

# The Administrative Adjudication of Road Traffic Offences (Aarto) coming soon

White Paper – April 2018

(For information purposes only)

The Administrative Adjudication of Road Traffic Offences (Aarto) amendment bill has moved a step closer to being signed into law. Fleet Managers must make themselves familiar with the current and proposed amended provisions of the Aarto Act, and should participate in the public hearings which surround it. The Aarto task team has added amendments to the bill, following rounds of public hearings, and believe that this system will remove habitual traffic offenders from South Africa's roads and highways.

The Aarto Act is a sophisticated and unforgiving administrative mechanism that will ensure that fines are paid, failing which motorists will not be able to renew their vehicle and driving licences or their professional driving permits. The imposition of demerit points on driving licences is not dependent on the accused person being found guilty of the infringement with which they are charged, but arises from not paying the fine (admitting guilt) or the issuing of an enforcement order (conviction in absentia). Each motorist will start with zero points to their name and will face a three-month licence suspension if they exceed 12 points.

## What does the department of Transport seek to achieve by Aarto?

- ❖ To promote road safety by providing a scheme to discourage road traffic contraventions
- ❖ To facilitate the adjudication of road traffic infringements
- ❖ To support the prosecution of offences in terms of the national and provincial laws relating to road traffic
- ❖ To implement a points demerit system
- ❖ To provide for the establishment of an agency to administer the scheme.

Aarto aims to provide assurance to all South Africans that their lives matter. It is about improving road safety. According to the Department of Transport the bill is a direct result of "the untenable and unsustainable road safety challenge in South Africa". South Africa has a high loss of lives on the road, especially of young people, and drivers have a high disregard for road traffic laws. In 2014, 10 364 road accidents in SA



caused 12 702 fatalities. In 2015 there were 10 613 accidents (12 994 deaths) and in 2016 the accident rate rose to 11 676 with 14 071 fatalities.

Aarto also provides for the rehabilitation of drivers who have had their driving licences suspended or removed. In this way, drivers will be influenced to change their behaviour to comply with road traffic laws and the department will eliminate the "backlog and burden" of dealing with infringements through the courts. This will eliminate bottle-necks from the Criminal justice system. Under the current system, traffic violations fall under the ambit of the Criminal Procedure Act.

**Below are some of the important elements of Aarto:**

1. The driver demerit system

Under the draft regulations of the Aarto Act, all drivers and cars will start with zero points. Points are allocated to drivers and cars based on infringements, and demerit points will be reinstated at a rate of one point every three months provided no other demerit points have been incurred over that period. Demerits will be allocated per violation as opposed to per incident. This means that if a driver is speeding in an unregistered car, he will be penalised for both violations.

In addition, a licence will be cancelled if suspended three times. Other penalties include:

- ❖ Driving without a seatbelt and driving 131km/h-135km/h in a 120km/h speed zone: a R250 fine and no demerit points.
- ❖ Driving an unregistered or unlicensed vehicle; driving with no licence plate visible; holding and using a cell phone; skipping a stop sign and skipping a red light: a R500 fine and one demerit point.
- ❖ Drivers under the influence of alcohol; exceeding 100km/h in a 60km/h zone, 140km/h in a 100km/h zone, and 160km/h in a 120km/h zone : 6 demerit points plus a fine determined by a court.

The demerit point system will provide for an easy and objective mechanism for identifying habitual infringers so that the applicable penalties can be imposed. Those that continue to break the laws will find themselves ultimately losing their driving licences through suspensions and cancellations of their drivers' licenses. But if motorists behave themselves and drive responsibly, they can earn back those points, to be reinstated at a rate of one point every three months, provided no more points are incurred over that period. The Department of



Transport says “people should remember that a driving licence always belongs to the government and everyone that wants to exercise this benefit should comply with the conditions related to it.

2. The National Road Traffic Offences Register

To centralise proceedings, the Bill calls for a designated authority to ensure that all the information and details of the infringements and violations of individuals are recorded. According to transport experts, this new system will facilitate charging much larger volumes of offenders.

3. The introduction of an Appeals Tribunal

Motorists can challenge grievances as the panel will hear and adjudicate their appeals. Furthermore, if a motorist still feels that the tribunal's decision is unjust, he/she can approach the High Court.

4. A car owner is also liable for the fine/punishment

The registered owner of the vehicle will be responsible for any infringement even if someone else was driving the car. Exceptions will apply if the owner gathered all the personal information of the driver (full name, ID number, residential and business addresses and contact details).

**What should fleet managers know about Aarto?**

1. How will the Aarto Act affect drivers?

Motorists will receive their fines through electronic means such as e-mail. Should alleged infringers ignore their penalties their driving licenses, professional driving permits or vehicle licences will be blocked on the system. Infringers will no longer escape liability by simply electing to go to court with the intention of flooding the court system and with the knowledge that such cases may not make it to the court roll as these courts have other criminal matters prioritised.

2. The president has not nationally cleared the law. Does this mean that it will not yet come into effect?

The Aarto Act is implemented partially in the jurisdictions of Tshwane and Johannesburg. The amendments before Parliament will make it easier to implement the process by all the law enforcement authorities in the country. The President, with the advice of the Minister of Transport, will set a date when the rest of the Act will be implemented nationally.



3. Regarding traffic fines - many motorists believe it could be another revenue-generator for authorities. Is this true?

The Aarto Act partially deals with the issue of authorities being driven by revenue generation. In this regard, once Aarto is implemented nationally, no authorities will be able to set up roadblocks to force motorists to pay their fines or face arrest. Since the process may lead to individuals having their driving licenses suspended, permission has been granted by the Director of Prosecutions to set up speed cameras in certain locations.

4. Could driving licences be confiscated by officials?

The process entails the suspension of driving licenses of drivers who regularly commit traffic infringements and pass the threshold of 12 demerit points.

Motorists should now realize that there will be consequences for breaking the law if caught. The fewer the road traffic contraventions, the fewer the accidents and consequently there will be fewer fatalities. Motorists should exercise caution and abide by the rules of the road. In instances where a fine has been received by a motorist, it should not be ignored but the motorist must exercise one of the elective options available, e.g. pay the fine within 32 days from receipt of such a fine and automatically qualify for a 50% discount on the penalty or submit a representation to the RTIA if such a motorist believes that s/he does not deserve the fine.

*"South Africans should recognise that roads are a common and shared benefit to be enjoyed by motorists, cyclist and pedestrians and therefore we should all accept that road safety is a responsibility of each one of us." (The RTIA Registrar, Mr Japh Chuwe).*

### **Fleet Management and Aarto**

The AARTO legislation caters for new procedures relating to fleet operators, where operators are charged when drivers are caught committing an infringement. Infringements for overloading, transporting of dangerous goods, unroadworthy vehicles and infringements where the driver is not legally licensed or does not have a valid professional driving permit will result in an infringement against the operator. When a driver has reached a certain number of points, he will be suspended from driving a company vehicle. A driver's operating license can furthermore be permanently revoked should he be suspended three times.



Dealing with traffic fines for a fleet of drivers around the country can be a daunting task for fleet companies, big or small. Fleet managers will now also have to account for suspended licenses due to Aarto demerit points whereas previously their concern was only about the expiration of licenses. This will further increase the administrative burden.

Outsourcing traffic fine management to a corporate fleet management solution means that fleets can enjoy the benefits of the new system without fleet managers having to endure the pain of implementing and monitoring every aspect themselves. A fleet management company will supply customers with a reporting portal. Fleet managers can use the portal to see how many fines were incurred each month and which of their drivers are receiving these fines. The portal will be built around the AARTO system and the CPA system (outgoing system). Monthly reporting will show which drivers have incurred fines, what the infringement was, and how many fines they have against them; meaning the portal will benefit fleet managers whether they are working with the old system or the new. The portal allows fleet managers to continually check the progress of fines, examine data and take preventative action against erring drivers.

Below is a table illustration of how demerits will be allocated:

#### Licences and Other

Infringement	Fine Amount	Demerit Points
Driving an unregistered vehicle	R500.00	1
Driving an unlicensed vehicle	R500.00	1
Driving a vehicle with licence plate not visible	R500.00	1
Driving without a driving license	R1250.00	4
Driving without a seat belt	R250.00	0
Driving under the influence of intoxicating substance	Determined by court	6
Driving while holding and using a cell phone	R500.00	1

#### Failing to stop

Infringement	Fine Amount	Demerit Points
Skipping a stop sign (Light vehicles)	R500.00	1
Skipping a stop sign (Buses, taxis and Trucks)	R750.00	2
Skipping a red light (Light vehicles)	R500.00	1
Skipping a red light (Buses, taxis and trucks)	R750.00	2
Failing to yield to a pedestrian	R500.00	1

#### Speeding

Infringement	Fine Amount	Demerit Points
81-85km/h in a 60km/h zone	R750.00	2
100km/h+ in a 60km/h zone	Determined by court	6
106-110km/h in an 80km/h zone	R1000.00	3



120km/h+ in an 80km/h zone	Determined by court	6
121-125km/h in a 100km/h zone	R750.00	2
131-135km/h in a 100km/h zone	R1250.00	4
140km/h + in a 100km/h zone	Determined by court	6
131-135km/h in a 120km/h zone	R250.00	0
141-145km/h in a 120km/h zone	R750.00	2
151-155km/h in a 120km/h zone	R1250.00	4
160km/h+ in a 120km/h zone	Determined by court	6

### Overtaking and Overloading

Infringement	Fine Amount	Demerit Points
Overtaking across barrier line (Light vehicles)	R500.00	1
Overtaking across barrier line (Buses, taxis and trucks)	R750.00	2
Overloading a vehicle with max 56,000kg combination mass by 12-13.99%	R1500.00	5

Source: Road Traffic Infringement Agency (RTIA)

All rights reserved. The information contained in this document is confidential and has been prepared by EQSTRA FLEET CONSULTING solely for information purposes to our strategic clients; it is not to be relied upon by any third party without our prior written consent.

This report, whilst based on the most realistic information and proven statistical methodologies available to us at publication and is intended to provide general information. It is not an exhaustive treatment of the subjects raised. Accordingly, it should not be relied on to address specific situations or circumstances and is not a substitute for accounting, tax, legal, or other professional advice.

Before making any decision or taking or refraining from any action which might affect your finances or business affairs, or those of your employees, you should consult a qualified professional adviser to validate.

EQSTRA Fleet Consulting Email address: info@eqstrafleet.co.za 12 Corobrik Road, Meadowdale, Johannesburg, South Africa

