###### National Assembly

Question Number: 4

**Adv A de W Alberts (FF Plus) to ask the Minister of Transport:†**

(1) Whether traffic authorities are authorised to issue summonses of arrest in terms of the Administrative Adjudication of Road Traffic Offences Act (AARTO), Act 46 of 1998; if so, to which clauses and/or regulations such authorisation is applicable;

(2) whether the Road Traffic Infringement Agency (RTIA) may withdraw AARTO fines that were issued irregularly; if not, what is the position in this regard; if so, which clauses and/or regulations support the RTIA in withdrawing such fines;

(3) whether the RTIA may withdraw AARTO enforcement orders that were issued irregularly; if not, what is the position in this regard; if so, on which clauses and/or regulations support the RTIA in withdrawing such enforcement orders? NW4E

**REPLY**

1. The Administrative Adjudication of Road Traffic Offences Act does not in any way provide for summons of arrest. Under Criminal Procedure Act, there are two distinct documents which serve two different purposes viz, Summons (section 54) and warrant of arrest. Summons issued by traffic authorities for motorists who have failed to comply with rules of the road to secure appearance in a court of law whilst warrants of arrests are issued in instances where a person who was summoned to appear in court fails to do so without any explanation to the Court or Prosecutor.

In terms of the AARTO Act, the infringer has, as part of elective options, the right to be tried in Court. Under such circumstances, the notice will be cancelled and the local authority will issue summons. The criminal procedure process will then ensue. Secondly, where the violation is classified as an offence under schedule 3 of the AARTO regulations, such person will be dealt with in terms of the criminal procedure processes by way of issuance of a summons by the traffic authority concerned.

1. The RTIA does not issue fines and as such, it does not have the authority or legislative mandate to withdraw fines. This is the full competence of the authority that has issued the infringement. Section 18(6) of the AARTO Act provides for the RTIA to cancel an infringement notice in a case were a representation is allowed.
2. The Registrar of the RTIA is empowered by section 20 of the AARTO Act, to issue enforcement orders. Section 20(4) and (9) gives the Registrar authority to revoke such enforcement orders if the infringer pays the penalty and fees; the infringer applies to the RTIA in the prescribed manner and submits reasons to the satisfaction of the Registrar why an enforcement order must be revoked or the traffic authority applies in the prescribed manner for a revocation of an enforcement order.