



Summary

The

Administrative

Adjudication of

Road Traffic

Offences Act

46 of 1998





Traffic offences in terms of The Administrative Adjudication of Road Traffic Offences Act 46 of 1998

Traffic Infringement / Offence

on or after

1 July 2021

Infringement Notice Issued & served upon driver

Either

Issued and served at time of violation on driver at roadside
Issued and served after the fact, electronically or by post

AARTO Act

Within

32

days after service infringement notice

Respond to Infringement Notice → Either →

1. Pay Penalty with 50% discount
2. Make representations to Agency (where minor offence)
3. Make instalment payment arrangements
4. Nominate another as driving or being in control of vehicle at time infringement / offence

Fail / Refuse respond to Infringement Notice

Enforcement Order

Issued

Effect

- Demerit points applied against individual drivers license; operator card or vehicle license disk
- Electronic block of licensing transactions on eNatTIS – no drivers license, professional driving permit or vehicle license disk will be issued

Compliance only through Payment:

32

days after service Enforcement notice

No revocation after 32 days

1. Full penalty
2. R100 Infringement Penalty Fee
3. R100 Administrative fee for issuing Courtesy Notice
4. R100 Administrative fee for issuing Enforcement Order

Apply for revocation Enforcement Order

Within

Courtesy Notice

Issued

Within

32

days after service Courtesy notice

Fail / Refuse: Respond to Infringement Notice

1. Pay R100 administrative fee , R100 Infringement Penalty Fee and full penalty amount
2. Make presentations on liability

However

- 50% discount forfeited
- No option to pay penalty by instalment arrangements
- Actual driver may not be identified and nominated – demerits applied against registered owner





Full Title	The Administrative Adjudication of Road Traffic Offences Act 46 of 1998 ¹
Act No. & Year	46 of 1998
Status	Effective 1 July 2021
Short title	The Administrative Adjudication of Road Traffic Offences Act
Referred to	AARTO

Purpose : To promote road traffic quality by providing for 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, and implement a points demerit system; to provide for the establishment of an agency to administer the scheme; to provide for the establishment of a board to represent the agency; and to provide for matters connected therewith.

Objects of Act: The AARTO Act seeks to decriminalise traffic offences by not only encouraging compliance with road traffic laws and thereby promoting road safety but to additionally encourage the payment of penalties imposed. The Act seeks to provide an effective and expeditious procedure to deal with the adjudication of traffic offences, in such a manner as to alleviate the burden on courts trying traffic offences by the establishment of a demerit system to penalise road users for traffic offences or for rewarding law abiding road users by the reduction of demerits where an offence or infringement is not committed within a specified period of time, which as at June 2021 was prescribed as 3 (Three) months. Additionally the Act seeks to establish a Road Traffic Infringement Agency to support law enforcement and judicial authorities in the administrative adjudication process of traffic offences and strengthen the relation and cooperation between prosecuting and law enforcement officers by establishing a board to govern the Road Traffic Infringement Agency.

Summary Provisions

Section 1 provides for the definitions and interpretation of the Act

Section 2 provides for the objects of the Act (see above)

Section 3 provides for the establishment of the Road Traffic Infringement Agency (herein after referred to as the Agency), with Section 4 setting out the objects and functions of the said Agency. The Agency is responsible, for amongst other things, the administration of procedures that discourage road traffic infringements and which support the adjudication of such infringements by enforcing penalties that have be imposed on individuals for contravening traffic laws. The Agency is also tasked with providing specialised prosecution support services and in undertaking community education and awareness to ensure individuals of the public are informed as to their rights and options provided in terms of the

¹ (AARTO , 2021)





Act. Here, note should specifically be taken of Section 5, which authorises the said Agency to sub delegate their powers and functions by subcontracting with any other agency or person(s), subject to business plan approval by the Road Traffic Infringement Agency Board .

Section 6 provides for the establishment of the Road Traffic Infringement Agency Board, (herein after referred to as the Board) who is charged with representing and controlling the Agency. Section 7 provides for the functions of the Board, which include but are not limited to, monitoring the effective and efficient functioning and operating of the Agency, monitoring the success of the Agency, advising on means by which the Agency can improve their functions and advise on institutional, logistical and technical support that the Agency can provide to assist in the prosecution and adjudication of road traffic offences . Section 8 provides for the appointment of a registrar, elected by members of the Board, with section 9 providing for the appointment of deputy registrars, Section 10 for the appointment of representation officers, Section 11 for the appointment and remuneration of administrative staff of the Agency and Section 12 for the appointment of sheriffs, to ensure the proper performance and functioning of the Agency.

Section 13 provides for the financing of the Agency from: fees paid in terms of the Act, collections due to the Agency in terms of penalties imposed, money provided by Parliament, received from donations or any other source. Section 14 provides for the bookkeeping, auditing and reporting of the Agency affairs, business, transactions and its financial position, with Section 15 providing for the banking and depositing of monies received by the Agency and from which payment may be made on behalf of the Agency.

Section 16 provides for the limited liability of the Agency and its employees in respect of any act undertaken in good faith in terms of the Act itself.

Section 17 to Section 23 provides for the adjudication process of road traffic infringements. Section 17 sets out provisions relating to the infringement notice issued upon the occurrence of a traffic infringement or offence, with Section 18 providing for representations that can be made by individuals in defence of an alleged infringement or offence. While Section 19 provides for the issuing and posting of a courtesy letter upon the failure of an individual to act or respond to the infringement letter.

The infringement notice must specify the name, residential and postal address of the individual infringer, setting out particulars of the infringement and the amount payable as penalty in respect of the infringement, while additionally identifying the issuing authority to which payment should be made and place where penalty can be paid. The notice should also provide for the prescribed discount of 50% should penalty be paid before the lapse of 28 days after service of infringement notice and advise the individual that their demerit points may be ascertained from the national contraventions register, available at any issuing authority, registering authority or driving licence testing centre. The notice should additionally advise that the individual may proceed in any one of five ways. That is to either pay the





penalty, as reduced by application of the prescribed discount or in the case of minor infringements, make representations to the Agency, an option not available where a major infringement has occurred. Or make payment arrangements with the Agency for payment of the penalty by way of instalments, or elect to be tried in court or, lastly, provide sufficient information (to the Agency's satisfaction) that shows that they were not the driver of the motor vehicle at the time of the infringement. In the latter case, the name, identification, residential and postal address of the individual driver or person who was allegedly in control of the vehicle at time of the infringement must be provided to the Agency.

Should an individual not comply or not respond to the infringement notice, a courtesy letter shall be issued where after the individual may become liable to pay both the prescribed penalty and prescribed administrative fee for the issuing of the courtesy letter.

As at June 2021, the prescribed administrative fee was set at R100 (One Hundred Rands).

Section 20 provides for the enforcement of an order upon failure by an individual to act and/or comply with an infringement letter, courtesy letter, or request to appear in court and provides for the recording of demerit points in the National Contravention Register. Whereas Section 21 provides for the issuing of a warrant for seizing and selling of property to cover any penalties or fees that may be due, for the seizing of licences or driving permits, for the revoking of a licence disk or operator card and for immobilising the motor vehicle of an individual.

Section 22 and Section 23 provides for the application of the Criminal Procedure Act (51 of 1977). Section 22 provides for the issuing of a summons in terms of the Criminal Procedure Act and for the cancellation of the infringement notice where either the individual charged with the traffic infringement or offence has elected to be tried in Court or the execution of the warrant issued in terms of section 21(1) yields no property to be seized and sold. It should be noted that once summons has been issued in terms of the Criminal Procedure Act, the Criminal Procedure Act shall apply despite of and irrespective of the provisions of AARTO. Similarly, Section 23 provides where the same set of facts give rise to an infringement and offence, the Criminal Procedure Act will apply despite the AARTO Act.

Section 24 – 29 provides for the demerit system. Section 24 provides that where a person has committed an offence or infringement, the number of demerit points, as prescribed under section 29(c), will be imposed against their name on the National Contravention Register, with demerit points being allocated on the date that either, the penalty or fee imposed for the infringement is paid, or, on date the enforcement order is issued or on the date the infringer is convicted. Where a person should commit two or more infringements or two or more offences by one single act, demerit points will only be recorded in respect of one of the infringements or offences, however, irrespective of which of the two infringements or offences an individual is charged with, demerit points will be awarded in respect of the infringement or offence which carries the greatest number of demerit points, with the demerit points of drivers and operators being recorded separately where they arise from same set of facts. A





printout of the national contraventions register certified by the Agency is by itself prima facie evidence of the demerit points incurred by an individual, however provision is made for the appeal or review of the demerit points recorded by the Court, with demerit points being suspended should an appeal against a conviction by the Court be appealed until the said appeal is rejected and/or abandoned, in which case the demerit points will be recorded as prescribed.

Section 25 prohibits the driving or operating of a motor vehicle where the cumulative effect of all demerits recorded against an individual should exceed the number prescribed by section 29(d), with the disqualification period being determined by the number of demerited points multiplied by three or any such number as prescribed by the minister. As at June 2021, the number prescribed by section 29(d) which will prohibit an individual from driving or operating a motor vehicle is prescribed as 15 (Fifteen), consequently where an individual should exceed 15 demerit points, they will be prohibited from driving or operating a vehicle. Where a person is prohibited from driving or operating a motor vehicle, they are required in terms of this section to hand over any driver licence or permit to the issuing officer and may during the prohibition period not apply for a new driver's licence, driving permit or operator card. Any individual that disregards their disqualification will be guilty of a fine and liable on conviction to a fine or imprisonment not exceeding one year or both.

Section 27 provides for the cancellation of a driver's licence, driving permit or operator card where an individual should be disqualified from driving or operating a motor vehicle as prescribed in section 25 three or more times. In such a case, the issuing authority shall upon receipt of the driver's licence, driving permit or operator card, destroy same and may an individual only upon the expiry of the disqualification period reapply and be issued with a new driver's licence, driving permit or operator card as per applicable traffic laws.

Where an individual has incurred more than the prescribed number of demerit points authorising him or her to drive or operate a motor vehicle, a notice must be sent as prescribed by Section 26. The notice is required to notify the individual of the number of demerit points incurred by him or her as well as set out the offence or infringements for which they have been incurred. Additionally, the notice should inform the individual of their disqualification, specifying length and expiry date of the disqualification period while also clearly advising the individual of their responsibility of handing over their licence or driving permit, their inability to drive or operate a motor vehicle during this time and informing them that their failure to comply with same would constitute a criminal offence, for which a fine or imprisonment or both could be imposed. Furthermore, the notice should also draw the individual's attention to the fact that should they be disqualified from driving or operating a motor vehicle three times, same would result in the demolition of their licence or permit and reapplication would need to be made in terms of Traffic laws.

Section 28 provides for reduction of demerit points by one point for every three months for which no demerit is recorded for any infringement or offence. However, same shall not apply during any time





where a Court should find that the Court process was deliberately delayed for the sole purpose of obtaining a reduction in points.

Section 29 provides for the categorisation of offences, infringements and demerit points providing that the minister, in collaboration with Minister of Justice and MEC for each province may prescribe offences and categorise them as either minor or major offences or other offences, prescribe the penalty that will be imposed for each infringement, prescribe the demerit points that will be incurred for each offence or infringement and prescribe the total number of demerit points which if exceeded would prohibit an individual from driving or operating a motor vehicle,

While Sections 30 to Section 36, provide for general provisions of the Act, including: the service of documents as provided in Section 30 which requires service personally or by registered mail with date of receipt being recorded as date an individual signed for receipt of document.

Section 31 provides for administration of penalties in terms of Chapter 3 of the AARTO Act despite any other law and specifically provides that the laws on prescription do not apply to penalties imposed in terms of AARTO.

Section 32 provides for the apportionment of penalties paid by the Agency to the issuing authority under whose jurisdiction the infringement notice was issued.

Section 33 provides for a person to have access, subject to payment of a prescribed fee, to his or her demerit point listings or for an employer to obtain such listings of an employee, employed for purposes of driving a motor vehicle, upon such employees written authorisation.

Section 34 provides for the regulations that may be passed by the Minister in terms of the Act and Section 35 provides for transitional provisions, stating that previous road traffic offences for which notices have been issued in terms of the Criminal Procedure Act shall proceed and be finalised under same however, no new notices may be issued as from the commencement date of AARTO under the section 56 and 341 of the Criminal Procedure Act, which should be proceeded with in terms of AARTO with Chapter IV, which sets out the demerit system , only being applicable to offences committed on or after the commencement date.

As at June 2021 the AARTO commencement date was set as 1 July 2021²

² AARTO . (2021, June). *AARTO* . Retrieved from AARTO : <https://www.aarto.co.za/aarto-amendment-bill/amended-aarto-scheme/>

