



# GOVERNMENT GAZETTE

## OF THE

# REPUBLIC OF NAMIBIA

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## Government Notice

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### MINISTRY OF WORKS, TRANSPORT AND COMMUNICATION

No. 183 2005

#### AMENDMENT TO ROAD TRAFFIC AND TRANSPORT REGULATIONS: ROAD TRAFFIC AND TRANSPORT ACT, 1999

The Minister of Works, Transport and Communication has under section 12(2)(f) read with section 91 of the Road Traffic and Transport Act, 1999 (Act No. 22 of 1999) made the regulations set out in the Schedule.

### SCHEDULE

#### Definitions

1. In these regulations -

“the Regulations” means the Road Traffic and Transport Regulations promulgated under Government Notice No. 53 of 30 March 2001, as amended by Government Notices Nos. 97 of 29 May 2001, 103 of 01 July 2002, 163 of 26 September 2002, 205 of 28 September 2004, 32 of 01 April 2005 and 45 of 09 May 2005; and

“the Act” means the Road Traffic and Transport Act, 1999 (Act No, 22 of 1999).

### **Substitution of regulation 9 of the Regulations**

2. The following regulation is substituted for regulation 9 of the Regulations:

#### **“Suspension or revocation of registration of authorised officers**

9. (1) The Minister may suspend or revoke the registration of an authorised officer, if the Minister is satisfied that the authorised officer -

- (a) has committed an act of misconduct, as set out in subregulation (2), in the exercise of his or her powers or the performance of his or her duties; or
- (b) is incapable of exercising his or her powers or performing his or her duties or is incompetent to exercise his or her powers or to perform his or her duties, as an authorised officer, in the category in which he or she is registered.

(2) An authorised officer commits an act of misconduct if he or she -

- (a) contravenes a term or a condition of his or her registration as an authorised officer;
- (b) without first having obtained the permission to do so, discloses information that is of a confidential nature and which is gained by or conveyed to him or her by virtue of him or her being an authorised officer, except where the disclosure of the information is necessary for the performance of duties of an authorised officer or is required in terms of law.
- (c) uses, without permission, the facilities and equipment used in connection with his or her duties as an authorised officer for purposes other than for the performance of his or her duties;
- (d) performs any of his or her duties as an authorised officer while under the influence of intoxicating liquor or drugs which adversely affect his or her ability to perform his or her duties as an authorised officer;
- (e) engages himself or herself, without permission, in any activity which conflicts with the performance of his or her duties as an authorised officer;
- (f) commits a criminal offence relating to the performance of his or her duties as an authorised officer;
- (g) refuses, omits or neglects to carry out lawful duties given to him or her in his or her capacity as an authorised officer by any person authorised to do so;
- (h) conducts him or herself in a manner which may reasonably be regarded as improper and dishonourable; or
- (i) contravenes or fails to comply with the Act.

(3) Before revoking or suspending the registration of an authorised officer the Minister must -

- (a) notify the authorised officer concerned of the Minister's intention to suspend or revoke the registration of the authorised officer; and
  - (b) request the authorised officer concerned that he or she may, within 14 days of being notified in terms of paragraph (a), make written representations to the Minister.
- (4) On receipt of representations, if any, made in terms of subregulation (3)(b), the Minister must consider the representations and may -
- (a) if satisfied that the facts relating to the misconduct are sufficiently established, revoke or suspend the registration of an authorised officer; or
  - (b) conduct a hearing in terms of regulation 379.
- (5) If at the expiry of the period referred to in subregulation (3)(b) the Minister has not received any representations the Minister may -
- (a) if satisfied that the facts relating to the misconduct are sufficiently established, revoke or suspend the registration of an authorised officer; or
  - (b) conduct a hearing in terms of regulation 379.
- (6) If a hearing has been conducted in terms of subregulation (4)(b) or (5)(b) the Minister may, on receiving the recommendation of the presiding officer in terms of regulation 379(15), revoke or suspend the registration of an authorised officer.
- (7) When the Minister has revoked or suspended the registration of an authorised officer the Minister must -
- (a) notify the authorised officer concerned of the reasons for the suspension or revocation, and if the Minister has suspended the authorised officer, of the period of suspension; and
  - (b) cause to be updated the register of authorised officers referred to in regulation 366(1)(a)(i) accordingly.
- (8) An authorised officer whose registration has been revoked or suspended must, within 14 days of being notified of the revocation, submit -
- (a) the certificate of registration referred to in regulation 6(1)(c), to the Minister and the Minister may -
    - (i) in the case of a revocation, cancel the registration certificate; or
    - (ii) in the case of a suspension, keep the certificate for the period of suspension; and
  - (b) the certificate of appointment referred to in section 11(8) of the Act to the person who appointed him or her.”.
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