

Strict new driving rules for South Africa on shaky ground



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The future of the Administrative Adjudication of Road Traffic Offences (AARTO) – from a Constitutional point of view – awaits the consideration and judgement from the Constitutional Court, where the matter was heard in November 2022. The Court reserved judgement, and there are indications that the judgement should be handed down before the end of May 2023.

Whilst this is awaited, the Road Traffic Infringement Authority (RTIA) has been at pains to make it clear that it will continue with the preparatory tasks required for a national roll-out – looking at full implementation across the country within three years of the initial roll-out phases.

The Road Freight Association (RFA) has interacted with both the Department of Transport (DoT) and the Road Traffic Infringement Agency (RTIA) since the first publication of the draft AARTO Act and the resulting regulations, dating back to 1997. We have placed on record that, despite well- substantiated motivation for serious adjustment to both the manner of implementation of a demerit system, as well as the ability for law-abiding citizens to access and manage their proposed demerit points, the Department has



Image courtesy of Gabriel Hohol, Pexels

not amended the regulations in any way to ensure that the compliance costs do not become a serious burden on law-abiding citizens – whether fleet operators or individuals.

In addition, the RFA has noted that the issuing of points to vehicles is unfounded; will have a serious impact on the vehicle supply sector (both new and used); the sustainability of fleets and individuals with regard to personal transport needs (there is no reliable, efficient, safe and affordable public transport system available in the country); and not have the effective and sustainable behavioural change required to improve road traffic legislative compliance.

The article is factually incorrect. The source of the article is unknown to the RFA and this may be bad reporting, incorrect interpretation or – indeed – incorrect statement of the facts.

Drivers will commence with ZERO points (not 15 as stated in the article) and will 'earn' demerit points as and when applicable through the AARTO process, where demerit points are allocated. Currently the threshold is a maximum of 12 points (the proposed amendment recommends 15 points) whereupon – from point 13 – the various sanctions of suspension or cancellation of a driving licence will occur, as defined in the AARTO legislation.

There are numerous challenges: the scourge of corruption and poor traffic policing have not been addressed nor resolved, neither has the process to ensure that manipulation of the system through



Image: Taras Makarenko, Pexels

targeting of certain fleet operators (or individuals) can be prevented.

In addition, the proposed Tribunal System has a number of flaws that leave prospective procedural queries hanging, and the whole rehabilitation programme has more queries than answers, there are numerous charges relating to taxis that carry no demerit points and the addition

of extra levies to cover administration processes point to revenue generation.

The process of addressing the comments received from the last round of public comment has not been completed – a final proposal relating to the proposed regulations was not completed before the current impasse was created through the legal process (which now awaits the decision from the Constitutional Court).

The RFA trusts that, once the Constitutional Court has handed down its judgement (either way), that the Department of Transport and the RTIA will carefully consider and apply the comments from all parties that submitted comment and take special note of the comments from the Association

which cover the impact this legislation will have on fleet operators.

In its last iteration/form, the RFA is of the opinion that AARTO will not be implementable without the comments and proposals it tabled in 2019. The Association is aware that the RTIA has taken many of these into consideration, and that another draft of the proposed regulations is ready for public circulation – pending the judgement from the Constitutional Court.

It is crucial that a sustainable, fair, reliable and manageable system is introduced to change and improve road user behaviour, and that this does not become a huge financial millstone around the necks of compliant fleets (or individuals). **SR**



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