



GOVERNMENT GAZETTE

OF THE

REPUBLIC OF NAMIBIA

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GOVERNMENT NOTICE

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Government Notice

OFFICE OF THE PRIME MINISTER

No. 280

2008

PROMULGATION OF ACT OF PARLIAMENT

The following Act which has been passed by the Parliament and signed by the President in terms of the Namibian Constitution is hereby published in terms of Article 56 of that Constitution and Government Notice No. 257 of 2008 is hereby withdrawn.

No. 6 of 2008: Road Traffic and Transport Amendment Act, 2008.

Act No. 6, 2008 ROAD TRAFFIC AND TRANSPORT AMENDMENT ACT, 2008**EXPLANATORY NOTE:**

_____ Words underlined with a solid line indicate insertions in existing provisions.

[] Words in bold type in square brackets indicate omissions from existing provisions.

ACT

To amend the Road Traffic and Transport Act, 1999, to provide that certain appointments are not invalid due to the failure to issue a certificate of appointment; to further regulate the renewal procedure of and circumstances for the replacement of driving licences and for matters incidental thereto.

(Signed by the President on 21 November 2008)

BE IT ENACTED by the Parliament of the Republic of Namibia as follows:

Amendment of section 11 of Act 22 of 1999

1. Section 11 of the Road Traffic and Transport Act, 1999 (hereinafter referred to as the Principal Act) is amended by the insertion after subsection (9) of the following subsection:

- “(10) Notwithstanding the provisions of subsections (8 and (9) -
- (a) no appointment made by a person or authority in terms of this section is invalid only due to the fact that the person or authority concerned did not issue a certificate of appointment as contemplated in subsection (8);
- (b) no function performed by an authorised officer under this Act, is invalid only due to the fact that the authorised officer can not produce a certificate of appointment when requested to do so by a person in relation to whom such function has been performed, due to the fact that such certificate was not issued by the person or authority as contemplated in subsection (8).”.

Amendment of section 37 of Act 22 of 1999

2. Section 37 of the Principal Act is amended by -

(a) the substitution for subsection (7) of the following subsection:

“(7) The holder of a driving licence may apply to a driving testing centre for the renewal of such licence prior to the expiry of the period of validity thereof or if a period of grace is prescribed as contemplated in subsection (11) prior to the expiry of that period.”;

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- (b) the insertion of the following subsections after subsection (10):

“(11) The Minister may prescribe a period of grace within which a person whose licence has expired may apply for the renewal thereof.

(12) The Minister may prescribe different periods for different classes of licences or may prescribe different periods depending on the circumstances relating to the failure of the person to apply before the date of expiry: Provided that the regulations in question may provide that no such period is applicable to all or some class of licences or under such circumstances as may be prescribed.

(13) A period prescribed in terms of subsection (11) may also relate to licences that have expired before the commencement of the Road Traffic and Transport Amendment Act, 2008.

(14) An expired driving licence does not authorise the holder thereof to drive a motor vehicle on a public road during the period of grace referred to in subsection (7).”.

Amendment of section 40 of Act 22 of 1999

3. Section 40 of the Principal Act is amended by -

- (a) the substitution for subsection (2) of the following subsection:

“(2) With effect from a date to be fixed by the Minister by notice in the *Gazette*, but not later than the date [**contemplated in subsection (5)**] prescribed by subsection (2A), any holder of a driving licence referred to in subsection (1) may apply to a driving testing centre for the replacement of such licence by a driving licence issued under this Act.”; and

- (b) the insertion after subsection (2) of the following subsection:

“(2A) The date before which the holder of a licence referred to in subsection (1) must apply for the replacement thereof as contemplated in subsection (2) shall -

- (a) in the case of a person other than a person referred to in paragraph (b), be the date determined in terms of subsection (5);
- (b) in the case of any person who was unable to apply for such a driving licence due to him or her having been -
- (i) admitted to any medical facility or detained in any state institution in terms of an order issued or sentence imposed by a court of law;
- (ii) posted by the Government on a foreign mission or assignment;

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- (iii) employed on a contract outside the borders of Namibia; or
- (iv) a full-time student at a foreign academic institution,
be a date six months after the latter of -
 - (aa) the date of such discharge, release or return; or
 - (bb) the commencement of the Road Traffic and Transport Amendment Act, 2008.

Amendment of section 87 of Act 22 of 1999

4. The principal Act is amended by the substitution for section 87 of the following section:

“Presumption in regard to mass ascertained by means of weighing device

87. (1) Notwithstanding any provision in any other law, where in any prosecution for an alleged contravention of this Act, evidence to prove such contravention is given of any mass as ascertained by means of a weighing device, such mass shall be deemed to be correct in the absence of any evidence to the contrary, provided there is produced in respect of such weighing device a certificate [purporting to have been issued by an inspector as defined in section 1 of the Trade Metrology Act, 1973 (Act No. 77 of 1973) indicating that the weighing device was inspected for purposes of verification or testing in terms of that Act on a date being not more than one year before the date of the alleged contravention and that it was found to be correct in accordance with the requirements of that Act] stating that the person issuing the certificate is qualified as prescribed and that he or she verified as prescribed that the device operates correctly and stating the date on which such verification has been done which date may not be earlier than one year before the date of the alleged contravention.

(2) The person issuing the certificate referred to in subsection (1) does not require any appointment as contemplated in the Trade Metrology Act, 1973 (Act No. 77 of 1973) or any other law.”.

Short title

5. This Act is called the Road Traffic and Transport Amendment Act, 2008.
