

# National Road Traffic Act 93 of 1996 (NRTA)

**Topic: Transport**

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## IN A CALABASH

### Introduction

In order to manage and control the use of South African roads and in order to ensure that the vehicles and drivers that operate on these roads are safe and competent, the National Road Traffic Act (NRTA) was brought into operation. The Act sets out the rules pertaining to who can drive a vehicle, the qualifications one has to have before one can be licensed to drive a vehicle, how one may operate a vehicle on the various types of roads and what happens in the case of a person operating a vehicle in a reckless or negligent manner or failing to comply with the rules of the road.

### Objectives of the Act

The NRTA provides for a variety of road traffic matters, including–

- the licensing of vehicles;
  - the licensing of drivers;
  - the licensing of operators who transport goods or people for gain;
  - the roadworthiness of vehicles;
  - the rules of the road and how fast one can drive on a road;
  - the prohibition of driving under the influence of alcohol or drugs;
  - negligent or reckless driving; and
  - accidents and the duty to stop at the scene of an accident and report and accident.
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### Application of the Act and its implication to Tourism

The NRTA applies to all operators of vehicles using roads situated in South Africa, regardless of whether or not such person is a South African citizen.

This Act is particularly important for the Tourism Industry owing to the fact that tourists make use of road transportation. Tour operators in particular transport people using various types of vehicles from one place to another.

As a result, the provisions of this Act are very important to note within the Tourism Industry in order to avoid penalties.

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## **Summary of the provisions of the Act**

### **Registration and licensing of motor vehicles**

All motor vehicles must be registered and licensed under and in terms of the NRTA.

No person shall operate a motor vehicle on a public road unless such motor vehicle is registered and licensed in accordance with the NRTA.

### **Driver of motor vehicle to be licensed**

Before any person can lawfully operate a vehicle on a public road in South Africa, such driver must have a driving license, which is valid and free from endorsements.

There are a number of different types of driving licenses including a learner driving license, a normal driving license, an international driving license, specific types of driving licenses allowing one to drive and operate specific types of vehicles and a public driving permit allowing a driver to transport goods and persons for gain in one's vehicle on South African roads.

No person shall drive a motor vehicle on a public road unless he or she holds a valid driving license which must be kept with him or her in the vehicle at all times.

It is an offence to drive a vehicle without the required license.

### **Driver to give notice of change of place of residence**

When a licensed driver has changed residence permanently, he or she must notify the registering authority of his or her new residential and postal address within 14 days of such change.

### **International driving license**

Any driving license which was issued in any other country is deemed to be a license for the purpose of the NRTA and allows that person to operate on South African roads.

The requirements for the driving of a motor vehicle carrying passengers and in respect of which a professional driving permit is required must be adhered to.

### **Use of one person's learner's or driving license by another prohibited**

The holder of a learner's or driving license is not allowed to permit such license to be used by any other person.

### **Professional driver to have permit**

A person who conveys goods or persons for reward, known as a professional driver, must hold a professional driving permit (PDP) which he or she must keep with him or her in the vehicle.

This shall not apply to the holder of a learner's license who drives such vehicle while he or she is accompanied by a person registered as a professional driver in respect of that class of vehicle.

### **Vehicle to be roadworthy**

A person is not allowed to operate a motor vehicle which is not in a roadworthy condition on a public road. A valid roadworthy certificate disc must be displayed on all motor vehicles.

Any person desiring to obtain certification of roadworthiness shall apply to an appropriately graded testing station.

If a motor vehicle is not roadworthy, a traffic officer or an examiner of vehicles may direct that such vehicle shall not be operated on a public road.

### **Operator of a vehicle**

In order to operate a motor vehicle, a valid operator card must be displayed on same.

The registered owner of a motor vehicle will, in terms of the NRTA, be deemed to be the operator of the vehicle. Once the owner is licensed, he or she will be registered as the operator.

A person who is not a manager, employee or agent of the owner of a motor vehicle and who enters into a written agreement with the owner allowing such person to operate the vehicle shall be deemed to be the operator of the vehicle, instead of the owner.

The registering authority must issue an operator card to the owner or operator, provided that where any operator card of a specific operator is suspended, the registering authority shall not issue any new operator card to such operator until the expiry of the suspension period.

### **Duties of operator**

The operator of a motor vehicle must

- notify the registering authority concerned within seven days of any change in the circumstances in relation to his or her registration as the operator of such vehicle and return the operator card in respect of that motor vehicle to that registering authority;
- keep safe and protect from theft an operator card issued to him or her and, if any such card is lost, stolen or destroyed, he or she shall notify the nearest police station within 24 hours and the registering authority within whose area the holder is ordinarily resident within seven days after having become aware of such loss, theft or destruction or after it could reasonably be expected that he or she should have been aware of such loss, theft or destruction, whichever event occurred first;
- exercise proper control over the driver of such motor vehicle to ensure the compliance by such driver with all the relevant provisions of the NRTA, in particular

the provisions regarding the requirements in respect of the professional driving permit and the loading of such vehicle;

- ensure that such motor vehicle complies with the fitness requirements;
- conduct his or her operations with due care to the safety of the public;
- if dangerous goods or substances are conveyed, ensure that all requirements for the conveyance of such goods or substances as prescribed in the Act and any other law in relation to such goods or substances are complied with; and
- take all reasonable measures to ensure that such motor vehicle is operated on a public road in compliance with the provisions for the loading and transportation of goods as prescribed by the NRTA.

### **Transportation of certain dangerous goods prohibited**

No person is allowed to transport in a vehicle any dangerous goods, unless this is done strictly in accordance with the NRTA and regulations.

### **Failure to obey road traffic sign prohibited**

Unless otherwise directed by a traffic officer, it is unlawful to fail to comply with any direction conveyed by a road traffic sign.

### **Speed limit**

The general speed limit in respect of every public road situated within an urban area, every public road or section thereof situated outside an urban area and every freeway is prescribed accordingly.

An appropriate road traffic sign may be displayed on any public road indicating a speed limit other than the general speed limit which applies in respect of that road, provided that such other speed limit shall not be higher than the speed limit prescribed.

No person shall drive a vehicle on a public road at a speed in excess of the general speed limit or an alternative speed limit as indicated.

### **Accidents and accident reports**

The driver of a vehicle at the time when such vehicle is involved in or contributes to any accident in which any person is killed or injured or suffers damage in respect of any property, including a vehicle, or animal must—

- immediately stop the vehicle and report the accident on the prescribed form and in the prescribed manner. The officer concerned shall deal with the report in the prescribed manner and the chief executive officer must ensure that the accident is recorded in the register of accidents in the prescribed manner and within the prescribed period;
- ascertain the nature and extent of any injury sustained by any person;
- if a person is injured, render such assistance to the injured person as he or she may be capable of rendering;
- ascertain the nature and extent of any damage sustained;
- if required to do so by any person having reasonable grounds for so requiring, give his or her name and address, the name and address of the owner of the vehicle driven by him or her and, in the case of a motor vehicle, the license number thereof;

- if he or she has not already reported the accident to a police or traffic officer at the scene of the accident, and unless he or she is incapable of doing so by reason of injuries sustained by him or her in the accident, as soon as is reasonably practicable, and in the case where a person is killed or injured, within 24 hours after the occurrence of such accident, or in any other case on the first working day after the occurrence of such accident, report the accident to any police officer at a police station or at any office set aside by a competent authority for use by a traffic officer and there produce his or her driving licence and furnish his or her identity number; and
- not, except on the instructions of or when administered by a medical practitioner in the case of injury or shock, take any intoxicating liquor or drug having a narcotic effect unless he or she has complied with the ABOVE provisions where it is his or her duty to do so and has been examined by a medical practitioner if such examination is required by a traffic officer.

No person is allowed to remove any vehicle involved in an accident in which another person is killed or injured from the position in which it came to rest, until such removal has been authorised by a traffic officer.

The only instance in which a vehicle may be moved is when such accident causes complete obstruction of the roadway of a public road, in which event the vehicle involved may be moved sufficiently to allow the passage of traffic.

No person may move a vehicle involved in an accident without the permission of the owner, driver or operator of such vehicle.

### **Reckless or negligent driving**

It is unlawful to drive a vehicle on a public road recklessly or negligently.

Any person who drives a vehicle in willful or wanton disregard for the safety of persons or property shall be deemed to have driven that vehicle recklessly.

In considering whether a person has driven recklessly, courts will have regard to all the circumstances of the case, including the nature, condition and use of the public road upon which the contravention is alleged to have been committed, the amount of traffic which at the relevant time upon that road and the speed at and manner in which the vehicle was driven.

### **Inconsiderate driving**

It is unlawful to drive a vehicle on a public road without consideration for any other person using the road.



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

It is a criminal offence to drive a vehicle or occupy the driver's seat of a motor vehicle which engine is running while under the influence of intoxicating liquor or a drug having a narcotic effect.

The concentration of alcohol in any specimen of blood taken from any part of a person's body must not be less than 0,05 grams per 100 milliliters or in the case of a professional driver not less than 0, 02 grams per 100 milliliters.

In the case of a criminal prosecution in terms of this Act, where proof of the analysis of a specimen of the blood of any person is presented, it is presumed that any syringe used for obtaining such specimen were free from any substance or contamination which could have affected the results.

The concentration of alcohol in any breath specimen shall be ascertained by using the prescribed equipment.

Any person who is detained for a possible contravention of any provision of this Act may not–

- consume any substance that contains alcohol of any nature, except on the instruction of or when administered by a medical practitioner; or
- smoke until the specimen has been taken.

It is unlawful to refuse that a specimen of blood or of breath be taken.

### **Prohibition on use of communication device while driving**

It is against the NRTA to drive a vehicle on a public road

- while holding a cellular or mobile telephone or any other communication device in one or both hands; or
- while using or operating a cellular or mobile telephone or other communication device.

The use of a cellular or mobile telephone or other communication device is only allowed if it is affixed to the vehicle or is part of the fixture or head gear which allows the instrument to be operated in a hands-free manner.

### **Vehicle causing excessive noise**

No person is allowed to operate a vehicle in such a manner as to cause any excessive noise which can be avoided by the exercise of reasonable care on his or her part.

### **Use of hooter**

No person is allowed to use the sounding device or hooter of a vehicle except when such use is necessary in order to comply with the rules of the road or on the grounds of safety.



## WHAT HAPPENS IF YOU DO NOT COMPLY?

Non-compliance with the NRTA will lead to a criminal prosecution and, if found guilty, a fine or jail sentence.

Some of the penalties for non-compliance with the Act include—

- court orders for suspension or cancellation of a license or permit;
- disqualification of a person from obtaining a license or permit;
- cancellation of a license or/and permit; and
- fines for non-compliance, depending on the offence.

Any person convicted of an offence concerning the impersonation of a traffic officer, not having a roadworthy certificate, failing to discontinue the operation of a vehicle when ordered to do so, failure to register as an operator or display the operator permit, failure to perform the duties as an operator or driving under the influence of alcohol or drugs shall be liable to a fine or to imprisonment for a period not exceeding six years.

Any person convicted of an offence concerning the application for or the non-compliance with a requirement to hold a license, failure to comply with the speed limit or failure to report an accident shall be liable to a fine or to imprisonment for a period not exceeding three years.

Any person convicted of an offence in the case of an accident where someone has died or has suffered a serious injury shall be liable to a fine or to imprisonment for a period not exceeding nine years.

Any person convicted of an offence in the case of damage of any property or animal of another person is liable to a fine or to imprisonment for a period not exceeding three years.

Any person convicted of an offence concerning negligent or reckless driving shall be liable to a fine or to imprisonment for a period not exceeding six years.

Save for the above, any other non-compliance with the NRTA could lead to a fine or to imprisonment for a period not exceeding one year.

### **Suspension of a license or permit**

There are a number of instances where a driving license or a license and permit will be suspended, including where a driver has been

- in an accident where people have been killed and the cause of the accident is due to reckless or negligent driving;
- convicted of speeding in excess of 30 kilometres per hour over the prescribed general speed limit in an urban area;
- convicted of speeding in excess of 40 kilometres per hour over the prescribed general speed limit outside an urban area or on a freeway;  
or
- convicted of driving recklessly.

### **Lapsing of endorsement on license**

Any court ordered endorsement on any driving license will lapse after a period of five years from the date of endorsement was ordered.

Where all endorsements have lapsed on a driving license, the authority which issued the license may, upon application by the holder, issue to such holder a driving license which is free from any endorsements.

### **Cancellation or amendment of endorsement on license**

Where the holder of a driving license has been endorsed and the driver is of the opinion that there are circumstances justifying the cancellation or amendment of such endorsement, he or she may apply to the chief executive officer for the cancellation or amendment of such endorsement.



### **RECOMMENDED ACTIONS OR CONTROLS WHICH SHOULD BE IMPLEMENTED BY THE TARGET AUDIENCE TO ENSURE COMPLIANCE WITH THE ACT**

In order to comply with the provisions of the NRTA, the owner, operator and driver of any vehicle must ensure that the following physical controls are in place:

- The vehicle is in roadworthy condition and the roadworthy disc displayed on the vehicle on the windscreen;
- That an operator permit is valid and in place and displayed on the vehicle;
- That any person driving the vehicle has a driving license which is valid and free from endorsement;
- That the driver complies with road traffic signs and the rules of the road;
- Where public transportation is carried out, that the driver and operator has a PDP in place;
- The driver commits no reckless or negligent driving at any time whilst on a public road and obeys speed limits at all times;
- When in an accident, the driver must stop and ensure that no one is injured or killed. Where this is the case, he or she must call emergency services, report the accident within 24 hours and must not leave the scene of accident until told to do so by the investigating officers;
- No driver is to drive under the influence of alcohol; and
- All drivers and operators must comply with any order issued by a police officer, peace officer or the CEO or Magistrate.

### **FURTHER INFORMATION**

For more information visit: [www.arrivealive.co.za](http://www.arrivealive.co.za)