

Road Transportation Act 74 of 1977 (RTA)

Topic: Transportation on Roads

IN A CALABASH

Introduction

Persons and goods are transported daily around South Africa. These services are provided by a variety of transportation providers using different types of vehicles and trailers. South Africa needs to ensure that transport services are safe, secure, reliable, of good quality and efficient, whether local or over long distances. The Road Transportation Act 74 of 1977 (RTA) provides for the permitting and licensing of all persons, entities and vehicles that provide a road transportation service in South Africa. The National Land Transport Act 5 of 2009 (NLTA) applies to the public transportation of passengers for reward whereas the RTA applies to the transportation of freight on South African roads.

Objectives of the Act

The RTA regulates and controls the transportation of goods on South African roads.

Application of the Act and its implication to Tourism

The RTA applies to all persons who provide a transportation service in respect of goods or services in South Africa, for reward, including–

- the conveyance of goods on a public road by means of a motor vehicle for reward;
- the conveyance of goods on a public road by means of a motor vehicle in the course of any industry, trade or business; and
- the conveyance of goods on a public road by means of a hired motor vehicle.

In so far as the tourism industry is concerned, the Act applies to any person or business operating within the tourism industry who transports goods for reward.

Summary of the provisions of the Act

Application in respect of a permit

Any person who wants to transport goods for reward using road transportation must apply for a private permit before such transportation can be performed.

Certificate of fitness

Every vehicle which will be used for the purpose of transporting goods must have a certificate of fitness.

Records

The holder of a permit must keep an accurate record in respect of each trip made by a vehicle to which that permit relates showing—

- the places between which and the area or areas within which goods are conveyed;
- the names of consignors and consignees;
- the number of parcels and a brief description of the goods; and
- the mass of each consignment or, if it is not possible to give the exact mass of each consignment of goods, a reasonable estimate of the mass.

The records must be completed by the holder of such permit or by his or her employee upon receipt of such goods by the said holder or his or her employee.

The records must be kept on the vehicle by the driver of the vehicle to which such records relate or, if a conductor is on duty on that vehicle, by such conductor and shall be made available for inspection upon request by an authorised officer.

Every record must be kept by the holder of the permit concerned in such a way as to be readily available for inspection by an authorised officer at any time during a period of 12 months from the date on which such record was completed.

In addition, the driver must, at all times, keep in his or her possession his or her permit and certificate of fitness.

Designation of inspectors

The RTA sets out who may inspect and apprehend any person who is suspected of or is not complying with the Act.

The Director-General: Transport may designate any officer or employee of the Department of Transport as an inspector with respect to transport within as well as across the borders of South Africa.

The Director-General of the provincial administration of the province concerned may designate any officer or employee of that provincial administration as a road transport inspector.

Powers, duties and functions of authorised officers

Every inspector must wear the identification issued to him or her by the Director-General: Transport and show his or her identification to every person with whom he or she deals in his or her official capacity, upon request.



An authorised officer may–

- cause a motor vehicle to be stopped by means of a stop sign, a klaxon or a blue light;
- enter and examine a motor vehicle and the goods conveyed thereon to establish whether that vehicle is being used for road transportation or to exercise any power or perform any duty or authorised act;
- require the driver of a motor vehicle to furnish his or her name and address and any documentary evidence in support thereof and the name and address of the owner of the vehicle, as well as particulars of the business in connection with which such vehicle is being used;
- require that the driver or other person in charge of a motor vehicle produce for inspection any documents or other records in or on the vehicle or in his or her possession that in any way relate to the goods or persons being conveyed on such vehicle;
- require that any person believed to be on or to have been on a motor vehicle believed to be used for road transport furnish his or her full name and address and any documentary evidence in support thereof, whether he or she has paid a consideration for this conveyance and the name and address of the person to whom he or she made such payment;
- require that the driver of, or any person on a motor vehicle, furnish the name and address of the consignor and the consignee of goods being or about to be conveyed on such vehicle, as well as the names of the places between which such conveyance is to take place;
- require that the necessary records are produced by the driver of a motor vehicle or by the conductor, if any, for inspection;
- enter any premises at any reasonable time to conduct an investigation within the ambit of his or her duties as authorised officer, and may, while he or she is on or in such premises or at any other reasonable time, question any person who in his or her opinion may be able to furnish any required information;
- require that any person hand over all books and documents which may serve as proof of the commission of an offence or an alleged offence and examine such book or document, make copies and demand an explanation of any entries in such book or document. Any person questioned or required to furnish an explanation will be entitled to all the privileges to which any person testifying before a court of law would be entitled;
- require that the driver or other person in charge of a motor vehicle which is used for road transport produce any documents which have been issued by the commission, a board or a local authority in respect of that vehicle and which are required by law to be kept on that vehicle;

- require that the driver or other person in charge of a motor vehicle which is used for road transport and which is so defective as to be a possible danger to persons and property hand over the current permit and the distinguishing mark relating to such vehicle and cease his or her activities until such time as such defect has been remedied;
- impound every permit specified in order of the commission or of a board and hand them to the commission or board that issued such order;
- require that the driver or other person in charge of a motor vehicle whose load is sealed and/or locked in such a way as to prevent ready examination, open the seal and/or lock or device with which such load is locked to permit examination. If the driver or other person in charge of such vehicle fails or refuses to comply with such requirement, the inspector may forcibly break the seal and/or lock or device for examination; and
- reseal a load with an official seal and issue the driver or other person in charge of such vehicle with a certificate in the prescribed form to confirm that the seal and/or locking device had been opened or forced open by order of an authorised officer. Such confirmation must provide details of the official seal with which such load was resealed.

An inspector and any member of the South African Police Service may impound any motor vehicle reasonably suspected of having been used in connection with the conduct of unauthorised road transportation, as well as the goods conveyed on such vehicle.

Upon the impoundment of any motor vehicle or goods, the person who made such impoundment must cause such vehicle or goods to be taken to a police station, whereupon the matter must be dealt with in accordance with the provisions of the Criminal Procedure Act 51 of 1977.



WHAT HAPPENS IF YOU DO NOT COMPLY?

There are a number of offences housed under the RTA.

Offences and prohibitions relating to road transportation

Any person who—

- undertakes road transportation without the required permit authorising such road transportation; undertakes road transportation contrary to the provisions of a permit or contravenes or fails to comply with any condition or requirement of a permit;

- refuses, without sufficient reason, to convey any person or goods which such permit authorises him or her to convey or makes any charge for such conveyance which is not in accordance with any tariff set forth in such permit or which he or she may have been required to publish in terms of such permit; claims or accepts for such conveyance any remuneration other than money; contravenes any specified prohibition of a permit authorising the conveyance of goods; makes a permit available to any other person to undertake road transportation not authorised under the Act;
 - makes any writing falsely purporting to be a permit or other document issued under the RTA, or alters, defaces, mutilates or adds anything to a permit or other issued document with intent to deceive; uses a fraudulent permit or issued document;
 - transfers any permit or distinguishing mark without the written consent of the commission or the competent board to any motor vehicle or person other than a motor vehicle or person referred to or named in such permit or distinguishing mark, except as specially provided in the Act; pretends that he or she is an inspector; wilfully obstructs, hinders or interferes with an inspector in the exercise of his or her powers or the performance of his or her duties; fails or refuses to appear before the commission, a board or a member thereof after having been required to or, having so appeared, fails or refuses to answer to the best of his or her knowledge any question lawfully put to him or her or to produce any book, plan or other document or article which he or she has been so required to produce without sufficient reason; makes any false statement, whether orally or in writing, knowing it to be false in connection with any application, appeal, inquiry or investigation; prepares, with intent to deceive, any document for use in connection with road transportation containing an incorrect description of the goods concerned, knowing that description to be incorrect; or
 - obtains a public permit or a private permit from the commission or a board knowing that a public permit or private permit has already been issued to some other person in respect of the vehicle concerned,
- will be guilty of an offence.

Offences by persons not authorised to be conveyed by the holder of a public permit

An unauthorised person who refuses to leave a vehicle despite being told to do so may be removed by a police officer. Such a person will be guilty of an offence and liable to a fine of up to R50 or, in default of payment, to imprisonment for a period of up to three months.

Act or omission of a manager, agent or employee of the holder of a permit

Whenever any manager, agent or employee of the holder of a permit does or omits to do any act which is an offence for such holder to do or omit to do, then, unless such holder proves that—

- he or she did not connive at or permit such act or omission; and
- he or she took all reasonable measures to prevent an act or omission of the nature in question; or
- an act or omission, whether legal or illegal, of the character of the act or omission charged did not fall within the scope of the authority or the course of the employment of such manager, agent or employee,

such holder will be deemed to have done or omitted to do that act and be liable to be convicted and sentenced in respect thereof.

The fact that he or she forbade an act or omission of the nature in question shall not, by itself, be regarded as sufficient proof that he took all reasonable measures to prevent such act or omission.

In addition, whenever any manager, agent or employee of any such holder does or omits to do any act which it would be an offence under the RTA for such holder to do or omit to do, such manager, agent or employee will be liable to be convicted and sentenced in respect thereof as if he or she were such holder.

Penalties

Any person convicted of an offence under the Act for which no other penalty is expressly provided will be liable to a fine of up to R10 000, to imprisonment for a period of up to two years or to both such fine and imprisonment.

Forfeiture

A vehicle used in the unauthorised transportation of goods may become forfeit to the State, the province concerned or, if two or more provinces are involved, to each of the provinces concerned in equal share of the value thereof.

The Criminal Procedure Act 51 of 1977 will apply with reference to any forfeiture.

Effect of third or subsequent conviction of certain offences

On a second or subsequent conviction of a person of an offence involving the undertaking of unauthorised road transportation, the commission or a board may—

- summarily withdraw any permit held by that person and issued by the commission or the board concerned by written notice sent by registered or certified post; and

- refuse to consider any application for the grant or transfer of a permit to him or her or a company of which he or she is a director or for the renewal of a permit held by him or her or such a company, during such period as the commission or the board concerned may deem fit, irrespective of whether or not any permit held by that person has been withdrawn.



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

- All public road transportation must be done under a permit authorising such road transportation;
- Compliance with the provisions of a permit;
- Certificate of fitness and permit to be held in vehicle at all times; and
- Reports pertaining to trips and freight transported to be submitted, when required.

FURTHER INFORMATION

Regulator

Department of Transport

Website

www.transport.gov.za