



a brief review of the Risks presented due to the National roll-out of AARTO



Coming soon!

According to government, the national implementation of the AARTO Amendment Act will commence in...



Regrettably, those who are not thoroughly up to speed with how the AARTO scheme works, and more importantly, what to do should one find oneself on the wrong side of it, will be at distinct disadvantage.

as at 08h08 on 29 April 2021

The AARTO Amendment Act 4 of 2019 and its published and ratified (tbc) regulations are set to be implemented on 1 July 2021. This includes the 1st phase of demerit points. We look at the major risks this pose.

Risk #1

Demerit Points

Demerit point will only be allocated upon:

- (a) making of a payment for a penalty and fees, if any, for an infringement, including partial and dishonoured payments;
- (b) receipt of an election to pay a penalty in instalments;
- (c) an infringer found guilty of an offence by a court; and
- (d) authorising of an Enforcement Order for an infringer.

Reduction of demerit points are done at a rate of one point every three months, if no infringements were committed, or four points if a rehabilitation program was attended.

Should the driving license of the person, or the vehicle license of a vehicle of a juristic person be suspended or cancelled, the notice must be issued within 10 days of the disqualification date.

“(3) A person, [who is disqualified in terms of this section] operator, or a juristic person who is not an operator—

(a) must within a period of 32 days hand in any driving license card [or], professional driving permit, motor vehicle license disc, operator card or any other permit, card or license issued in terms of road traffic legislation or transport legislation, where applicable, in the prescribed manner to the relevant issuing authority contemplated in section 26(2) for retention by such issuing authority during the disqualification period, produce any driving license [contained in an identity document] to such issuing authority for endorsement as suspended or must remove the prescribed operator card and deal therewith in the prescribed manner;

(b) may not apply for a driving license, professional driving permit or operator card, motor vehicle license disc, operator card or any other permit, card or license disc issued in terms of road traffic legislation or transport legislation during the disqualification period.;

(4) [Any] In the event that a person, operator or a juristic person who is not an operator, [who] fails to comply with the provisions of subsection (3)(a) or [who] drives or operates a motor vehicle during his or her disqualification period, his or her license, permit, card or license issued in terms of any road traffic legislation or transport legislation is suspended for a further period of one year for every subsequent driving or operation and such person is guilty of an offence and liable on conviction to a fine or imprisonment for a period not exceeding one year or both a fine and such imprisonment.; and

(e) by the substitution for subsection (5) of the following subsection:

(5) Upon expiry of [his or her] the disqualification period, a person referred to in subsection (3) may apply in the prescribed manner to the relevant issuing authority [to] for the return of [his or her driving license card or professional driving permit or to reissue an operator card] the document referred to in subsection (3)(a).”.

- Demerit points for an individual accrue on the ID no of the person and means that the driving license of the person may be suspended for a minimum of three months. The DL card must be handed in at the DLTC, and if not handed in, the suspension is extended to 12 months. If caught driving during the suspension, the person will be tried in court for a criminal offence. On the 4th consecutive suspension, the license is revoked, and the person will have to start from scratch doing a learners' license test once the waiting period and prescribed rehabilitation is completed.
- Demerit points for a company accrue on the registration number of the vehicle and means that the license disc of the vehicle, on which the points accrue, may be suspended for a minimum of three months. This vehicle may not be used or sold in this suspension period. The license disc needs to be handed in at the DLTC, and if not handed in, the suspension is extended to 12 months. if the vehicle is used in the suspension period, the proxy will be tried in court on a criminal offence.

Risk to Banks, Motor Dealers and Insurance Companies

- Banks and insurance companies will need to know the Demerit Point Status of a prospective customer before entering into an agreement.
- When a new client applies for finance or insurance, the bank or insurance company may not ascertain the demerit point status of the person from AARTO. only the person or his/ her employer, with authorisation, may apply for his/ her points status.
- Banks , motor dealers and insurance companies may be prevented from selling vehicles if the license is suspended.

Risk #2 Costs

The table below shows the cost involved in AARTO and the new Regulations. In Johannesburg and Pretoria, fines may cost up to four times more, whereas in the rest of SA, fines may cost less.

The bigger costs are actually the levies and fees payable. Requesting a statement of unpaid fines will cost R60. To receive regular updates on demerit point status for a company with a fleet of 100 or more vehicles, the cost is R11,200 per year.

1 Monetary Value of Penalty Unit			
The monetary value of a penalty unit contemplated in section 29(b) of the Act and shown in column 6 of Schedule 3 of the AARTO Regulations.			R50
2 Calculation of Penalty Amount			
The penalty amount shown in Rand value in column 8 of Schedule 3 of the AARTO regulations is calculated by multiplying the penalty unit given in column 6 of that Schedule by the monetary value of a penalty unit given in 1 above.			
3 Infringement Penalty Levy			
The penalty levy contemplated in Regulation 36 is payable on every infringement committed and followed up by all the processes prescribed in the Act. This levy shall not be subjected to a discount referred to in column 4 below.			R100
4 Discount			
The discount contemplated in section 17(1) (d) of the Act to be applied to the penalty amount given in column 8 of Schedule 3, the result is given in column 9 of the said schedule.			50%
5 Fees Payable by Infringers to the Agency			
The fees may be charged for any document, order or action in terms of section 34(d) of the Act, are the following:			Amount
5.1	Courtesy Letter (Form AARTO 12 as shown in Schedule 1)		R100
5.2	Enforcement Order (Form AARTO 13 as shown in Schedule 1)		R100
5.3	Ascertaining demerit points position in terms of section 33 of the Act (Forms AARTO 27, AARTO 27aa, as shown in Schedule 1) vehicle/ person		Once-off R60 6 months R120 12 Months R240
5.4	Ascertaining demerit points position in terms of section 33 of the Act (Forms AARTO 27, AARTO 27aa, as shown in Schedule 1) (Fleet Companies) - vehicles per fleet		6 months 12 months
	2-20		R1 200 R2 000
	21-40		R2 400 R4 000
	41-60		R3 600 R6 000
	61-100		R6 000 R9 600
	101>		R7 000 R11 200
5.5	Requests for the following National Traffic Offence Register report: R943 - Outstanding Infringement Report in Delimited Format		R60 per report

Table Showing the Charge codes for speeding and related Infringement notice cost and demerit points

Schedule 3: AARTO Regulations in Terms of Section 29 of Act 46, 1998											
1	2	3	4	5	6	7	8	9	10	11	12
Charge code	Short Statutory Reference to National Road Traffic Act, 1996	Short charge wording - reference to National Road Traffic Act, 1996	Classification of Offence or Infringement	Penalty Units	Demerit Points: Persons who are not operators or juristic persons	Demerit Points: Operators and juristic persons	Penalty Band Values	Penalty minus discount in Band value	Operator charge i.to.o. section 49 of the National Road Traffic Act, 1996	Operator Charge Code	Alternative Charge Code
B300	Sect. 59(4)(a) r/w Reg. 292 (a)	Operated a vehicle at a speed of 71-72 km/h which is in excess of the general speed limit of 60km/h which is applicable to that urban road	I	4	-	1	400	200	-	-	-
B301	Sect. 59(4)(a) r/w Reg. 292 (a)	Operated a vehicle at a speed of 73-74 km/h which is in excess of the general speed limit of 60km/h which is applicable to that urban road	I	6	-	1	600	300	-	-	-
B302	Sect. 59(4)(a) r/w Reg. 292 (a)	Operated a vehicle at a speed of 75-76 km/h which is in excess of the general speed limit of 60km/h which is applicable to that urban road	I	8	1	2	800	400	-	-	-
B303	Sect. 59(4)(a) r/w Reg. 292 (a)	Operated a vehicle at a speed of 77-78 km/h which is in excess of the general speed limit of 60km/h which is applicable to that urban road	I	10	1	2	1000	500	-	-	-
B304	Sect. 59(4)(a) r/w Reg. 292 (a)	Operated a vehicle at a speed of 79-80 km/h which is in excess of the general speed limit of 60km/h which is applicable to that urban road	I	14	2	2	1400	700	-	-	-
B305	Sect. 59(4)(a) r/w Reg. 292 (a)	Operated a vehicle at a speed of 81-82 km/h which is in excess of the general speed limit of 60km/h which is applicable to that urban road	I	18	2	2	1800	900	-	-	-
B306	Sect. 59(4)(a) r/w Reg. 292 (a)	Operated a vehicle at a speed of 83-84 km/h which is in excess of the general speed limit of 60km/h which is applicable to that urban road	I	22	3	3	2200	1100	-	-	-
B307	Sect. 59(4)(a) r/w Reg. 292 (a)	Operated a vehicle at a speed of 85-86 km/h which is in excess of the general speed limit of 60km/h which is applicable to that urban road	I	26	3	3	2600	1300	-	-	-
B308	Sect. 59(4)(a) r/w Reg. 292 (a)	Operated a vehicle at a speed of 87-88 km/h which is in excess of the general speed limit of 60km/h which is applicable to that urban road	I	30	4	4	3000	1500	-	-	-
B309	Sect. 59(4)(a) r/w Reg. 292 (a)	Operated a vehicle at a speed of 89-90 km/h which is in excess of the general speed limit of 60km/h which is applicable to that urban road	I	34	5	5	3400	1700	-	-	-
B310	Sect. 59(4)(a) r/w Reg. 292 (a)	Operated a vehicle at a speed of 91 + km/h which is in excess of the general speed limit of 60km/h which is applicable to that urban road	O	C	6	6	NAP	-	-	-	-

Risk #3 e-Toll

Schedule 3 contains charge codes for non-payment of e-toll fees. The Regulations published in 2019 contains a Regulation stating:

“(h) by the substitution for the definition of “issuing authority” of the following definition: “issuing authority” means—
 (a) local authority contemplated in Chapter 7 of the Constitution of the Republic of South Africa, 1996, [(Act 108 of 1996)] the Local Government Transition Act, 1993 (Act No. 209 of 1993), or any other applicable law;
 (b) a provincial administration;
 (c) the Road Traffic Management Corporation, established under section 4 of the Road Traffic Management Corporation Act, 1999[.];
 or
 (d) any other state institution declared by the Minister by regulation to be an issuing authority.”

The minister may appoint SANRAL as an issuing authority after 1 July 2021, and then SANRAL may issue Infringement Notices for non-payment of e-toll as contemplated in the Charge Codes as published in Schedule 3.

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4320	Sect.58(1) r/w R312	Failed to comply with the directions conveyed by a road traffic sign by using an e-toll road without paying the toll charge. RWC	I	10	-	-	1000	500	-	-	-
4321	Sect.58(1) r/w R313	Failed to comply with the directions conveyed by a road traffic sign by using an e-toll road without paying the toll charge. Non- RWC	I	5	-	-	500	250	-	-	-
4322	Sect.58(1) r/w R313	Failed to comply with the directions conveyed by a road traffic sign by using an e-toll road without paying the toll charge. RWC	I	10	-	-	1000	500	-	-	-
4323	Sect.58(1) r/w R313	Failed to comply with the directions conveyed by a road traffic sign by using an e-toll road without paying the toll charge. RWC	I	5	-	-	500	250	-	-	-

Risk #4

Withheld Vehicle License Disc or Driving license Card

When an Infringement Notice is issued, RTIA must follow specific steps. The second step is a Courtesy letter issued, with its associated costs. The last stage is an Enforcement Order, with its associated costs as discussed in the Risk of Costs.

When the Enforcement Order is issued, the ID number of the infringer, or the registration number of the vehicle is blocked. This means no disc is issued when the license renewal is done, or a driving license card renewal cannot be done.

Mitigating the Risk

Traffic Fine Manager is in a position to assist the fleet owner, operator, motor vehicle dealer, bank, insurance company or individual person with the mitigating of risk of AARTO Infringements.

Specific Service Options are available to reduce the risk of demerit points, the risk involved with the costs of fines, and when it happens, the risk associated with e-toll.



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