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Dear Advocates Moletsane and Thoka,

PROPOSED AMENDMENTS OF ADMINISTRATIVE ADJUDICATION OF ROAD TRAFFIC OFFENCES Regulations, 2008 (GOVERNMENT GAZETTE 43758)

Please find enclosed our comments on the abovementioned proposed amendments. For convenience, we refer to specific draft Regulations by Regulation number and, where applicable, by cross-reference to the AARTO Act as amended.

Except as noted, where we refer to a Regulation, we mean a Regulation as it appears in the abovementioned Government Gazette.

COMMENT 1

Regulation numbers: 2 (1), 2 (2), 2 (4), 2 (5)(b), 5 (3)(b)(iv)

Issue: timeframe for service of infringement notices

Comment:

The Road Traffic Infringement Agency (RTIA) is now allowed 60 days to serve the notice instead of 40 days as under the Regulations presently in force. This means that, allowing for postal delays, as many as ten (10) weeks may elapse before an infringer receives their infringement notice.

The AA's view is that this undermines the administration of justice by allowing an unnecessarily and unreasonably long time to elapse between the commission of an infringement and notification to the infringer.

Our proposal:

The 40-day period as provided for under the Regulations presently in force is adequate and should be retained.

However, the AA would favour a shorter period, as there seems to be no logistical or practical reason why an infringement notice could not be served within, for instance, 21 days after commission of the infringement, which is identical to the response times required of the RTIA elsewhere in the Regulations, e.g. Regulation 4 (3)(b)(ii), and others.

COMMENT 2

Regulation numbers: 5 (a), 5 (b)

Issue: juristic persons

Comment:

The Regulations do not read logically.

Our proposal:

Re-draft for clarity.

Regulation number: 2 (6) (a), read with Regulation 34.

Issue: removal of requirement for infringement notice to contain certain information

Comment:

The Regulations presently in force require that an infringement notice "must" contain the information noted further on in Regulation 2 (6)(a) to (f). This has been changed to "may".

Memorandum 1 to the draft Regulations offers little by way of explanation, but, confusingly, refers to detail requirements that "must" be contained in an infringement notice.

In the AA's view, if what is truly meant is that the provision of the detail listed is no longer strictly required, this opens the potential for abuse, including infringement notices being virtually devoid of information. Read strictly, 2 (6)(a) may enable 'John Doe' infringement notices to be issued, lacking even an infringer's name or the charge code related to the violation.

It also creates a contradiction with Section 17 (1) of the AARTO Act, in that certain information which is required by that section, may be regarded as optional by Regulation 2 (6)(a).

The details subject to the requirement in terms of the Regulations presently in force are listed in Regulations 2 (6)(a) to (f). These contain various qualifiers, i.e. "where applicable", "if applicable", "if any", and suchlike. The issuing authority is thus freed from the onerous duty of acquiring information which is frequently not easily to hand.

In the absence of a requirement for an infringement notice to contain the information currently required, a motorist may then use this as grounds to refuse to provide such information at the roadside. Of particular concern to the AA is that it may also mean that the officer who issued the notice is no longer required to identify themselves at all - see Regulation (f).

Almost the entirety of Regulation 34 deals with the problems caused by incorrect or conflicting information; the removal of the requirement in Regulation 2 (6)(a) will increase, rather than reduce those problems.

Our proposal:

The current wording should be retained.

Regulation number: 4 (2)

Issue: enforcement order

Comment:

This Regulation creates a time limit of 32 days after receipt of an enforcement order within which an infringer may apply to have it revoked. The AA has several concerns in this regard:

- it presumes that the RTIA has some means to ascertain the date on which a motorist has received an enforcement order. In reality, the removal of registered post as a delivery method for AARTO notices means this is impossible and there is thus no way for the RTIA to know on which day the 32-day countdown commences.

- it means that a motorist can in no way apply for revocation of an enforcement order more than 32 days after it was received, even if they pay all outstanding fees related to that enforcement order.

- the AARTO Act provides no other way of such an enforcement order being revoked or cancelled.

This has the effect of making an enforcement order permanent and irrevocable, meaning that a motorist will never again be able to conduct licensing transactions on e-Natis in their lifetime.

An enforcement order should be capable of being revoked at any stage by means of the motorist making the prescribed application and paying such outstanding fees and penalties as have accrued.

In the AA's view though, this Regulation is rendered unworkable by the impossibility of the RTIA determining when the 32-day countdown commences.

Proposal:

The wording related to the 32-day limitation should be deleted.

Regulation number: 5 (2)(b)

Issue: nominating a driver

The 2019 draft Regulations' version of this Regulation was worded as follows:

"… provide the information as contemplated in Regulation 2 (5) and section 17 (1) of the Act or any other additional information which must be to the satisfaction of the issuing authority that issued the infringement notice."

This wording is now replaced by: "be accompanied by a legible copy of a valid driving licence of the nominated person issued and recognised as such in terms of National Road Traffic Act".

The AA is concerned that this creates impossible problems for the vehicle owner in respect of infringements committed when the vehicle is stolen or driven without their permission or knowledge.

In such cases, there is not always the means for the owner to ascertain who the driver was, nor obtain a copy of their driving licence. It may even be the case that the driver did not have a valid driving licence at all.

The change to Regulation 5 (2)(b) now means such a person cannot be nominated by any means, which undermines the administration of justice by potentially placing unlicensed drivers beyond the reach of the law.

The change to 5 (2)(b) has also rendered the wording of Regulation 5 (3)(b)(iii) inconsistent.

Our proposal:

The wording of the 2019 draft Regulations should be retained.

Regulation number: 9

Issue: Appeals Tribunal

Comment:

The AA remains concerned about the Appeals Tribunal. No case has been advanced which would assure our Members that it would be impartial and uphold a consistent standard of adjudication.

Our specific concerns in this regard are:

- the Appeals Tribunal is being allowed to develop its own rules, which we presume will have the status of Regulation. But both the rules, and AARTO's Regulations, could be changed at the pleasure, respectively, of Tribunal members and the Minister of Transport, so there is no strict or ongoing standard of justice.

- members of the Appeals Tribunal are governed by the same Regulations which govern the RTIA and its Representations Officers. There is thus no assurance of impartiality by virtue of separation from the RTIA, nor any methods by which impartiality could be attained.

- it is unclear how the Appeals Tribunal members would be paid, but their emoluments would almost certainly derive from traffic fine revenue. There is thus the potential for a conflict of interest and an incentive to find in favour of the RTIA rather than allowing the outcome to follow the facts of each case.

The AA wishes to restate the basic facts of the Fines 4 U court case which were that the Representations Officers of the RTIA were unlawfully rejecting representations for reasons unrelated to the merits thereof. This episode brought such discredit on the RTIA that the AA regards it as preconditional that any checks and balances on the RTIA's powers should come from a body far removed from it.

The AA's view is that the Appeals Tribunal adds no value to the adjudication process and, as the Regulations governing it are currently written, has the potential to seriously undermine the administration of justice.

As we have previously stated, we also believe that a Tribunal of nine part-time members will be insufficient to handle the workload arising from tens of millions of traffic fines issued countrywide after AARTO comes into operation. There seems no way by which it could provide the solution contended for it.

Our proposal:

It is not too late for Parliament to reconsider the Appeals Tribunal and return to the previous system where motorists can opt to have their violations diverted into the criminal justice system at any stage. Indeed, the AA believes this outcome would support the administration of justice and provide independent assurance against rogue Representations Officers.

Regulation number: 13 (8)

Issue: outcome of Appeals Tribunal

Comment:

Regulation 13 (8) has the effect that if a motorist turns to the Magistrate's Court to appeal a decision of the Appeals Tribunal, the issuing of an enforcement order is not suspended.

Where a case is complex and wends its way to the Constitutional Court, a motorist who chooses to appeal the decision of the Appeals Tribunal would be subject to an enforcement order and therefore blocked from performing many transactions on e-Natis for the duration of the court case, which might be up to two years.

The AA's view is that motorists should not be prejudiced by exhausting the legally-allowable options provided for under the Constitution, Criminal Procedure Act and AARTO Act.

Our proposal:

In line with the principle throughout AARTO that an appeal suspends further action (e.g. where a motorist makes a representation or appeals to the Appeals Tribunal), an appeal to the Magistrate's Court should automatically suspend the issuing of an enforcement order until all legal processes have been exhausted.

A review of other Regulations which are also affected by the outcome of an appeal or review should be conducted, including Regulation 4.

Regulation number: 13 (9)

Issue: notification to the RTIA of the outcome of a court case

Comment:

13 (9) requires the clerk of the relevant Magistrate's Court to notify the RTIA of the "... decision of the Magistrate..." within seven (7) days after the decision is made.

The AA has the following concerns:

- South African law provides various time limits within which a litigant may lodge an application to appeal against a judgment of a lower court, all of which are longer than seven (7) days.

- The specificity of Regulation 13 (9) excludes other courts. It is possible a motorist contesting an infringement notice may appeal a decision of the Magistrate's Court by turning to the High Court, and then the Supreme Court of Appeal, and even the Constitutional Court.

Regulation 13 (9) makes no provision for these scenarios and means that motorists may unjustly be subject to sanctions by the RTIA before having exhausted their legal options.

Our proposal:

Regulation 13 (9) should be re-worded to ensure that if a motorist has opted to have a case heard by a Magistrate's Court, recognition be given to the possibility of appeals to higher courts. In such cases, the RTIA should suspend all further sanctions until the case is finalised, with judgment handed down and all avenues of appeal either exhausted or forfeited.

Only the clerk of the court in which the case is finalised should be required to notify the RTIA of the outcome, which should be done within seven (7) days of the finalisation of the case.

Regulation number: 18 (6) read with Regulation 20

Issue: maximum number of demerit points

Comment:

Regulation 18 (6) provides for "...disqualification of an infringer to drive any motor vehicle..." if the demerit points limit is exceeded, but does not specifically state a limit for licence discs and operator cards for vehicles owned by juristic persons and operators respectively.

For clarification, juristic persons and operators do not 'drive' vehicles, they operate them, so the imprecision of this Regulation could create a loophole allowing juristic persons and operators to continue to use vehicles even after the 15-point limit has been exceeded.

Our proposal:

Re-word Regulation 18 (6) so that it is explicit about the effect of the 15-point limit being breached and prevents driving any vehicle (natural persons), or using the relevant vehicle on public roads (juristic persons and operators).

Regulation number: 19

Issue: access to demerit point information

Comment:

The fees for accessing this information are, in the AA's view, unreasonable. Indeed, we see no reason for this information to be charged for at all. A statement of account for income tax from SARS is free, as is a check of marital status from Home Affairs. Banks and the RTIA provide free services showing motorists whether they have outstanding traffic fines.

An individual's demerit point status will become a key piece of data in future. For many people their driving licence is their only source of employment, and the salaries of drivers are often very low. For a person on minimum wage, even a small charge is substantial.

Over the past two decades, drivers have already been lumbered with additional costs, such as renewal of their driving licence cards every two years for drivers who hold a Professional Driving Permit. Any additional charge affects the poorest the most, and these are the drivers for whom a driving licence is most often their sole means of obtaining employment.

Our proposal:

Every motorist, juristic person, and operator should have cost-free access to their demerit points status.

Regulation number: 23 (4)

Issue: number of instalments for a fine

Comment:

The maximum number of instalments has been reduced from 10 to 6. Together with the increase in the value of a penalty unit, and the considerable increases in penalty units for many infringements, this is likely to impose undue hardship on motorists, particularly for low-level drivers near minimum wage.

Since the top fine scale is nearly a month's salary for someone on minimum wage, such a fine would not be merely punitive, but unaffordable and unjust. Some way must be found to allow fairness in the fine system.

Our proposal:

Courts will often take into account the personal circumstances of an accused when imposing fines. Our view is that it would promote the administration of justice if a mechanism for determining affordability levels for AARTO fines was implemented, since many drivers earn so little.

With South Africa's levels of inequality, the AA believes there may be merit in researching fine systems used in other countries where fines are imposed in proportion to taxable income.

Issue: Service of documents

Regulation number: not applicable – refer to the AARTO Act and AARTO Amendment Act.

Comment:

Although AARTO, among its many aims, seeks to divert less serious traffic violations away from the criminal justice system, these violations nonetheless remain criminal offences and an offender is, eventually, able to defend any infringement by resorting to the criminal justice system.

Even within the AARTO system, an infringement notice which goes unnoticed by an infringer can have very grave financial and administrative consequences. The criminal justice system provides extensive protections which virtually eliminate the possibility that a person charged with a crime could be found guilty without being made aware of the charges and the option to defend themselves.

Such protections are virtually absent in AARTO which is, to all intents and purposes, a "guilty until proven innocent" system where often the first inkling motorists receive of infringement proceedings is when they attempt an e-Natis transaction and discover an enforcement order is in place. This turns motorists charged with trivial infringements into outlaws who harbour resentment against the system, because of the wasted costs and the knowledge that there is no way to stop it happening again when a great deal of traffic law enforcement is functionally indistinguishable from entrapment.

As such, it is vitally important that infringement notices come to the attention of the motorist. In its original form, AARTO provided for service of electronically captured infringement notices and subsequent documents by registered post, so that a motorist was afforded all reasonable opportunity to take note of the proceedings and could thus not, at a later stage, have claimed to be unaware of them. Provision was also made for continuation of proceedings where a motorist did not respond to a document sent by registered post.

This provision was removed by the 2019 AARTO Amendment Act and the AA wishes to restate its concern at this removal of a mechanism to ensure that infringement notices in particular come to the attention of a motorist.

By its wording, Regulation 34 shows that AARTO's drafters are aware of the distinction between an infringement notice – which is an initiating document requiring 'service' – and other documents which are merely 'issued'.

However, for infringement notices not served in person at the roadside, no method of true service currently exists. Merely posting an infringement notice to a motorist is no guarantee that it will come to their attention. It may be lost, mis-delivered, damaged in transit, or confused with similar-looking junk mail. It is not 'service', merely a delivery attempt.

Our proposal:

The AA believes it is not too late to re-introduce the mandatory use of registered post – if only for infringement notices – to ensure that when they are not served in person, they actually come to the attention of a motorist.

Regulation number: 29 (1)

Issue: personal service

Comment:

The Regulations currently in force read as follows:

"Personal service is achieved when the document to be served, is delivered to an infringer identified in the document, in person at the- ..."

However, since 2019, the wording is as follows: "Personal service is achieved when any document contemplated in the Regulations is served on an infringer who committed an infringement, at the- ...".

The words "in person" have been removed.

This creates difficulty, since Regulation 29 is headed "Personal service". For instance, Regulation 29 (1)(b), (c), and (d) speak of documents being served on an infringer at an 'address'.

However, the removal of the words "in person" mean that the Regulation no longer explicitly and clearly state that personal service can only be effected or accomplished in person, not by postage. This is notwithstanding the existence of Regulation 30 ("Service by Postage"). The AA's question is this: why remove the words "in-person" from a Regulation about personal service? No harm could come from retaining the wording, but, based on the 2019 AARTO Amendment Act's removal of the protections related to service, their removal suggests that the RTIA is seriously considering passing off service by postage as personal service.

The entirety of para 29 is rendered contradictory by Para 29 (2) which details the duties of an "authorised officer", which is not defined in the Regulations but is known as "the person" in the Regulations currently in force. If a document is not to be served "in person", the duties of such a person would seem to be irrelevant.

There therefore seems no good reason for removing the words "in person", since they go to the heart of personal service.

Our proposal:

Retain the words "in-person" as they appear in the current AARTO Regulations

Regulation number: 29(1)(d)

Issue: address of service

Comment:

This Regulation has the effect of allowing almost any address, which may or may not be a motorist's *domicilium* or chosen address for receiving notices, to replace the one listed on registers of motor vehicles or driving licences for the service of AARTO documents.

The Regulation describes service as being possible at an "address obtainable from any other credible and lawful source.".

Motorists are required to provide an address for service both to ensure they receive notices and that the people or organisation serving them can show they used the motorist's address of choice. It is the motorist's responsibility to keep such details current, and if service cannot be effected due to not having done so, the motorist has nobody to blame but themselves.

But for the RTIA to choose an address for service arbitrarily undermines this system and risks the blame being placed on the RTIA when service cannot be effected. This is not in any party's interest.

The AA also has concerns over who might decide whether a source is 'credible', and on what basis. By the time it has been established that a source was, in fact, not credible, much water may have passed under the bridge.

Infringement notices are initiating documents and they should be served by processes at least equivalent in rigour to service processes in criminal law. The decision for the place of service should be the sole responsibility of the motorist, and the consequences for failure to designate an accurate address likewise. The RTIA should not assume any functions or responsibility in this regard.

Our proposal:

Delete 29 (1)(d) and replace it with:

(d) address as indicated by him or her on the notice of change of address on form NCP (Notification of change of address or particulars of person or organisation) in terms of the National Road Traffic Act, 1996.

Regulation number: 33 (1)(e) and (f)

Issue: drafting error

Comment: these Regulations do not follow from 33 (1).

Our proposal:

Re-draft these Regulations so that they read grammatically.

Regulation number: 35

Issue: Infringement Penalty Levy

Comment:

The Memorandum accompanying the draft Regulations says the following:

"This levy was approved as part of the 2019 Amendment Act. The principle is that infringers will pay for the administration of the system. If an infringer makes a successful representation, the levy would not be payable."

The AA's initial difficulty is that the Memorandum's bold statement is not backed up by law. The meaning of Regulation 35 (1) is far from clear, and we lack confidence in the Memorandum's assertion.

The Infringement Penalty Levy certainly falls under 13(1)(dA), but nowhere in the Amendment Act's explanatory memorandum was the pupose of this addition explained. The AA, and doubtless many others, took it to be an administrative change to ensure AARTO fines could be collected legally.

With an estimated 20 million infringement notices to be issued annually under AARTO nationally, the IPL will generate R2 billion in revenue for the RTIA for doing nothing more than it already does.

The AA wishes to express its opinion clearly: the Infringement Penalty Levy is a stealth tax.

Our laws do not allow Parliament, without consultation, to increase taxation of the fiscus by many billions of Rands. To allow the Minister of Transport to do so at the stroke of a pen outside the democratic purview of Parliament is an action unprecedented in modern times.

The possible revenue is entirely open-ended, and a single line of regulation at any time could, for instance, double the Infringement Penalty Levy, or create a graduated system where it is payable in relation to the number of penalty units for the charge code in question.

The RTIA has been highly profitable in the past, despite the AARTO system only being rolled out in a pilot phase in two Metros. Examination of its financial statements reveals no dramatic reduction in infringement fees, and these fees can only increase once AARTO is rolled out countrywide, while the RTIA's operating structure is largely in place and unlikely to require much additional cost.

The RTIA's surpluses over the past five years read as follows:

2015: R32m
2016: R86m
2017: R16m
2018: (R30m)
2019: (R20m)

2018's loss is attributable to a remarkable increase in advertising and marketing spend of no less than R48m, in addition to the RTIA's existing education projects.

The AA wishes to place on record that the RTIA, as a State-owned Entity, is dealing with taxpayers' money. All profit returns to the fiscus and all losses are guaranteed by the taxpayer.

The RTIA is not a competitive organisation – it does not have to advertise its services nor encourage motorists to take them up. It is an organisation with the force of law and it does not have to request compliance from motorists. For it to spend R48 million on marketing to its captive audience, placing it into in a loss-making position of R30m, is not a justification for a new levy to augment its income.

Any private company in a loss-making position first ensures it is efficient and controlling costs appropriately. The RTIA appears not to have done so. The AA can therefore not see what case the Department of Transport has made for granting the RTIA a windfall of several billions from the Infringement Penalty Levy, much less the amount currently needed to balance its books.

Irrespective, the Regulations include a doubling of the Penalty Unit and massive increases in the number of penalty units applicable for many offences, and these increases alone could return the RTIA to profitability.

There is no circumstance under which the AA could justify the Infringement Penalty Levy, and we are strongly opposed to both the levy itself and the under-handed manner in which it has been brought onto the statute books. Acts of bad faith such as this corrode the trust that ought to exist between government and motorists.

Our proposal:

The Infringement Penalty Levy should be deleted and all references to it removed from the Regulations. In addition, the RTIA should come under the supervision of external cost control consultants so that wasteful or reckless expenditure is minimised and the taxpayer receives acceptable value.

Regulation numbers: 1 (k) and Schedule 1

Issue: references to AARTO forms

Comment:

Under definition 1 (k) of the Definitions, "form" is defined as meaning "a form as prescribed in the Regulations". Schedule 1 to the Regulations prescribes the forms and their appearance, and it follows from 1 (k) that a form must appear exactly so in order to be regarded as a prescribed form.

However, in a continuation of the issue which exists in the Regulations presently in force, numerous Regulations refer to forms "similar" to the form under discussion without defining the extent to which a form might be "similar" (or dissimilar) before it would no longer be regarded as compliant with 1 (k). This opens the way for inconsistencies, additions and omissions which might prejudice either an infringer or undermine the administration of justice.

Since modern technology allows electronic versions of forms to be identical to their paper equivalents, there exists no difficulty in providing for consistency across all media.

Our proposal:

All Regulations requiring forms to be "similar" to a prescribed form should be re-worded to require use of the appropriate form, eg. "on a properly-completed AARTO 14 form as shown in Schedule 1" instead of "a properly completed form similar to AARTO 14 as shown in Schedule 1".

Regulation number: Schedule 2 & 3

Issue: penalty levels

Comment:

Although the increase of the penalty unit from R50 to R100 is acceptable, given that it has not changed since 2008, the AA is disturbed by the manner in which common infringements of a technical nature have been exploited by increasing the number of penalty units applicable.

Charge Code 1714 is a particularly serious example. The short charge wording reads:

"As holder of a licence, with a permanent change of residence, failed to, within 14 days after such change, notify the applicable registering authority in the prescribed manner"

Under the Regulations presently in force, the penalty is 10 penalty units (R500).
This rises to 30 penalty units (R3000) under the draft Regulations.

Traffic fines should be a deterrent and punishment, but they should also balance deterrence with justice.

Charge code 1714 is a technical administrative infringement with no discernible effect on road safety or the administration of justice. The only impact is on the infringer him or herself, by creating the risk that an initiating document could be served at an address at which he or she no longer lives. The AA has further concern over

people who become homeless during the current economic crisis. Will the RTIA extract their pound of flesh from them too if, in the trauma of events, they do not comply with the 14-day rule?

The current fine for this infringement is already unreasonably high. A R3000 fine is disproportionate and unjustifiable. Even when paid in instalments, it is R500 a month, which is the entire month's food budget for someone on minimum wage.

This must be viewed against the RTIA's financial statements for 2019, which show that the top five executives of the RTIA all had cost-to-company earnings in excess of R2m. The Registrar earned R3.3m. Performance bonuses totalled R3.4 million for the top five, despite a heavy financial loss for the year.

The AA's view is that the imposition of disproportionate fines for trivial violations while the RTIA's executive lives in style is a clear example of what is sometimes described the disconnect which has come to exist between South Africa's government and its citizens.

Our view on the fine for charge code 1714 is further solidified by examples where infringements pose severe risks to road safety, but carry far lower fines.

Charge code 2014: Blinding oncoming traffic with your brights has a fine of just R1500 despite the safety risk.
Charge code 2956: Steering gear not in good condition and unsafe for use also has a lower fine, R2500.

There are many similar examples.

Our proposal:

We propose that a technical committee urgently be convened ahead of the AARTO launch date in 2021 in order that each infringement in Schedule 3 is reviewed to ensure it is proportionate, fair and justifiable in terms both of the penalty amount and any demerit points incurred.

Regulation number: Schedule 3

Issue: revision of the speeding infringements system

Comment:

During the revision of Schedule 3, numerous new charge codes were created which decrease the speed increments between charge codes for speeding offences from 5 km/h to 2km/h.

The memorandum to the draft Regulations claims this results in a "fairer" system. It is not clear to the AA to whom the previous system was unfair. The only apparent benefit from the new system would be increased fine revenue for the RTIA.

Since speeding offences are the category of violations with the most infringement notices issued, this change will result in substantially more revenue for the RTIA, and fits with the general pattern of the draft Regulations, which is that they are written to maximise revenue, not road safety.

Our proposal:

Retain the current increments of 5km/h.

Regulation number: preamble to draft Regulations

Issue: RTIA receiving comments on the Regulations

Comment:

We note that Advocate Qacha Moletsane of the RTIA is listed as a recipient of inputs made as a result of the comment period on these Regulations.

A conflict of interest arises if the RTIA is able to receive comments regarding these draft Regulations, since it could arbitrarily discard those unfavourable to itself. If the RTIA were to be allowed to process comments and offer inputs on them, the conflict would be even more severe.

A conflict of interest does not need to be exploited in order to exist – it need merely be possible, and the AA's view is that nobody at the RTIA should play any role in either the drafting of the Regulations or the receipt or processing of comments from the public.

The AA has also considered that the RTIA came into being as a result of the AARTO Act. It thus seems highly improper for the RTIA to take a hand in its own destiny by being involved, however tangentially, in changes to that very Act's Regulations. The RTIA cannot be both poacher and gamekeeper and if it wishes to agitate for a position, it should submit comments on the draft Regulations to the Department of Transport like any other interested party.

Our proposal:

No staff at the RTIA should be permitted to receive input in respect of the comment period of these draft Regulations, and the public should receive an assurance from the Minister of Transport and Director-General of the Department of Transport that Regulation of the DoT's entities takes place solely at the Department.

The AA would further like to receive the assurance from the Minister, in writing, that all processes leading to the adoption of the 2019 AARTO Amendment Act and the drafting of these Regulations have happened at arm's a om the RTIA, its board, management and staff.
arms' length from the RTIA, its board, management and staff.