be established?</p>	<p>Provide clarity on:</p> <ul style="list-style-type: none"> • Whether a “power assisted pedal cycle, except for a power assisted pedal cycle contemplated in subparagraph (iii)” will be required to register and licence; • which category the abovementioned vehicles will resort for the payment of licence fees. <p>Clarify whether a new category for the payment of licence fees need to be established?</p>
Clause 2(f)	<p>Correct the mistake as to numbering in the additional subparagraph inserted after subparagraph (vi) of paragraph (b) of subsection (1) of section 3A.</p>	<p>The numbering for the addition of “reserve traffic warden” should be corrected from (v) to (vii) as follows: “(vi) NaTIS officer; and (vii) reserve traffic warden.”.</p>
Clause 4(a)	<p>The proposed amendment to section 3C(2)(a) seeks to root out corruption in the examination of vehicles by examiners of vehicles and envisages that these examiners</p>	<p>It is suggested that the wording of section 3C(2)(a) be broadened to include persons known or connected</p>

	<p>will not be registered or be entitled to remain registered if they acquire financial interests in the manufacturing, selling, rebuilding etc of motor vehicles. The proposed amendment is, however, limited to the acquisition of financial interests by the examiner him or herself or “through his or her spouse or partner” as the case may be.</p> <p>The category of spouse or partner is not the only relationship through which a financial interest can be obtained. The draft amendment should be broadened to include other persons known or connected to the examiner. Please see the proposed re-wording of this section in the third column.</p>	<p>with examiners of vehicles, as follows:</p> <p><i>“... an examiner of vehicles if he or she, <u>or through any other person known to or connected with him or her, has or acquires a direct or indirect financial interest in the manufacturing, selling, rebuilding, repairing or modifying of motor vehicles;</u>[or]”;</i></p> <p>A corresponding amendment should also be made to section 3(2)(b) of the Act.</p>
<p>Clause 4(c)</p>	<p>This proposed amendment to section 3C(2)(c) is essentially the same as the proposed amendment to section 3C(a) as it applies to the registration of a traffic officer, traffic warden or NaTIS officer and the prevention of corruption in the business of road transport.</p> <p>Therefore, it is proposed that the draft amendment be broadened to include, in addition to spouses or partners, other persons known or connected to the traffic officer, traffic warden or NaTIS officer. Please see the proposed re-wording of this section in the third column.</p>	<p>It is suggested that the wording of section 3C(2)(c) be broadened to include persons known or connected with traffic officers, traffic wardens or NaTIS officers, as follows:</p> <p><i>“...<u>a traffic officer, traffic warden or NaTIS officer, if he or she, or through any other person known to or connected with him or her, has or acquires a direct or indirect financial interest in a road transport services business:</u>”.</i></p>
<p>Clause 5 (c)</p>	<p>There is only an appropriate formal qualification for a traffic officer and not for the other categories of officers.</p>	<p>Since there is only a formal qualification for a traffic officer and not for the other categories of officers or wardens it is proposed that the following wording be inserted after the word “qualification” to read as follows:</p> <p><i>“...an appropriate [diploma] qualification or completed</i></p>

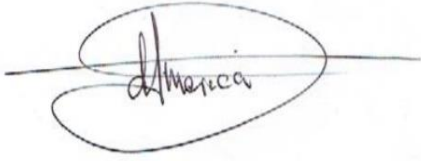
		appropriate training at a training centre approved by the Shareholders Committee;”.
Clause 6(d)	<p>It is unclear as to which considerations were taken into account in determining or distinguishing Schedule 1 or 2 of the Criminal Procedure Act, 1977 (Act 51 of 1977) (Criminal Procedure Act) as the only schedules to be taken into account when determining whether to suspend or cancel the registration of an examiner for driving licences or examiner of vehicles.</p> <p>The Bill’s Memorandum on the Objects does not provide any explanation or rationale and it is not clear as to why an official (an examiner for driving licences or examiner of vehicles) convicted of, for instance an offence under Schedule 5 or 6 would not be subjected to a possible cancellation or suspension.</p> <p>Schedules 5 and 6 include Schedule 1 and 2 offences, but refer to more aggravated forms of these offences.</p>	<p>It is suggested that the rationale for limiting the offences to those included in Schedules 1 and 2 of the Criminal Procedure Act be specified in the Memorandum on the Objects of the Bill to inform members of the public as to the specific factors that were taken into account in exclusively designating Schedules 1 or 2 as the only schedules to be considered when determining a possible suspension or cancellation of the registration of an examiner for driving licences or examiner of vehicles.</p> <p>It is further suggested that consideration be given to including the other serious schedules, such as Schedule 5 and 6 expressly in the formulation of Clause 6(e). If the above consideration is taken into account, the Memorandum on the Objects must detail the rationale behind the inclusion or the designation of the relevant schedules in this clause.</p> <p>The same comment applies to the insertion of section 28B (1A) in clause 30(d).</p>
Clause 7(c)	<p>There is a drafting error in the proposed amendment to section 3I. The legislative sentence does not flow grammatically in the proposed subsection (q). The word “may” in the first line of the closing paragraph should be deleted, since the word “may” in the context of this</p>	<p>Delete the word “may” in the closing paragraph, as follows: “[may] impound the vehicle ...”</p>

	<p>subsection already appears in the opening paragraph to subsection 3I.</p>	
	<p><u>Paragraph “q”</u> that has been inserted by Clause 7(c) provides in sub-clause <u>“q (iv)”</u> that a vehicle that has been impounded pending the investigation and prosecution of the person for an offence in terms of any applicable law may be impounded and must be dealt with in terms of the relevant sections of the Criminal Procedure Act.</p> <p>The omission to insert or indicate expressly the <u>“relevant sections”</u> or the specific sections applicable in terms of the Criminal Procedure Act creates an interpretational burden on anyone, particularly lay members of the public, attempting to understand or figure out this provision.</p>	<p>It is suggested that the relevant sections referred to in the Criminal Procedure Act be identified in the proposed paragraph (q) of section 3I of the Act.</p> <p>The use of the words “relevant sections” must be deleted and substituted with the precise reference to the applicable provisions of the Criminal Procedure Act.</p>
<p>Clause 11</p>	<p>In the proposed amendment of section 5E, the word “body” is used interchangeably with the word “organisation”. In the context of section 5E, a weighbridge facility is required to be registered if the organisation/body operating it is registered.</p>	<p>Replace the word “body” with “organisation” as follows:</p> <p><i>“unless such person, authority or <u>organisation</u> is registered as a weighbridge...”</i>.</p>
	<p>The content of the wording in the proposed section 5J is inconsistent with the heading as it does not take into account registration as a supplier of microdots and operator of a microdot fitment centre. See the suggested wording in the third column.</p>	<p>Correct the wording in the body of section 5J as follows:</p> <p><i>“.....desiring to manufacture microdots, <u>supply microdots or operate a microdot fitment centre</u> shall apply.....”</i>.</p>
<p>Clause 12</p>	<p>There are two aspects of the proposed amendments to section 6(1) that require consideration. Firstly, the legislative sentence is too long and is difficult to read. Secondly, there are words missing, which impacts on the clarity.</p> <p>The right to appeal is contemplated against the following kinds of decisions:</p> <ul style="list-style-type: none"> • a refusal of the chief executive officer to register a person as a manufacturer, builder, importer etc; 	<ul style="list-style-type: none"> • It is suggested that subsection (1) be broken up into three paragraphs, each dealing separately with the decision, which may be appealed against. • Amend the wording to read as follows: <p>“...at the refusal of the chief</p>

	<ul style="list-style-type: none"> • a refusal of the Member of the Executive Council (“MEC”) to issue an exemption permit in terms of section 81(3); • a suspension or cancellation of a person’s registration as a manufacturer, builder, importer etc (this proposal does not state who the relevant decision-maker is in each instance of a suspended or cancelled registration). <p>The above categories of the right to appeal can be separated by means of paragraphs to subsection (1).</p> <p>The term “body builder” is missing from the text.</p> <p>The term MEC must be qualified to refer to the MEC concerned.</p>	<p>executive officer to register him or her as a manufacturer, builder, <u>body builder</u>, importer ...”.</p> <ul style="list-style-type: none"> • “...or at the refusal of the MEC <u>concerned</u> to issue an exemption...”.
Clause 15 (a)	<p>The South African Police Services and the South African National Defence Force have engaged the national and provincial departments to apply for the operation of Driving Licence testing centres.</p> <p>Given that only a provincial department responsible for transport or a municipality may operate a driving licence testing centre, clarity is sought on the future of driving licence testing centres that are intended to be operated by national state departments such as the South African Police Services and the South African National Defence Force.</p>	<p>It is suggested that clarity be provided as to the rationale for not including national departments from applying for approval to operate a driving licence testing centre.</p>
Clause 15 (b)	<p>A similar concern to the one raised in relation to clause 15(a) is raised here.</p>	<p>It is proposed that the wording “No department of State” be retained.</p>
Clause 22 (b)	<p>Clarity is sought regarding the instances where an appropriate motor vehicle can be made available to an applicant for a driving licence examination.</p>	<p>It is suggested that in these instances measures be introduced to combat fraud, corruption and theft, for example, by stipulating that these motor vehicles be fitted with cameras and other necessary equipment.</p>

<p>Clause 34</p>	<p>The word “learner’s” is missing in the proposed amendment to section 29(2).</p>	<p>Insert the word “learner’s” as follows: “The MEC concerned may, after such <u>learner’s</u> licence, driving licence.....”.</p>
<p>Clause 40</p>	<p>There is a drafting error in the proposed amendment to section 58(3)(b), which is affecting the meaning of the subsection. It is noted that section 58(3) deletes all the references to fire-fighting vehicle, fire-fighting response vehicle etc and replaces these with the general term “emergency vehicle”. For this reason, the references to these kinds of vehicles should be deleted in subsection(b) since the term “emergency vehicle” is inserted here. See column 3 for the suggested amendment.</p>	<p>Correct the drafting error in section 58(3)(b) as follows: “(b) in the case of any [such fire-fighting vehicle, fire-fighting response vehicle, rescue vehicle, emergency medical response vehicle, ambulance,] <u>emergency vehicle</u> or any vehicle driven by a person [issued with the necessary authorisation] <u>while such person is responding to a disaster as contemplated in the Disaster Management Act, 2002 (Act No. 57 of 2002)</u>, such vehicle shall be fitted with a device capable of emitting a prescribed sound and with an identification lamp, as prescribed, and such device shall be so sounded and such lamp shall be in operation while the vehicle is driven in disregard of the road traffic sign[.];”.</p>
<p>Clause 41</p>	<p>There is a typographical error in the proposed amendment to section 60.</p>	<p>Delete the word “a” as follows: “...the driver of [a] ...an emergency vehicle...”.</p>
<p>Clause 43</p>	<p>There is a grammatical error in the proposed amendment to section 76(4).</p>	<p>Correct as follows: “re-incorporate” must be “re-incorporates”.</p>
<p>Clause 45</p>	<p>There is a technical drafting error in the proposed substitution of section 81.</p>	<p>Correct as follows: The line indicating the start of the proposed text should include the heading (not only the first sentence),</p>

		since the text in the heading is also part of what is being amended.
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A handwritten signature in black ink, appearing to read "D. America", is enclosed within a large, hand-drawn oval. A horizontal line extends from the left side of the oval, passing through the signature.

MR D AMERICA, MPP
CHAIRPERSON: STANDING COMMITTEE ON MOBILITY
23 AUGUST 2023