



NATIONAL ECONOMIC DEVELOPMENT AND LABOUR COUNCIL

NEDLAC REPORT ON THE ON THE ADMINISTRATIVE ADJUDICATION OF ROAD TRAFFIC OFFENCES REGULATIONS, 2020

1. BACKGROUND

- 1.1. In September 2019, following the promulgation of the Amendment Act No. 46 of 1998, the National Department of Transport (NDoT), commenced with the process of developing the regulations to give effect to the Act. After the closing date during the 2019 period, the Department was faced with mounting extensions requests from key stakeholders who had missed the submission deadline and could not be ignored.
- 1.2. It was against this background that the National Department of Transport (NDoT) took a decision to re-publish the Administrative Adjudication of Road Traffic Offences (AARTO) Regulations, 2008. Due to unforeseen circumstances, the 2019 publication did not include Schedule 3 of the Regulations which addresses issues of demerit points and penalty units etc. As a result of this omission, the comments received from the public contained conflicting statements and incorrect information.
- 1.3. In addressing the above challenges and in order to have a meaningful consultation, in October 2020, Government re-published the AARTO Regulations for the second round of public comments and afforded public members sixty (60) days to submit comments.
- 1.4. On 26 November 2020, NDoT made presentation on the AARTO Regulations as gazetted for engagement at the Development Chamber. Social partners agreed to the establishment of a six-a-side task team to engage on the content of the Regulations and to develop a Nedlac Report, with areas of agreement, areas of disagreement, and recommendations arising from the engagement.
- 1.5. It was subsequently agreed, that the task team's work will commence after Government had incorporated the public comments and formally tabled the revised AARTO Regulations for engagement at Nedlac.

2. OBJECTS OF THE ADMINISTRATIVE ADJUDICATION OF ROAD TRAFFIC OFFENCES REGULATIONS

2.1. The AARTO Regulations aims to:

2.1.1. Give effect to the Administrative of Road Traffic Offences Act, No. 46 of 1998; Outline a detailed process of payment of penalties imposed for infringements; provide for a detailed procedure for the effective and expeditious adjudication of infringements with the purpose to encourage compliance with the national and provincial laws and to alleviate the burden on the courts of trying offenders for infringements; and

2.1.2. Give details on the process of penalizing drivers and operators who are guilty of infringements or offences through the imposition of demerit points leading to the suspension and cancellation of driving licences, professional driving permits or operator cards.

3. PROCESS AT NEDLAC

3.1. The Task Team's process of engagement commenced on 10 March 2021, as Government received over 9 000 public comments by the closing date (02 December 2020). It was at this meeting where Government formally tabled the AARTO Regulations incorporating public comments for engagements at Nedlac.

3.2. It was also noted that Government had planned the implementation of the regulations to commence by 01 July 2021. The Task Team agreed to engage on the regulations on expedited basis in order for Government to realize its set target.

3.3. On inception of the engagements, the task team noted that the development of the AARTO Regulations falls within the domain of the Minister of Transport as outlined in section 34 of the AARTO Act. An agreement was reached that Nedlac will be provided with an opportunity to engage on the content of the AARTO Regulations, and to develop a Nedlac Report with recommendations for consideration by Government, prior to the full implementation of the AARTO system.

3.4. The Task Team agreed on possible deadlock resolution mechanisms to be utilised should a deadlock arise during the engagements. These included the escalation mechanism to Chamber Convenors and convening of bilateral meetings to ensure that the task team concluded its work.

3.5. Furthermore, the task team agreed to establish a one-a-side committee to consider constituency inputs and ensure that positions of all Constituencies have been adequately captured prior to submitting the Nedlac Report to the task team for approval.

3.6. The task team encountered a deadlock, whereby there were significant issues of concern raised by social partners, which could not be agreed by the task team prior to 01 July 2021, which was set to be the implementation date of the regulations by the Minister of Transport. Various escalation mechanisms were initiated by the task team mid-June. Furthermore, an urgent meeting was convened on 14 July 2021 with the view of resolving the deadlock and address Nedlac's concerns that the implementation of AARTO system had commenced while the Nedlac process of engagement was still underway. The meeting consisted of the Nedlac Executive Director, Head of Programme Operations, lead members from each Constituencies and the Nedlac Secretariat. At this meeting, it was noted that the implementation of the AARTO Regulations was planned to be rolled-out in a phased approach. In this regard, Nedlac would be given an opportunity to finalise its work and submit a final report to Government for further consideration in implementing the remaining phases of the system. It was therefore agreed that:

- 3.6.1. Nedlac social partners would convene bilateral meetings with Government in order to address the identified issues of disagreement.
- 3.6.2. The work of the task team should be resuscitated with a view to conclude the process of engagement.
- 3.6.3. Consequential issues emanating from the principal Act may not be easily resolved through the regulations. These are subordinate legislation providing detailed process to give effect to the provisions of the Act;
- 3.6.4. Socio-Economic Impact Assessment System (SEIAs) report was outdated and, Government would have to undertake a new study during the review process of the AARTO Act; and
- 3.6.5. Government should consider its infrastructure to ensure that the AARTO system could be effectively institutionalised and implemented successfully.

3.7. The Nedlac Report provides a summary of the key principle agreements and detailed areas of agreement, areas of disagreement, and recommendations.

3.8. The AARTO Regulations task team met on the following dates:

- 3.8.1. 10 March 2021;
- 3.8.2. 07 April 2021;
- 3.8.3. 12 May 2021;
- 3.8.4. 26 May 2021
- 3.8.5. 09 June 2021;
- 3.8.6. 30 June 2021;
- 3.8.7. 14 July 2021 (crisis meeting to unblock the impasse in the task team)
- 3.8.8. 17 September 2021

3.9. The following documents were submitted:

Consolidated Matrix reflecting outcomes of discussions	Annexure 2
Presentation from Government on the AARTO Regulations	Annexure 3
Revised AARTO Regulations incorporating public input as submitted to the task team at the meeting of 10 March 2021	Annexure 4

4. PURPOSE FOR CONVENING THE TASK TEAM ON ADMINISTRATIVE ADJUDICATION OF ROAD TRAFFIC OFFENCES REGULATIONS

- 4.1. To consider the AARTO Regulations that incorporates public submissions tabled by Government, consider inputs from social partners, engage on the proposed provisions and make recommendations.
- 4.2. To develop a Nedlac Report with areas of agreements and disagreements for submission to the Minister of Transport, Minister of Employment and Labour and the Chairperson on the Portfolio Committee on Transport in terms of the Nedlac Act.

5. AREAS OF AGREEMENT

5.1. Social partners agreed in principle on the following areas:

5.1.1. Successful nomination of the driver

5.1.1.1. To address successful nomination of a driver, government, through the Road Traffic Infringement Agency (RTIA), will provide the Electronic Interface System that authorizes users to validate driver's information. The two different types of requirements are outlined in detail under regulation 5 "Nominating Driver or Person in control" of this report. Additionally, it was agreed that foreign drivers must have Traffic Register Certificate Numbers which are linked to the electronic National Traffic Information System (eNaTIS).

5.1.2. Electronic Interface System

5.1.2.1. Government will introduce the services of electronic interface system. In addition, RTIA must be fully capacitated inter alia to validate the eligibility and statuses of Drivers Licences, fine notification, nominations, representations and demerit point.

5.1.3. **Access to Integrated Real Time System via electronic interface**

5.1.3.1. Services and access to integrated real time system would be enabled through the automated electronic interface. The understanding is that government will introduce and provide support to fully implement the electronic interface that will generate real time information for the users.

5.1.4. **Demerit points**

5.1.4.1. Government and RTIA will undertake further AARTO legislative amendments to ensure seamless implementation of the Demerit Points for locals and foreigners.

5.1.4.2. The Department of Transport will approach National Treasury for additional funding to effectively recapacitate the operations of the RTIA as its operation. The revenue performance for RTIA was adversely impacted by the level 5 lockdown since the entire social and economic activities came to a standstill.

5.1.4.3. The application of the demerit points was not supported. Government must be fully capacitated, must have adequate infrastructure to support the provision. The task team further agreed to resuscitate the engagements relating to demerit points during the proposed review process of the legislative framework.

5.2. Subsequent to the line by line engagement. The Nedlac social partners further agreed on the following:

5.3. **CHAPTER 1: Regulation 1 - Definitions**

5.3.1. AARTO does not make the owner responsible for the driver behaviour. Instead, it makes the owner responsible to control the use of the vehicle by obtaining driver information. In terms of AARTO, the owner is also held responsible for the roadworthiness of vehicles owned by such owner.

5.4. The following definitions were agreed with no amendment:

5.4.1. **“AARTO bank account”**

5.4.2. **“AARTO notifications”**

5.4.3. **“Act”** that the Regulations apply to anybody using the public road with **drivers’** licences. Infringements were in terms of the AARTO Act and that offences were in terms of the Criminal Procedure Act (CPA).

5.4.4. **“Appeal”** Government to make available the electronic interface

5.4.5. **“Appellant”**

5.4.6. **“Applicant”**

5.4.7. **“Bank”**

5.4.8. **“Designated official”**

- 5.4.9. **“Infrastructure number”**
- 5.4.10. **“National Road Traffic Act”**
- 5.4.11. **“National Road Traffic Regulations”**
- 5.4.12. **“Personal Service”**
- 5.4.13. **“Power of attorney”**
- 5.4.14. **“Postage”**
- 5.4.15. **“Receiving entity”**
- 5.4.16. **“Review”**
- 5.4.17. **“SAPS force number”**

5.5. The definitions were rephrased to read as follows:

- 5.5.1. **“Prescribed/designated Documents”** means driving licence card, professional driving permit, motor vehicle licence disc, operator card or any other permit, card or licence issue in terms of road traffic legislation and transport legislation.
- 5.5.2. **“Form”** was agreed with the understanding that Government will provide for various methods with the view to accommodate all users and those with no access to electronic means. Where necessary, Government will provide for electronic interface.

5.6. **CHAPTER 2: Regulation 2 – Infringement notice**

- 5.6.1. Where applicable through the regulations, it was agreed that Government will provide for electronic interface.
- 5.6.2. 2(1) regulation was agreed with the understanding that the 60-day period is a maximum period within which notices may be served and, in another instances, service may occur within shorter period.
- 5.6.3. 2(3) was agreed, the automated/electronic interface will assist in addressing the offences committed in terms of the Criminal Procedure Act (CPA).
- 5.6.4. 2(4) was agreed, real time system will be made available.
- 5.6.5. 2(5) was agreed, issues automated/electronic interface will also apply.
- 5.6.6. 2(6) was agreed, that the juristic person will not be held responsible for infringements committed by the driver when nominations are done within the prescribed time frames. The provision must be read together with section 17(5) of the Principal Act.
- 5.6.7. 2(6)(a) was agreed and was rephrased to read “infringement, such juristic person may **[must]** be issued and served with an infringement notice on AARTO 03a form as shown in Schedule 1 in accordance with regulation 33 (4); and”
- 5.6.8. 2(6)(b) was agreed with no amendment as outlined in the Government position.
- 5.6.9. 2(7) was agreed and that Government must ensure to provide for mandatory (“must”) provision and optional (“may”) provision.
- 5.6.10. 2(7)(a)(i)(ii)(iii)(iv)(v), (b)(i)(ii)(iii), (c)(i)(ii)(iii)(iv)(v)(vi), (d)(i)(ii)(iii)(iv), (e)(i)(ii), (f)(iii) was agreed with no amendment.

5.7. Regulation 3 – Courtesy Letter

- 5.7.1. Regulation was agreed with the understanding that Government would consider setting maximum timeframe as the principal Act provided no more than 45 days for compliance and for Government to issue courtesy letter for non-compliance. The automated electronic interface system was key in dealing with compliance matters.
- 5.7.2. Government stated that the circumstances under which a courtesy letter may be issued, as well as the applicable time frame are already prescribed in the Act. However, it acceded to the above-mentioned point raised by social partners.

5.8. Regulation 4 – Enforcement Order

- 5.8.1. 4(1) was agreed that during the next round of engagements on the review process, Government would address issues relating to application of juristic persons where the owner has no control of the vehicle and the enforcement orders must also apply to foreign drivers as users of the public road.
- 5.8.2. Government explained:
 - 5.8.2.1. Enforcement orders were issued to deter bad driver behaviour and not to cause detriment to specific businesses. The Act is applicable to all road users.
 - 5.8.2.2. Licence discs would be blocked if a motor vehicle is unlicensed or if there is a warrant. In instances where an infringement occurred while the car was under the nominated driver, the driver's licence of that relevant driver would be blocked.
 - 5.8.2.3. However, if a nomination was successful, the driver's licence would be blocked and the fleet owner would be cleared.
- 5.8.3. It was stated that Government must also consider that the Act is not applicable to all road users, it is only applicable to vehicles registered in South Africa. Apart from excluding other road users who are contributors to or victims of road danger (cyclists, pedestrians, runners) it critically does not attempt to include visiting vehicles (foreign plated). This is a massive incentive for road users to adopt illegal practice of owning and driving grey imports (used cars imported ostensibly for export to neighbouring countries) in South Africa.
- 5.8.4. 4(1)(a) – was agreed that the interface connectivity will be made available prior/ on implementation of the regulations, and that it must be made available countrywide.
- 5.8.5. 4(1)(b) was agreed subject to issues of real time system connectivity to be made available given the inefficiencies of the SAPO. A review was necessary

noting the provision of the principal act that section 26 of the Act requires that the infringer be notified of the points incurred through the registered mail.

- 5.8.6. 4(2) was agreed and that issues of real time system also apply on the section as well.
- 5.8.7. 4(2)(b)(i)(ii) was agreed and that issues of real time system also apply on the section as well.
- 5.8.8. 4(2)(b)(iv), 4(2)(c), and 4(3) was agreed as outlined in the Government position with no amendment.
- 5.8.9. 4(4)(a)(b)(i)(ii),4(5)(6) was agreed as outlined in the Government position with no amendment and that issues of real time system connectivity were also applicable on these sections.

5.9. **Regulation 5 - Nominating Driver or Person in control**

5.9.1. The entire regulation was agreed with the following emphasis:

- 5.9.1.1. The entire regulation with its sub regulations were agreed without amendment.
- 5.9.1.2. Social partners noted that all the related application forms including the consent forms as provided in regulation 7 were being amended.
- 5.9.1.3. It was further agreed that Government will provide support to relevant users in terms of accessing the interface system, as such, the issues of security risk in the system will also be considered.
- 5.9.1.4. Task team agreed to the following two types of requirements for successful nomination:
 - i) In terms of South African citizens drivers, nomination that will be done through electronic interface, the system will require only the ID number. It was further noted that the electronic interface will authorize users to validate information received in real time such as the driver's details, licence and the address etc.
 - ii) In terms of foreign national drivers, nomination that will be done through electronic interface, the system will require a copy of the ID or a copy of the passport, and a copy of the foreign driving licence of the person being nominated. Additionally, the system will the foreign driver being nominated must have Traffic Register Certificate Number.
 - iii) Nomination done by completing a form, this must be done by completing the form in terms of Regulation 7. Completion of the forms should also be done through the system. The

system should also allow for a copy of the passport and copy of the foreign driving licence of the person being nominated to be uploaded electronically.

5.9.1.5. It was further agreed that Government will provide support to ensure that all users have access to the interface system. As agreed above, all sections dealing with electronic interface are recorded as areas of agreement throughout the regulations.

5.9.1.6. It was also agreed that RTIA will provide written clarification on what constitute successful nomination, specifically relating to South African and foreign drivers.

5.10. Regulation 6 – Representations

5.10.1. 6(1) was agreed as outlined in the Government position with no amendment.

5.10.2. 6(2) was agreed that representation not done in accordance with the Regulations will not be processed. Government explained the process as follows:

5.10.2.1. Representation must be done by completing an AARTO 8 form and must be commissioned by the Commissioner of Oaths. The representation must be made in accordance with the Regulations. Such will be allowed for example when a wrong registration numbers were processed or where it can be proven that at the time of the infringement the vehicle was not in use. Government stated that it was still in a process to providing a much simpler process to redirect the infringement.

5.10.2.2. Government also stated that if users received the infringement notice, they would be considered to be infringers and are entitled to make the representation. The real time system may be a challenge as representation must be commissioned by the Commissioner of Oaths and sworn affidavit statement would be required. Alternatively, if agreed, an application can made where a sworn statement was submitted indicating that the vehicle on the system was the wrong vehicle. In this regard, the real time system can assist whereby the fleet owner will be able to remove wrong notices however, relevant the representation process would still apply.

5.10.2.3. 6(3)(4(a)(b) was agreed with no amendment.

5.11. Regulation 7 - Notification of result of representations

5.11.1. 7(1) was agreed and that electronic service is available to simplify service of notices. AARTO website to be used by businesses to view the outcome of the representation. If the infringer had an e-mail address, the outcome would be served by e-mail. It was noted that all the sub-regulations under this regulation had consequential amendments and were therefore agreed.

5.12. CHAPTER 3: Regulation 8 – Appointment of Members

5.12.1. 8(1) was agreed with no amendment.

5.12.2. 8(2) arising from the discussion of demerit points, task team recommended that Government should undertake a review on the AARTO Act. It also agreed to resuscitate the engagements relating to issues of demerit points during that round of engagements.

5.12.3. 8(3) the decisions made by the Tribunal members will be on basis of appeal documents submitted to them in writing. Therefore, hearings may only be called under extreme circumstances as outlined in the principal Act. The appeals will be dealt with by the tribunal in the stipulated timeframes.

5.13. Regulation 9 - Rules of the Tribunal

5.13.1. Regulation 9 was agreed, and that the rules will indeed be published in Government Gazette for public scrutiny.

5.14. Regulation 10 – Lodging of appeal and reviews

5.14.1. 10(1) was agreed and that regulation 13(7) clarifies that no courtesy letter and enforcement order may be issued, pending the decision of the Tribunal and that no demerit points may be allocated.

5.14.2. 10(2) was agreed with the view that an automated/electronic interface and connectivity was necessary to ensure that the appeal process was functioning efficiently for companies in the vehicle-based economy.

5.14.3. It was further noted that the provision emanates from section 4 of the Interpretation Act which provides that weekends and holidays may be included when calculating number of days prescribed.

5.15. Regulation 11 - Procedure

5.15.1. 11(1) was agreed and that application made to the tribunal may be submitted electronically and that the process to appeal should be outlined and be made transparent.

5.15.2. 11(2) was agreed that the appellant or applicant will be notified of the decision of the Tribunal.

5.15.3. 11(3) – (6) was agreed with no amendment.

5.15.4. 11(7) was agreed as the factors are already outlined under Regulation 11(7) (a)-(d) to be considered when deciding as to whether or not there exists grounds to call for a hearing.

5.15.5. 11(7)(a)-(d) was agreed with no amendment.

- 5.15.6. 11(8) was agreed, the infringers will be given notice of the hearing through electronic service.
- 5.15.7. 11(8)(a)(b)(c)(d) was agreed with no amendment.
- 5.15.8. 11(9) was agreed, the Chairperson is allowed discretion to consider feasibility of calling for hearings and will not invite a hearing where circumstances are not permissive.
- 5.15.9. 11(10) was agreed with no amendment.
- 5.15.10. 11(11) was agreed that the Tribunal will deal with the disbursements costs for witness. These would be covered in the Rules which will be published for scrutiny.

5.16. Regulation 12 – Condonation

- 5.1.16. The entire section was agreed with no amendment with the understanding that regulation 12(1), infringers will be notified of the result for condonation through electronic service as one of the serving methods. In addition, issues dealing with electronic interface will be taken as an area of agreement throughout the regulations.

5.17. Regulation 13 - Record of Proceedings and Decisions of Tribunal

- 5.17.1. 13(1)(2)(4)(5)(7)(6) (10) was agreed with no amendment.
- 5.17.2. 13(3) was agreed as it was linked with regulation 33 which deals with method of communications from infringers as well as the authority to other authorities.
- 5.17.3. 13(8) was agreed as it was linked to 13(10) which provides, that “pending the decision of the Magistrate’s Court, no courtesy letter or enforcement order may be issued to the infringer and no demerit points may be allocated to the infringer”.
- 5.17.4. 13(9) was agreed, applications will be directed to the Magistrates’ Courts to be dealt with in accordance with Promotion of Administrative Justice Act (PAJA) which bestows review jurisdiction to courts, including Magistrates Courts.
- 5.17.5. 13(11) was agreed, appeals to higher courts may be made if the decision by the Magistrate is viewed to be unsatisfactory.

5.18. CHAPTER 4: Regulation 14 - Penalties payable in terms of Infringements

- 5.18.1. 14(1)(2) was agreed with no amendment.

5.19. Regulation 15 – Discount

- 5.19.1. 15(1)(3)(a)(4) was agreed with no amendment.
- 5.19.2. 15(2) was agreed with the understanding that the infringer will be able to exercise elective options while the discount is still effective within the first 32 days of having been served with an infringement notice.
- 5.19.3. 15(3)(b) was agreed, and that discount will be available on the following conditions:
 - (a) Within 32 days after service of infringement notice

- (b) Within 32 days of receipt of a result for representation only if that representation was made within 32 days after service of an infringement notice.

5.19.4. 15(4) was agreed and that the provision of 15(2) will also apply in this sub regulation.

5.20. Regulation 17 - Penalties payable by Issuing Authorities and the Authority

5.20.1. Regulation was agreed with no amendment.

5.21. Regulation 21- Rehabilitation Programme

5.21.1. 21(1) Was agreed, the infringers are permitted to apply for the programme before cancellation of license in terms of Regulation 21(1).

5.21.2. 21(2) was agreed with no amendment.

5.21.3. 21(3) was agreed, rehabilitation programme becomes voluntarily for purpose of reduction of points and remains compulsory for habitual infringers.

5.21.4. 21(4)(a)- (c) agreed as these were consequential amendment.

5.21.5. 21(5) was agreed and that the electronic service is allowed in terms of the new section 30 of these regulations.

5.21.6. 21(5)(b) was agreed, venues for attendance will be allocated closer to residential areas of designated infringers.

5.21.7. 21(5)(c) to (e) was agreed with no amendment.

5.21.8. 21(6) was agreed with no amendment.

5.21.9. 21 (7) was agreed and other additional means of service are retained in the Act.

5.21.10. 21(8)(9)(a) was agreed with no amendment.

5.21.11. 21(9)(b) was agreed and that rehabilitations programmes may only be attended for purpose of reducing demerit points or reapplying for cancelled documents

5.21.12. 21(10)(a)(b) was agreed without amendment.

5.22. CHAPTER 6: Regulation 22 – Payment of penalty and fees

5.22.1. 22(1) was agreed with the proviso that an electronic interface will be introduced by Government. Government to ensure that electronic payment platforms are available for purposes of settling outstanding infringements.

5.22.2. 22(1)(i) to (iv) was agreed without amendment.

5.22.3. 22(2) was agreed with no amendment.

5.22.4. 22 (3) was agreed, notice number is provided for all notices issued and should be used as reference for payment.

5.22.5. 22 (4) (5) was agreed as a consequential amendment. Agreement applied in the introductory regulation 33 (4) also applies to these sub regulations.

5.22.6. 22(6) was agreed, authorities will be liable for penalties in terms of Regulation 17.

5.22.7. 22(7) was agreed without amendment.

5.23. Regulation 23 - Payment in instalments

- 5.23.1. 23(1)(2)(a) (3)(a)(b)(i)(ii)(iii), (5)(b)(c)(d) was agreed with no amendment.
- 5.23.2. 23 (4) was agreed and that the payment arrangements will be made per infringement, at a rate that is affordable to the infringer, for a period not exceeding 6 months.
- 5.23.3. 23(5) was agreed without amendment.
- 5.23.4. 23(5)(a) was agreed, regulation 23(5) outlines options to be explored by the infringer who failed to pay penalties in accordance with the arrangement made. This includes making further arrangements for payment.
- 5.23.5. 23(5)(b) to (d) was agreed without amendment.

5.24. Regulation 24 - Late payment of a penalty, fee or instalment

- 5.24.1. 24(1)(a)(b)(i)(ii)(iii)(aa) was agreed with no amendments.
- 5.24.2. 24(1)(b)(bb) and (cc) was agreed, infringers are allowed to make further arrangement should they default on their payments.

5.25. Regulation 25 – Refunds

- 5.25.1. 25(1) was agreed, applications may be submitted electronically and outcomes may also be provided electronically.
- 5.25.2. 25(2)(a)(b)(3)(a)(b) was agreed with no amendments.
- 5.25.3. 25(4) was agreed, the infringer may approach the court on review to challenge the decision of the Authority.

5.26. Regulation 26 – Dishonoured payments

- 5.26.1. 26(1)(2) was agreed with no amendments.

5.27. Regulation 27 – Information to be recorded

- 5.27.1. 27(1) was agreed, the officers required to file proof that notices were issued to the infringers. No obligation is bestowed on infringers in respect of this.
- 5.27.2. 27(2) was agreed and that a common system would be utilised for safe keeping of these records.
- 5.27.3. 27 (3)(4)(a)(b)(c)(d) was agreed with no amendments.
- 5.27.4. 27(5) was agreed, the Agency will also comply with the precepts of the Protection of Personal Information Act (POPI) Act in respect to dealing with personal information.

5.28. Regulation 28 - National Road Traffic Offences Register

- 5.28.1. 28(1) was agreed, with the proviso that an electronic interface will be introduced by Government. This provision of electronic interface is applicable throughout the regulations where it is mentioned.
- 5.28.2. 28(1)(a)(b)(c)(2)(3)(a)(b) was agreed with no amendments.

5.29. CHAPTER 8: Regulation 29 – Personal Service

- 5.29.1. 29(1) was agreed, a return of service will be used as evidence of service in person.
- 5.29.2. 29(1)(a) was agreed without amendment
- 5.29.3. 29(1)(b) was agreed, address information provided by the infringer will be relied upon to serve notices.
- 5.29.4. 29(1) (c) was agreed without amendment.
- 5.29.5. 29 (1)(d) was agreed, POPI does not protect information if it is required for law enforcement.
- 5.29.6. 29 (2)(a) (b) (3)(4)(a)(b)(c)(5) was agreed with no amendments.

5.30. Regulation 30 Service by postage

- 5.30.1. 30(1) was agreed and noted that postage is not the only method of service recognised in the Act. Electronic and personal service may still be utilised.
- 5.30.2. 30(1)(a) was agreed and noted that postal addresses will also be used for service
- 5.30.3. 30(1)(c) and (d) was agreed with no amendment.
- 5.30.4. 30(2) was agreed and that electronic service will also be utilised.

5.31. Regulations 31 – Electronic Service

- 5.31.1. 31(1) was agreed and that infringers will be allowed to select the best convenient method of service.
- 5.31.2. 31(1)(a) was agreed and the infringer is allowed to change personal details for purposes of service through notice of change of address form and Regulations 32A.
- 5.31.3. 31(1)(i)(ii)(iii)(v) was agreed with no amendments.

5.32. Regulation 32 - Re-service of documents

- 5.32.1. 32(1) was agreed and that any of the three methods of service will be utilised for re-service.
- 5.32.2. 32 (2)(3)(4)(6) was agreed with no amendment.
- 5.32.3. 32(5) was agreed, the infringer will be afforded an opportunity to exercise elective options even when notices have been re-served.

5.33. CHAPTER 9: Regulation 33 - Manner of application, notification, submission, or enquiry

- 5.33.1. 33(1) was agreed and that only one method of service may be used at a time and cannot use all of the methods simultaneously.
- 5.33.2. 33(1)(a)(b)(c)(2)(a)(b)(c)(3) was agreed with no amendment.
- 5.33.3. 33(4) was agreed and that infringers may update their address information in terms of Regulation 3A of National Road Traffic Agency (NRTA).
- 5.33.4. 33(4)(a) was agreed, any of the serving methods prescribed in the Act may be utilised for service of notices.
- 5.33.5. 33(5)(a)(b)(c) was agreed with no amendment.

5.34. Regulation 34 Suspect and unverified Infringement Notices

5.34.1. 34(1) was agreed, only infringement notices may be marked “suspect” and that will only occur when the information on the infringement notices is not similar to the information recorded on the system.

5.34.2. 34(1)(a)(i)(ii)(iii)(iv)(v)(vi)(vii)(viii) was agreed without amendment.

5.35. Regulation 35 - South African Police Service

5.35.1. Section was agreed without amendment.

5.36. Regulation 36 – Obtaining of AARTO Forms

5.36.1. 36(1) was agreed and that AARTO infringement notices have unique numbers and must be printed to ensure there is no duplication of the notice number.

5.36.2. 36(1)(a)(b)(c) was agreed without amendments.

5.36.3. 36 (2) was agreed and that some of the forms required a Commissioner of Oaths and may not be completed online.

5.36.4. 36(2) (a)-(i) was agreed without amendments.

5.37. Regulations 37 Repeal of regulations

5.37.1. 37(1)(2)(3) was agreed without amendments.

5.38. Regulation 38 – Transitional provision

5.38.1. 38 was agreed without amendment with the understanding that the Act is the law of general application and meant to be applicable in all industries.

5.39. Regulation 39 – Short title and commencement

5.39.1. 39(1)(2) was agreed without amendments.

5.40. List of Schedules below was agreed as demonstrated by Government.

Schedule 1 – AARTO Forms

Schedule 2 – Monetary value of Penalty Unit, Penalty Amount, Discount, Fees, Disbursements and Penalties

Schedule 3 - Charge Book

Schedule 4 – Provision for South African Police Service (SAPS)

6. AREAS OF DISAGREEMENTS

6.1. The Nedlac Social Partners disagreed on the following sections:

6.2. Regulation 16 – Fees and Costs

6.2.1. The entire regulation 16 and its sub- regulations 16(1)(2) was not supported for the following reasons:

6.2.1.1. Business stated that charging both infringement penalty and administrative fees was unfair and expensive to users. Therefore, additional fee should not be imposed to pay for the administrative costs. Government through its agency RTIA, must create a system to allow for the verification of points in a free and accessible manner and remove the possibility of additional fees from the framework.

6.2.1.2. Labour stated that the cost to the ordinary employee will be too expensive. Government should consider sending SMSs with a link and charge standard SMSs rates. Instead of charging the prescribed fee. Contact details can be obtained from users through a registration process, as well as when users' details are updated on the system.

6.2.1.3. Community stated that the one size fits all approach might deny others the justice they deserve.

6.2.2. Government clarified that fees are payable if an infringer has been issued with a courtesy letter including an enforcement order. Additional fees may be charged for rehabilitation programmes such as driver interventions, attendance of therapy and counselling, and any other appropriate rehabilitation measures.

6.2.3. 16(2)(a)(b) and (4) consequential amendment therefore was not supported by the task team.

6.3. CHAPTER 5: Regulation 18, 19, and 20

6.3.1. Business, Labour and Community stated that at this stage the provision of the entire Chapter 5, regulations 18, 19, and 20 including any provision relating to demerit points was not supported as well as the application of the demerit point system.

6.3.2. The task team recommended that Government should undertake a review on the AARTO Act and that the demerit points used be reviewed as part of the proposed process.

- 6.3.3. It was further noted that the successful implementation of demerit point systems required Government to be fully capacitated and to setup the necessary infrastructure. This would ensure that users are able to comply with the law without encountering unnecessary administrative and technological challenges.

7. RECOMMENDATIONS

- 7.1. The task team agreed on the following recommendations for Government's consideration:

7.1.1. Review of the AARTO Act

- 7.1.1.1. Government to undertake the review of the AARTO Act as this will allow the stakeholders an opportunity to address a number of areas which could not be addressed through the regulations as the subordinate legislation.

- 7.1.1.2. Government should commission a Socio-Economic Impact Assessment System (SEIAS) study when reviewing the Act.

7.1.2. Undertake study tours

- 7.1.2.1. Social partners should conduct study tours in Tshwane and Johannesburg once the AARTO Nedlac Report has been signed-off by Nedlac structures. The knowledge gained during the study tours will be used during the review of the AARTO Act.

8. CONCLUSION

- 8.1. This report therefore concludes considerations at Nedlac report on the AARTO Regulations. The Report is submitted to the Minister of the Department of Transport and the Minister of Employment and Labour in terms of Section 8 of the NEDLAC Act No 35 of 1994.
- 8.2. It is acknowledged that the Nedlac parties may continue to advocate their views in the public consultation and other structured processes with due regard to the Report.

ANNEXURE 1

AARTO REGULATIONS TASK TEAM MEMBERS 2021

Business	Community	Labour	Government
Gavin Kelly Tyson Sibanda Sandile Ntseoane Siganeko Magafela Kevin Van Der Merwe Gary McCraw Dannie Snyman Kulani Siwela Sharon Modiba Garry Scott	Lucas Qakaza Lawrence Bale Mbusi Nzimande Tumelo Zwane	Matthew Parks Sipho Ndhlovu Mdumiseni Mabaso	John Motsatsing Johannes Makgatho Gert Van Eerden Adv. Mncedisi Bilikwana Qacha Moletsane Alta Swanepoel Mncedisi Lawrence Theo Hentie Joubert