

## **Proposed tow truck bill**

*This is the second draft of the proposed bill. All the inputs received from all the stake holders and role players on the first draft of this bill, which was circulated country wide for a period of at least 12 months have been considered when this, the second draft of the proposed bill, has been compiled.*

*Please consider this second proposed draft and submit any further inputs you wish to make to the author of this draft so that it reach the author before the closing dates for comment on 1 February 2002.*

## **ACT**

**To promote road traffic quality by providing for the regulating of the tow truck and road side assistance service providing business, the relevant service providers and the operations of such service providers and operators; to move the regulation of any debt collection in the industry and by its operators away from common law debt collection litigation rules and to place it under statutory laws and rules related to civil debt collecting litigation; to provide for an agency to administer this act on behalf of the Minister; to provide for a national permit board; to provide for a national tow truck and road side assistance association, provincial tow truck and road side assistance associations and association inspectors; to provide for permits to operate a tow truck and road side assistance service or to drive or assist on a tow truck or assistance vehicle; to provide for operational ethics, methods, procedures, operational and behavioural requirements and conditions for the industry and its operators; to regulate and prescribe fees and levies; to provide for any other matters which are necessary and required to effectively apply, administer and enforce this act and to effectively and efficiently regulate the industry, its operators and its operations and all other matter which is related to the industry.**

*(English text signed by the President)  
(Assented to on xx/xxxx/2000)*

**Be it enacted by the Parliament of the Republic of South Africa as follows:-**

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# CHAPTER 1

## *Interpretation of the act*

### **Definitions**

1(a) In this Act, unless clearly otherwise indicated by the contexts -

“**This Act**”, also referred to as “*the act*”, means the South African tow truck and road side assistance business operators act and also means the regulations of the act.

“**Prescribed**” means as prescribed by the regulations of this act.

“**Minister**” means the national Minister of Transport.

“**Road traffic act**” means the Road traffic act 1996 and its regulations (act 93 of 1996 as amended).

“**MEC of Transport**”, also referred as “*the MEC*” means the various MECs of Transport of the provinces.

**NaTIS**” means the National Traffic Information system.

“**CEO**” means the Chief Executive Officer of the RTMC.

“**RTMC**” means the South African Road Traffic Management Corporation as indicated in the road traffic act.

“**Local authority tow truck and road side assistance operators permit**” also referred to as a “*local permit*”, means a permits issued to service provider or an operator who wants to provide a service or operate in the area of jurisdiction of a particular local authority by that local authority under its by-laws, subject to the provisions of this act, permitting that operator to operate in the area of that authority according to the conditions and requirements prescribed in that permit

“**Local Authority**” means a specific local municipality inside a district municipality or metro in terms of the laws of the RSA.

“**Motor vehicle testing station**”, also referred to as a “testing station”, means a motor vehicle testing registered as such in terms of the road traffic act.

“**Acceptable training certificate**” in relation to any training or qualification required for any operator by this Act, means a relevant certificate issued by a training institution approved by the Minister after providing a training course and passing the evaluation process approved by the Minister.

“**Service provisioning**”, also referred to as “service” means the providing of, or any attempt or offer to provide, any towing or road side assistance services to any person on a public road excluding the driving of or assisting on a tow truck or road side assistance vehicle.

**“Service provider”**, in relation to any towing or road side assistance service provisioning, means a natural person who is the manager in charge of a particular service provisioning business.

**“Registered service provider”**, a service provider that has been registered in terms of this act as a service provider and person in charge of that service provisioning and who are the holder a valid service providers permit.

**“Legal service provider”** a registered service provider who complies with all laws related to his position as service provider and the road traffic act and a service provider must produce without delay his service providers permit and all tow truck permits in his name upon request of a relevant association inspector and a traffic officer.

**“Registered permanent address”** -

- (a) in relation to the residential address of a service provider, a driver or a drivers assistant, means the physical address of the place of residence of such a service provider, driver or drivers assistant as nominated by that service provider, driver or assistant on his or her application for a service providers permit, tow truck or road side assistance vehicle permit, drivers permit or drivers assistants permit or the physical address as indicated on his or her latest notice of change of address to the agency on which he received an acknowledgement of receipt as the case may be. A service provider, driver or assistant may not, for the purpose of this Act, have more than one permanent residential address anywhere at the same time.
- (b) in relation to the business of a service provider, means the service providers office from where he or she manages his business as nominated by him or her on his or her application for his service providers permit or as nominated on the latest notice of change of address to the agency on which an acknowledgement of receipt has been received by that service provider.

**“Legal address”**, for the purpose of serving documents, legal notices or summonses to a service provider, driver or a drivers assistant, means the registered permanent address of that service provider, driver or drivers assistant and that address shall be deemed the legal address of the relevant person.

**“Service provider’s office”** means the physical office or premises in, on, or from which the service is managed: provided that a registered service provider may have only one service provider’s office at any time.

**“Service provider’s permit”**, in relation to a towing or assistance service provider and his operations, means the a permit issued by the agency to the service provider after application and after approval by the board in terms of this act authorising the relevant permit holder to, subject to the conditions and requirements contained on the permit, do business as a service provider of the type of service specified on the permit. No person may have more than one service provider’s permit at the same time and each service provider’s permit must have its own unique number.

**“Operator”**, means a tow truck or road side assistance service provider, the owner of a tow truck or road side assistance vehicle, a tow truck or road side assistance vehicle driver or a tow truck or road side assistance vehicle drivers assistant.

**“Operation”** means any physical act or attempt to recover, tow, or carry any disabled vehicle on a public road or to render or try to render any road side assistance duties on a public road or to assists or attempt to assist a driver in the execution of such duties.

**“Legal operation”** means an operation executed by a legal service provider with a legal vehicle driven by a legal driver and assisted by a legal assistant while they are complying with all relevant provisions of relevant laws.

**“Driver”**, means a person who drives a tow truck or road side assistance vehicle on a public road.

**“Legal driver”** a driver who is the holder of a valid drivers permit, drivers appointment certificate having the permit and certificate on his person while driving a tow truck or assistance vehicle and produce it without delay upon requests by any person who has any material interest in his permit and certificate and any traffic and relevant association inspector and complies with all relevant laws related to the road traffic act and to drivers and the relative service provisioning business and operations.

**“Assistant”**, means a person who acts as an assistant on the vehicle for the driver of a tow truck or road side assistance vehicle excluding driving the tow truck or road side assistance vehicle.

**“Legal Assistant”** an assistant who is the holder of a valid assistants permit and appointment having the permit and certificate on his person while assisting on a tow truck or assistance vehicle and produce it without delay upon requests by any person who has any materiel interest in his permit of certificate, a relevant association inspector and traffic officer and complies with all law related to his position as assistant.

**“Tow truck”** means a motor vehicle which is used or attempted to be used for towing operations.

**“Legal tow truck”**, means a tow truck, or any trailer drawn by such a vehicle, which -

- (a) is specially designed, or permanently specially adapted and equipped as prescribed, specifically and solely for the purpose of salvaging, towing and or carrying a damaged or disabled vehicle on a public road from the place where it was damaged or disabled or stored to a place of storage or repair; and,
- (b) is registered and marked as a tow truck as prescribed; and,
- (c) is identified and certified as a tow truck and classified on the towing permit applicable to that vehicle; and,
- (d) complies with and is used in accordance with all the specifications, requirements and conditions related to tow trucks of that classification as contained in this act, any other relevant legislation and the rules of the relevant association as well as to those conditions indicated on the towing permit and fitness certificate applicable to that specific tow truck; and,
- (e) is being driven by a registered tow truck drivers in the employ of the owner of the tow truck; and,
- (f) have no other passengers on that tow truck than the registered assistant in the employ of the owner of that tow truck; and,



- (g) is otherwise fit and capable, to the opinion of the relevant association to safely and effectively salvage and tow or carry vehicles of the class for which it is certified on its fitness certificate and towing permit; but does not include any such vehicle which is the property of the state, provincial government or a local municipality while it is being used by an employee of that state, province or local municipality for official towing operations in his official capacity.

**“Salvaging”**, also referred to as **“recovery”** or any similar expression, means to recover, move, couple or load a damaged or disabled vehicle, or any part of such a vehicle or its load, on or onto a public road so that it can be put in a position where it can be towed or carried on a public road by a tow truck or a trailer drawn by a tow truck but does not include “towing” or “carrying”.

**“Towing”**, means to tow, draw or move a damaged or disabled vehicle, or any part of such a vehicle or its load, with a tow truck or a trailer drawn by a tow truck in such in way that at least two wheels of the vehicle being towed is running on the road while it is being towed or that the carrying of the mass of the vehicle being towed is shared between the tow truck and a trailer not directly coupled to the tow truck but does not include “salvaging” or “carrying”.

**“Carrying”**, means to move a damaged or disabled vehicle on a public road in such a way that the vehicle is completely carried on the tow truck or completely on a trailer drawn by the tow truck in such a way that no part of the vehicle or its load is in contact with the road surface or in such a way that the carrying of the mass of the vehicle is not shared between the tow truck and the trailer but does not include “salvaging” or “towing”.

**“Damaged or disabled”**, in relation to a motor vehicle, means that the vehicle is for any reason not able to proceed safely or legally on a public road under its own power or the power of its normal type of drawing vehicle in the case of a trailer.

**“Tow truck service provider”**, also in contexts referred to as a **“service provider”** means a service provider who plies a tow truck service provisioning business.

**“Tow truck business”**, also referred to as a **“towing service”** or **“towing operation”**, means to ply directly or indirectly to salvage, recover, tow or carry a damaged or disabled vehicle on a public road and to carry out tow truck operations but does not include any such services or operations performed by an employee of the state, a provincial government or a local authority who executes such services in his official capacity for official purposes.

**“Owner of a tow truck”**, the service provider in whose name the tow truck permit applicable to the particular tow truck has been issued provided that the relevant service provider must also be the registered responsible person for that tow truck according to the registration certificate on NaTIS.

**“Towing operation”** means the duties executed by a tow truck driver and or tow truck assistant in relation to the tow truck, recovery, towing or carrying service provisioning business.

**“Legal towing operation”** a towing operation which is a legal operation.

**“Tow truck driver”** means any person who drives a tow truck.

**“Tow truck assistant”** a person who is an assistant on a tow truck.

**“Tow truck fitness certificate”**, also referred to in context as a “fitness certificate”, means a certificate issued by the nominated association inspector of the relevant association in respect of a specific tow truck in terms of the act certifying that the vehicle complies with all the requirements and specifications prescribed for this specific type and class of tow truck in this act and any other relevant acts as well as to the requirements and specifications of the relevant association at the date and time of the testing and the date and time of the issuance of that certificate.

**“Tow truck service providers permit”** a service providers permit issued to a tow truck service provider permitting him to provide a towing service of the class indicated on the permit in the area or on the routes indicated on the permit and the conditions and specifications contained in the relevant permit: No person shall have more than one tow truck service providers permit or a tow truck service providers permit and a road side assistance service providers permit at the same time.

**“Tow truck permit”**, means a permit issued by the agency, upon application and after approval of the board, to the owner of the tow truck authorising him to use the specific tow truck identified on the permit on the route indicated on the permit and render towing services to the classes of vehicle indicated on the permit with that tow truck. Each tow truck must have its own towing permit and a towing permit must have a unique number. The unique number of the relevant service provider’s certificate must be indicated on each towing permit. A tow truck service provider may have as many tow truck permits as the provincial association of which he is a registered member of allows.

**“Tow truck driver’s permit”**, means a permit issued in terms of this act to a person authorising him to drive a tow truck of the specific class indicated on his tow truck driver’s permit and to render towing services to the class of vehicles indicated on his permit only on the routes indicated on the towing permit of the tow truck he is driving. Each tow truck driver’s permit must have a unique number and no person may have more than one valid tow truck driver’s permit at the same time.

**“Tow truck driver’s appointment certificate”**, means a prescribed certificate issued to the tow truck driver by the service provider who’s tow truck the driver is driving and who is the employer of that driver : provided that a tow truck driver may not be employed and issued with an appointment certificate by more than one service provider at the same time.

Such an appointment certificate must -

- (a) state that the driver is a full time employee of the particular service provider;
- (b) contains the full name and address of the employer as well as the full names, addresses and identification number of the driver;
- (c) contains the signatures of both the tow operator and the driver;
- (d) contains the date of appointment of the driver;
- (e) contain a recent passport type photograph of the driver which must be permanently affixed to the certificate.
- (f) contain the registration numbers of the tow trucks of his employee which he is authorised to drive.
- (g) No tow truck driver may have more than one appointment certificate at the same time.

**“Tow truck assistant’s permit”**, means such a permit issued to a person by the agency authorising him to be an assistant to the driver on a tow truck of his or her employer. Each such permit must have its own unique number and no assistant may have more than one valid permit at the same time.

**“Tow truck assistant’s appointment certificate”**, means a certificate issued to the assistant by the service provider who is employing him in accordance with the provisions of the act and -

- (a) states that the assistant is a full time employee of the tow operator;
- (b) contains the full names and address of the employer as well as the full names, addresses and identification number of the assistant;
- (c) contains the signatures of both the tow operator and the assistant;
- (d) indicates the date of appointment;
- (e) have a recent passport type photograph of the assistant that is to be affixed to the certificate.
- (f) contains the registration number of the tow truck of his employer on which he is authorised to assist.
- (g) No assistant may have more than one appointment certificate at the same time.

**“Road side assistance vehicle”** means a motor vehicle and the trailer attached to such vehicle which is used or attempted to be used for road side assistance operations on a public road.

**“Legal road assistance vehicle”** also referred to as an “assistance vehicle”, means a motor vehicle and any trailer drawn by such a vehicle which -

- (a) is specially adapted and equipped for the purpose and exclusively used for any road side assistance operations; and,
- (b) is registered as a road side assistance vehicle; and,
- (c) which is indicated on the operator’s permit of the relevant service provider;
- (d) complies with all the specifications and requirements set by this act and any other relevant legislation for a road side assistance vehicle; and,
- (e) which is marked as prescribed as an assistance vehicle; and
- (f) is driven by a registered assistance vehicle driver in the employ of the owner of that assistance vehicle; and,
- (g) have no other passengers than a registered assistance vehicle assistant in the employ of that assistance vehicle; and,
- (h) is otherwise fit and safe to be used for road side assistance duties.

But does not include any such vehicle which is the property of the state, provincial government or local authority while it is being used for assistance operations by employees of that state, province or local municipality for official operations purposes.

**“Road side assistance service provider”**, also referred to in context as a “service provider” means a person who provides or attempts to provide or offer any road side assistance services to anybody on a public road.

**“Road side assistance business”**, also referred to in context as “assistance services” or “operations” means to ply a road side assistance services to anybody on a public road but does not include any such services rendered by an employee of the state, provincial government or local municipality who renders such services in his official capacity for official purposes.

**“Assistance services”**, means to provide or assists somebody else on the public road in providing any vehicle spare parts, fuel, water, oil, repair work, means to communicate, delivering messages or to provide transport, excluding a towing service, to the driver or person(s) in charge or the passengers of a damaged or disabled vehicle on a public road and “assistance services” includes any actions and advice on the scene about or related to the containment or clean-up of incident scenes, accident scenes, dangerous materials scenes and any disasters scenes by any person excluding such actions or advice from an employee of the state, provincial government or a local municipality who is acting in his official capacity for official purposes.

**“Owner of assistance vehicle”**, the service provider in whose name the assistance permit applicable to the particular assistance vehicle has been issued provided that the relevant service provider must also be the responsible person of that vehicle according to the registration certificate on NaTIS.

**“Assistance operations”** means the duties executed by an assistance vehicle driver and or assistance vehicle assistant in relation to the road side assistance service provisioning business.

**“Assistance driver”** means any person who driver a road side assistance vehicle.

**“Assistance vehicle assistant”** a person who is an assistant on a road side assistance vehicle.

**“Assistance vehicle fitness certificate”**, also referred to in context as a “fitness certificate”, means a certificate issued by an association inspector of the association to which the owner of the relevant assistance vehicle belongs in respect of a specific vehicle which certifies that the vehicle fully complies with the requirements and specifications prescribed for the specific class of assistance vehicle by this act, any other relevant roadworthy legislation and the rules of the relevant association at the date and time of the testing and issuance of the certificate.

**“Road side assistance service providers permit”** a service providers permit issued to a road side assistance service provider permitting him to provide the specific assistance services of the type indicated on the permit in the area or on the routes indicated on the permit and the conditions and specifications contained in the relevant permit : No person shall have more than one road side assistance service providers permit or a tow truck service providers permit and a road side assistance service providers permit at the same time.

**“Assistance vehicle permit”**, also referred to an “Assistance permit”, means a permit issued by the agency, upon application and after approval by the board, to the owner of the assistance vehicle authorising him to use the specific assistance vehicle identified on the permit on the route indicated on the permit rendering the class or type of assistance services indicated on the permit. Each assistance vehicle must have its own assistance vehicle permit and each such a permit must have its own unique number. The unique number of the relevant service provider’s certificate must be indicated on each assistance permit. A registered road side assistance service provider may have as many assistance vehicle permits as allowed by the provincial association of which he is a registered member.

**“Assistance vehicle drivers permit”**, means the permit issued in terms of this act to a person by the agency after approval by the board authorising the holder thereof to drive a the specific assistance vehicle identified on his assistance vehicle driver’s appointment certificate and of the specific class or type of services indicated on his assistance vehicle driver’s permit only on the route indicated on the relevant assistance service providers certificate and each assistance vehicle driver’s permit must have a unique number. No assistance driver may have more than one drivers permit at the same time.

**“Assistance vehicle drivers appointment certificate”**, means a certificate issued to the driver of an assistance vehicle by the relevant service provider in accordance with the provisions of the act stating that the driver is in the full time employ of the service provider. Such a certificate must contain the full name and address of the employer as well as the full name, address and identification number of the driver with the signatures of both the employer and the driver. The date of appointment and a recent photograph of the driver must be affixed to the certificate. Each such permit must have its own unique number. No assistance driver may have more than one appointment certificate at the same time.

**“Assistance vehicles drivers assistant’s permit”**, means a valid assistance vehicle drivers assistant’s permit issued in terms of the act to a person by the agency after approval by the board authorising the holder thereof to assist on a specific class of assistance vehicle indicated on the permit on the route indicated on the assistance permit of the specific assistance vehicle and the owner of the assistance vehicle may also be an assistant on his own assistance vehicle provided that he have a valid assistance vehicle driver’s or an assistant’s permit as well as a relevant appointment certificate. Each assistance vehicle driver’s assistant’s permit must have a unique number. No assistant may have more than one assistants permit at the same time.

**“Assistance vehicle drivers assistant’s appointment certificate”**, means a certificate issued to the assistant by the assistance operator in accordance with the provisions of the act stating that the assistant is in the full time employ of the assistance operator and such a certificate must contain the full names and address of the employer as well as the full names, addresses and identification number of the assistant with the signatures of both the tow operator and the assistant. The date of appointment and a recent photograph of the assistant must be affixed to the certificate. The unique numbers of the assistance permit of the relevant employer as well as that of the assistance vehicle driver’s assistant’s permit must be indicated on the appointment certificate. No assistant may have more than one appointment certificate at the same time.

**“National tow truck and road side assistance business operators permit board”**, also referred to as **“the Board”**, means the national tow truck and road side assistance business operators permit board as described, created, constituted, registered and operated in terms of the act.

**“Tow truck and road side assistance business operators permit agency”**, also referred to as **“the agency”** or **“permit office”** means the institution created or contracted by the Minister in terms of section 14 of this act to administer the act on his or her behalf in accordance with the provisions of the act and to serve as the “permit issuing authority” for the purposes of this Act..

**“Permit issuing authority”**, means the tow truck and road side assistance business operators permit agency.

**“Registrar”** means the person in the employ of the agency who has been appointed as such by the Minister.

**“National tow truck and road side business operators association”** also referred to as *“the national association”* means the national tow truck and road side business operators association as described, created, constituted, registered and operated in terms of the act and which is managed on behalf of the members of that national association by the management committee of the association appointed for that purpose by that members during a general meeting of the members. There shall only be one national association.

**“Provincial tow truck and road side assistance business operators association”**, also referred to as a *“provincial association”*, means the provincial tow truck and road side assistance business operators association of each province as described, created, constituted, registered and operated in terms of the act and which is managed on behalf of the members of the relevant provincial association by the management committee of that provincial association elected and appointed by the members of that association during a general meeting of the registered members. There shall only be one provincial association per province: provided that any provincial association may have as many sub offices in that Province as it deems necessary.

**“Constitution of an association”** also referred to as the *“constitution”* means the constitution, code of ethics, code of conduct, disciplinary code, rules of operations, membership rules , financial rules and business plan of the national and each provincial association which has been adopted by the members of the relevant association through majority vote, has been approved by the board and the national association and registered with the agency in case of the constitutions of provincial associations and approved by the board and registered with the agency in case of the constitution of the national association. A provincial constitution is subordinate to the national constitution.

**“Association Inspector”** means a person appointed and provided with an appointment certificate by an association for the purpose of doing any inspections and investigations for and on behalf of that association about any aspect related to any operator, operation as well as any tow truck or assistance vehicle deemed necessary by the relevant association: provided that an Inspector appointed by a Provincial association may only act in the Province of the Provincial association who appointed him.

*All other words in this act have the meaning attached to it by the road traffic act and in any case of a dispute regarding the correct meaning of any word in the Act the Minister will determine the final meaning of the word.*

## **Object of this Act**

2. The object of this act is to, in addition to any other object indicated in this act, -

- (a) Properly regulate the tow truck and road side assistance industry, operations, service providers, operators, drivers and assistants.
- (b) Remove the towing and assistance services away from common law rules regarding debt collection and to place it under the rule of relevant statutory laws regulating debt collection.
- (c) To provide for a body or office to administer this act in relation to the issuing and withdrawal of permits in terms of this act and to execute such administration and duties as provided for in this act and as instructed by the Minister;
- (d) To provide for a body to consider and decide on applications in terms of this act and to determine the requirements, conditions or specifications applicable to each approval.

- (e) To provide for a measure of self regulation in the industry by allowing for provincial controlling bodies and inspectors which consist of and represents the operators, drivers and assistants of that province as well as a national body controlling the provincial bodies and which consists of equal representatives from the provincial bodies to represent the industry, operators, drivers and assistants on a national level.
- (f) Make sure that the operators, drivers, assistants and staff of towing and road side services are registered with the South African Revenue Service (SARS) and pay their dues as far as business tax, income tax and value added tax are concerned.
- (g) Make sure that operators are registered as far as taxes and levies for matters like un-employment insurance contributions, skills development contributions and other relevant matters as well as the registration of the businesses and employers in terms of the laws covering that aspects are concerned.
- (h) Make sure that the employers of drivers and assistants are responsible for the actions of their employees as far as the execution of their work and adherence to this act is concerned and that only people in the employ of the operator may ply his business on his behalf;
- (i) Make it compulsory for any person or body, excluding the employees of the state, provincial governments or a local authority who acts in their official capacity for official purposes, who wants to ply, plies, attempts to ply, offer or accepts requests for a towing service or road side service on public roads in the RSA to first obtain membership of a registered provincial association, to register as an operator with the agency and obtain and have a valid operators permit in terms of this act for such services before he attempts to provide such a service.
- J) To only allow only registered service providers to provide the services, only registered vehicles to be used as tow trucks or assistance vehicles, only registered drivers to drive tow trucks and assistance vehicles and only registered assistants to assists or to be passengers on a tow truck or assistance vehicle.
- (k) Provide that only the registered owner of a registered tow truck or assistance vehicle can be registered as a service provider and obtain a vehicle permits for the vehicle of which he is the registered owner and to provide that an operator must have a separate vehicles permit for each individual tow truck or assistance vehicle operated by him.
- (l) Provide the requirements, conditions and standards that must be complied with by all service provider, operators, drivers and assistants in order to obtain and keep a permit;
- (m) Provide that drivers and assistant must first obtain and have a valid drivers and assistants permits before they may drive or assist on any tow truck or assistance vehicle; that a driver and assistant must have an appointment certificate and that they may only drive or assist on a tow truck or assistance vehicle which is registered in the name of their employer;
- (n) Make it a requirement and compulsory that any person or body who wants to apply for any permit required by this act must first obtain membership of the provincial association in whose area he wants to operate, drive or assist and to retain such membership. All permits issued to an operator, driver or assistant will automatically and immediately become null and void when the relevant association suspends or cancel his membership or when such an operator suspends or cancels his membership with the association.

- (o) Determine the specific route on which a permit holder may ply his business, the type of business and classes of vehicles to which a permit holder may render his services, the type of services that an operator may charge for, the amount of the fees and monies that such a permit holder may charge for his services and to prohibit the charging for any services that is not prescribed.
- (p) Determine different classes and categories of tow truck and road side assistance vehicles as well as the general and specific specifications and requirements that such vehicle have to comply with;
- (q) Make it compulsory that tow trucks and assistance vehicles have to obtain a fitness certificate before it may be used on a public road and the regular intervals in which such certificates have to be renewed;
- (r) Provide for the confiscation, suspension or cancellation of registrations and permits under certain circumstances;
- (s) To give the power to the national association to, subject to the provisions of this act and all instructions by the Minister and board, prescribe operational methods, procedures, guidelines, codes and manuals for the industry, service providers, operators, operations, drivers and assistants.
- (t) To give the necessary powers and authority to associations and association inspectors to control the operations of its members and to conduct the investigations and take the disciplinary actions, including fining and expulsion from the association, as deemed expedient by the association against offending members.
- (u) Provides for ethics and codes of conduct in the industry.
- (v) Provide for uniform fees, levies and service charges.
- (w) Provide for the quality of services rendered by operators.

### **Application of this Act**

- 3(1) The provisions of this act as well as the provisions of any other acts dealing with roads, traffic, transport, business, employment, safety, criminal procedures, civil litigation and debt recovery matters will apply to all and any tow truck and road side assistance businesses and operations as well as to any and all service providers, operators, drivers and assistants involved in the business.
- 3(2) Common law rules will only be applicable in cases where there are no statutory provisions of any kind to address any legal matter related to the towing or assistance industry, operations, service providers, operators, drivers or assistants.



## CHAPTER 11

### *National Tow truck and road side assistance business operators permit agency and permit board and administration*

NATIONAL TOW TRUCK AND ROAD SIDE ASSISTANCE BUSINESS OPERATORS AGENCY.

#### **Establishment of the agency**

- 4(1) The national Tow truck and Road side assistance business operators permit agency is hereby established as a juristic person responsible to the Minister.
- 4(2) The Minister must create the agency or contract with any person or body or the CEO of the RTMC to act as the agency.
- 4(3) The Minister must determine the structure of the agency, do the necessary appointments of the CEO and registrar of the agency and its personnel, determine the remuneration of the personnel and arrange the appropriation of a budget and funds for the payment of the personnel as well as the operational expenses of the agency from the exchequer.
- 4(4) The Agency must establish one national office from which to operate at a place determined by the Minister.

#### **The appointment of a registrar for the Agency**

- 5(1) The Minister appoints a person to be the registrar of the Agency for a term of office he deems expedient and the registrar will be a member of the personnel of the Agency in terms of section 4(3) of this act.
- 5(2) The registrar reports to the CEO of the agency and is responsible for the proper and effective keeping of all documents and registers received, sent or kept by the Agency.

#### **Purpose, function and powers of the Agency**

- 6 It is the purpose, function, powers and duties of the agency to, on behalf of the Minister, administer the administrative processes required by this act and -
  - (a) to register and acknowledge receipt of all applications received by the agency;
  - (b) to keep and maintain proper and complete records and registers of all documents received and send by the agency;
  - (c) to ask for and receive the recommendations of the Chief Traffic Officer of the municipality in who's area the applicant wants to operate, the Chief Traffic officer of the provincial traffic service in who's province the applicants wants to operate, the chairperson of the provincial association of the province in which the applicant wants to operate, the chairperson of the national association and any other person or body deemed necessary for each application received by the agency.

- (d) to ask and receive any other information or proof from any person or body deemed necessary to properly and fully evaluate and consider an application or to do an investigation;
- (e) to comprehensively investigate and evaluate each application by heeding the recommendations of the persons indicated in sub section 6(c) and then make a final fully motivated recommendation to the board to approve or disapprove the application and indicate all the conditions, requirements and specifications that must be placed on the approval if the board approves the application.
- (f) to demand and receive the payment of prescribed fees and levies and administer such monies in terms of relevant laws;
- (g) to receive copies of membership cards and membership suspension or cancellation notices from associations and members;
- (h) to receive copies of appointment certificates of drivers and assistants;
- (i) to receive copies of fitness certificates;
- (j) to issue the registration certificates and permits approved by the board;
- (k) to withdraw registration certificates and permits according to the provisions of the act;
- (l) to provide any and all information and copies of documents in the agency's possession to the Minister, board, national association, provincial association and a traffic officers who requires it for official purposes or a person who needs it for litigation purposes when requested to do so upon receipt of the prescribed fees. The Minister, board or a traffic officer is exempted from paying for any such information and copies when required for official purposes.
- (m) to integrate its recording and information functions with the NaTIS;
- (n) to follow up and demand the submission from operators, drivers, assistants, associations and persons indicated in sub section 6(c) and (d) who fails to submit any document or information provided for in this act to the agency on time and levy the prescribed penalties allowed by this act.
- (o) to administer and manage its own budget and accounts as well as the remuneration of the members of the board;
- (p) to act as the secretariat and administrative staff for the board.
- (q) to execute all its responsibilities in accordance with the instructions of the Minister and the provisions of this act.

## NATIONAL TOW TRUCK AND ROAD SIDE ASSISTANCE BUSINESS OPERATORS PERMIT BOARD.

### **Establishment of a national board**

- 7(1) The Minister creates, subject to the provisions of this act, a board which will be known as the “national tow truck and road side assistance business operators permit board” and appoints the members of this board in accordance with the provisions of this act.

- 7(2) The board must consist of -
- (a) a chairperson, provided that this person have experience in presiding at legal proceedings and hearings and have no vested interest in the tow truck or road side assistance industry, motor vehicle selling or repair industry, the motor vehicle insurance industry, vehicle consumer or road user groups or is an employee of the state, provincial government or a municipality.
  - (b) a person appointed as its representative by the national tow truck and road side assistance association;
  - (c) a person appointed as its representative by the vehicle insurance industry;
  - (d) a person appointed as its representative by the South African local government association;
  - (e) a person appointed as its representative by the RTMCC under the Mincom/Colto structure of the national department of transport;
  - (f) a person appointed as its representative of the South African Police service;
  - (g) a person appointed as its representative by the South African consumer protection industry: provided that at least five of the board members must be present at a sitting of the board in order for decisions taken at such a sitting to be binding, final and legal.
- 7(3) The Minister invites nominations of the various members of the board by way of notices in at least three major Sunday news papers in South Africa, make his selections and appoint the members for a term of one year after nominations must again be called for.
- 7(4) The Minister may cancel the appointment of any member at any time for any reason that he deems necessary and must invite nominations for a replacement of such a member.
- 7(5) The Minister must call for nominations to fill the vacancy when a member vacates his seat for any reason before the completion of his term of office.
- 7(6) The board functions, operate and sit, subject to the provisions of this act, as prescribed by the Minister
- 7(7) The Minister determines the remuneration of the members of the board. Board members get paid per day for each day they sits as a board to consider applications.

#### **PURPOSE, FUNCTION, DUTIES AND POWERS OF THE BOARD.**

- 8(1) It is the purpose and function of the board to meet at least once a month, or so many more times a months as required by the workload, to consider and decide on the applications put before it by the agency.
- 8(2) The board, taking into consideration the recommendations of the agency, may decide that an application is approved subject to the conditions, requirements and specifications of the board, that the application is disapproved or that the agency must do the further investigations or supply the additional information indicated by the board before a final decision will be taken on the relevant application.
- 8(3) Any member of the board may at any reasonable times inspect any and all documents, registers, files and accounts of the agency, national association or a provincial association.

- 8(4) The board may order an enquiry or investigation by a person appointed by the board for that purpose against the agency, a member of the agency, the national association or any member of that association, a provincial association or any member of such an association, an operator, a driver, an assistant or a traffic officer if the board have reasonable reasons to believe that any irregularities have occurred.
- 8(5) At least five members of the board, which includes the chairperson, must be present to form a quorum and make binding decisions and at least two thirds of the members present must vote for approval before an approval of the board will be valid and binding.

## **ADMINISTRATION**

### **Administrative staff of agency, board, associations and remuneration**

- 9(1) The CEO of the agency appoints the administrative and support staff, excluding the registrar, he needs to effectively perform the functions and duties of the agency with the approval and in accordance with the instructions of the Minister and the costs of paying staff and running the agency is for the operational budget of the agency.
- 9(2) The annual operational budget of the agency consists of the moneys allocated to the agency by the Minister from the exchequer and the revenue received by the agency from fees, levies and penalties payable to the agency according to this act.
- 9(3) The agency will act as the staff and support personnel of the board and the payment of such staff and personnel, the operational costs of rendering this service as well as the remuneration of the members of the board are for the operational budget of the agency.
- 9(4) The members of the national association elects and appoint a committee which consists of a chairperson, secretary and members to act as the management of that association and the cost of paying the committee and the running of the association are for the budget of the association.
- 9(5) The national association obtains its annual budget from the fees, levies and penalties due to the association according to the provisions of this act and from any other sources arranged for it self by the association.
- 9(6) Each Provincial association obtains its annual budget from the fees, levies and penalties paid by its members as due according to the act and from any other sources arranged for itself by the association and its members.

### **Financing of the budgets of the agency, national association and provincial associations**

- 10(1) The financing of the budget of a provincial association, in addition to any other financing that the association arranges for itself, are derived from monies received by the association as -
- (a) application fees for membership from persons who applies to be a member of the association;
  - (b) monthly membership fees from the members of the association;
  - (c) annual membership renewal fees from members who apply to have their membership of the association renewed;

- (d) payment by a member of a fine imposed on that member by the disciplinary committee of the association for the commission of an offence under the codes of conduct of that association.
  - (e) payment for the issue of duplicate membership cards;
  - (f) The fees and maximum fines payable to a provincial association are as indicated in section 88 of this act.
  - (g) A provincial association may cancel the membership of a person if such a person fail to pay any monies due to the association on or before the third working day after the end of each month or later than the due date in case of a fine.
- 10(2) The financing of the budget of the national association, in addition to any other financing that the association arranges for itself, are derived from monies received by the association from all the provincial associations. Each provincial association pays an amount of money equal to fifteen percent of its monthly revenue derived from the moneys indicated in sub sections 10(1) (a), (b), (c), (d) and (e) to the national association not later than the tenth working day after the end of each month and the national association may charge a provincial association who pays its dues late interest at the maximum legal rate on the amount owing.
- 10(3) That portion of the budget of the agency that must be financed by moneys received from the fees, levies and penalties as contemplated in section 9(2) are as indicated in section 88 of this act and consist of -
- (a) application fee to register as a service provider from a person who applies to be registered as a tow truck or road side assistance service provider;
  - (b) monthly levy payable by every registered service provider;
  - (c) application fee for annual renewal for service provider's registration;
  - (b) application fee for an operators permit from the persons who applies for an operators permit;
  - (c) application fee for annual renewal of operators permits.
  - (d) application fee for a drivers permit from persons who applies for such a permit;
  - (e) application fee for annual renewal of drivers permit;
  - (f) application fee for an assistants permit from persons who applies for such permits;
  - (g) application fee for annual renewal of assistants permits;
  - (h) application fee for any duplicate permit, document or information;
  - (i) application fee to register as the national association;
  - (j) application fee to register as a provincial association.
- 10(4) The agency may cancel the registration certificate and permits of any person who do not pay his monthly levies within three working days after the end of each month and recover dues under statutory debt collection rules.

## **BOOKKEEPING, AUDITS AND REPORTING**

- 11(1) The agency, board, national association, provincial association, each service provider and driver must open, keep, maintain, update and safeguard permanent comprehensive, proper and effective records, registers, books and files in electronic as well as hard copy of all its activities as prescribed by the Minister, this act and the laws relating to official archives.
- 11(2) The Minister, members of the board, a traffic officer and a person specially appointed by the minister for that purpose may at any reasonable time, without prior arrangement of a warrant, enter the offices of the agency, national association, provincial association and a service provider and inspect and copy any and all records, registers, books and files of such an office the ensure that it complies with the provisions of this act.
- 11(3) The records, registers, books, files and accounts of the agency, national board, provincial boards and service providers must be properly audited by a person or body approved by the Minister at least once a year and so many times more per year as the Minister deems expedient and the costs of such an audit are for the budget of the office that is being audited.
- 11(4) The agency, board, national association, provincial associations and each registered service provider must compile comprehensive quarterly and annual reports about its operations, finances and statistics and submit a copy to the Minister not later than two weeks after the end of each quarter and each year.

### **Banking accounts**

12. The agency, national association, each provincial association and each registered service provider must upon commencements of it activities open a bank account in its juristic name at a registered commercial in South Africa and conduct all its financial business through this account.

### **Limitation of liability**

- 13 Any civil or criminal liabilities against the agency, board, national association, provincial associations and service providers will be carried by that agency, board, association or service provider in its capacity as a juristic person and the personal capacity of its owner or directors jointly and severally.

## CHAPTER 111

### *Associations, membership and inspectors*

#### NATIONAL TOW TRUCK AND ROAD SIDE ASSISTANCE BUSINESS OPERATORS ASSOCIATION.

##### **Establishment of the national tow truck and assistance business operators association**

- 14(1) The provincial tow truck and assistance business operators associations must create, register and operate a national tow truck and road side assistance business operators association in accordance with the provisions of this act and the constitution of that national association on or before a date determined by the Minister by way of a notice in the government gazette provided that if the provincial associations have not succeeded to create and register a functional national association on the due date, the Minister may appoint a person to act as the national association until the provincial associations have a functional national association available.
- 14(2) There may only be one national tow truck and road side assistance business operators association and it must consist of its members and its management committee. The management committee is appointed by the members.
- 14(3) The members of the national association are the persons who consist of two representatives from each provincial tow truck and assistance business operators association elected and appointed as such by that association.
- 14(4) The members of the national association appoint a management committee which consists of a chairperson, secretary and at least two members. The management committee executes the day to day functions and duties for and according to the provisions of this act, the constitution and rules of the association and the directives of the national association.

##### **INTERIM AND FINAL REGISTRATION OF NATIONAL ASSOCIATION**

- 15 In the case where a person has been appointed by the Minister to be the national association because the provincial associations were not able to create and register their national association on the due date indicated in section 14(1), such person will register as the national association and such a registration will be an interim registration until the national association created by the provincial associations is registered. The registration of the national association will only be deemed to be final when it is being registered by the provincial associations.

##### **Purpose, function, duties and powers of the national association**

- 16 The purpose, function, duties and powers of the national association are -
- (a) To represent, promote and manage the interest of the tow truck and road side assistance industry in the RSA;
  - (b) To coordinate and monitor the functioning of the provincial associations;
  - (c) To determine, subject to the provisions of this and all other relevant acts, the basic operational methods, procedures, codes of conduct, disciplinary codes and operational rules, guidelines and manuals for the tow truck and road side assistance industry, associations, service providers, operators, drivers and assistants.

- (d) To appoint a person to represent the industry on the board;
- (e) To enforce the codes of conduct and discipline as well as the operational rules of the industry.
- (f) To receive notice of each application submitted to the agency and to make recommendations regarding each such application.
- (g) To demands and receive any relevant information and copies of documents it requires to execute its function from the agency, provincial associations, operators, drivers and assistants.
- (h) To institute any investigations against or for its members, the provincial associations or any operator, driver or assistant;
- (i) To charge any member of the national or a provincial association with misconduct, hold a disciplinary hearing for such cases of misconduct and impose a fine which shall not exceed R 500 per charge on the accused if he is found guilty of the charges;
- (j) To expel a member of an association if that member has been found guilty of misconduct in terms of the codes of the association and to expel a member of a provincial association from that association if that member has been found guilty of misconduct in terms of the relevant codes of conduct;
- (k) To recommend to the board that the registration and or permit of an accused who has been found guilty of misconduct and fails to comply with the sentence imposed upon him by the national association be suspended or withdrawn.
- (l) To receive and administer the moneys due to it in terms of this act;
- (m) To arrange for revenue from any other sources and administers such revenue.
- (n) To arrange for matters like pension funds, medical aid, insurance etc. for the industry and its people at its discretion if deemed necessary.
- (o) To meet at least once a month or so many times more per month as deemed necessary by its members.
- (p) Where a member is expelled the province to which the member belonged must immediately appoint another representative for that province.
- (q) The presence of at least 12 members of the national association must be present at the meetings of the associations before any decision taken by the association will be legal and binding and there must be a majority vote for a decision to became binding.

## PROVINCIAL TOW TRUCK AND ROAD SIDE ASSISTANCE BUSINESS OPERATORS ASSOCIATIONS.

### **Establishment of provincial tow truck and road side assistance business operators associations**

- 17(1) The service providers, operators, drivers and assistants of the towing or assistance services who's business offices are in that province must create, register and operate a provincial tow truck and road side assistance business operators association for that province in accordance with the provisions of this act and the constitution of that provincial association on or before a date determined by the Minister by way of a notice in the government gazette provided that if the operators, drivers and assistants of a provincial associations have not succeeded to create and register a functional provincial association on the due date, the Minister may appoint a person to act as the provincial association until the operators, drivers and assistants of the province have a functional national association available.



- 17(2) There may be only one provincial tow truck and road side assistance business operators association for each province and such an association must consist of its members and its management committee.
- 17(3) The members of a provincial association are those operators, drivers and assistants whose operator's offices and registered permanent addresses are in that province and who has applied, obtained and have valid membership status with that provincial association.
- 17(4) A provincial association may organise itself in such a way that can have regional and local branches in that province according to its needs.
- 17(5) The members of a provincial association appoint a management committee which consists of a chairperson, secretary and at least two members. The management committee executes the day to day functions and duties for the members in accordance with the provisions of this act, the constitution and rules of the association and the directives of the members of that association.

### **Interim and final registration of a provincial association**

- 18 In the case where a person has been appointed by the Minister to be a provincial association because the operators, drivers and assistants of that province were not able to create and register their provincial association on the due date indicated in section 14(1), such person will register as the provincial association of that province and such a registration will be an interim registration until the relevant provincial association created by the operators, drivers and assistants of that province is registered. The registration of the provincial association of that province will only be deemed to be final when it is being registered by the operators, drivers and assistance of the province.

### **Purpose, function, duties and powers of a provincial association**

19. The purpose, function, duties and powers of the provincial association are, subject to the provisions of this act as well as the prescriptions of the national association, -
- (a) To represent, promote and manage the interest of the tow truck and road side assistance industry, operators, drivers and assistants in the province;
  - (b) To ensure that the prescriptions of this act and the prescriptions and policies of the national association is conformed to in the province;
  - (c) To coordinate and monitor the functioning and actions of all the service providers; operators, drivers and assistants in the relevant province;
  - (d) To determine, subject to the provisions of this acts and the prescriptions set by the national association and local authorities, the basic codes of conduct, disciplinary codes, operational methods, procedures and rules, guidelines and manuals for the tow truck and road side assistance industry, service providers, operators, drivers and assistants in the province.
  - (e) To appoint a person to represent the association on the national association;
  - (f) To enforce its own codes of conduct and discipline as well as that of the operational association in the province;
  - (g) To receive notice of each application submitted to the agency and to make recommendations regarding each such application.

- (h) To consider and approve or reject applications from persons who wants to become members of the association and suspends or withdraw such membership when deemed necessary;
- (h) To demands and receive any relevant information and copies of documents it requires to execute its function from the agency, national association, other provincial associations as well from service provider, operators, drivers and assistants in its own province;
- (i) To institute any investigations or disciplinary actions against its members;
- (j) To charge any member of the association with misconduct, hold a disciplinary hearing for such cases of misconduct and impose a fine which shall not exceed R 500 on the accused if he is found guilty of the charges;
- (k) To recommend to the board that the registration and or permit of an accused who has been found guilty of misconduct and fails to comply with the sentence imposed upon him by the association be suspended or withdrawn.
- (l) To receive and administer the moneys due to it in terms of this act;
- (m) To arrange for revenue from any other sources and administers such revenue.
- (n) To arrange, in conjunction with the national association, for matters like pension funds, medical aid, insurance etc. for its members at its discretion if deemed necessary.
- (o) To meet at least once a month or so many times more per month as deemed necessary by its members.
- (p) A provincial association and its members are subject to the authority of the national association;

### **Representation of the national association**

- 20 Each registered provincial association must nominate two persons, who must be registered members of that association, as its representative on the national association and such a representative will be members of the national association.

### **Membership of provincial associations**

- 21(1) Only persons who are bona fide towing or assistance service providers, tow truck or assistance vehicles drivers or tow truck or assistance vehicle assistants and who's permanent business addresses are in the relevant province may be members of a provincial tow truck and road side assistance business operators association provided that a service provider, driver or assistant may not be a member of more than one provincial association at the same time.
- 21(2) Every service provider, driver or assistant who wants to work in a province must be a member of the provincial association in who's province they wants to work.
- 21(3) Any permit indicated in this act may only be issued to a person who has a valid provincial association's membership card. Any permit issued to any person will automatically and immediately become null and void when the holder for any reason stops to be a member of that provincial association.
- 21(4) A service provider, driver and assistant must at all times have his membership card on his person and produce it without delay to any traffic officer and association inspector who demands it when such a service provider, driver or assistant is busy plying the business on a public road.
- 21(5) Any person who plies or attempts to ply a towing or assistance business in a province is subject to the authority of the association and inspectors of that province.

### **Membership cards**

- 22(1) Nobody may copy, damage, deface, change, use or presents such a membership card for any reasons.
- 22(2) Nobody may use an expired membership card or use his membership card when his membership has been suspended or withdrawn.
- 22(3) A membership card must contain the full names, identity number and addresses of the holder, the name and addresses of the association who issued the card and the date of expiry of the card.

### **Appointment of inspectors for provincial associations**

- 23 A provincial association may appoint any person as an inspector for that association and must provide that inspector with an appointment certificate.

### **Purpose, function, duties and powers of inspectors**

- 24 The purpose, function, duties and powers of an association inspector are -
  - (a) To monitor the activities of any person who plies or attempts to ply a towing or assistance service, driving a tow truck or assistance vehicle or assists on a tow truck or assistance vehicle in this province and determine if such a person is operating legally in terms of this act and the prescriptions of his permits as well as the prescripts of the national and relevant provincial associations;
  - (b) To do the investigations instructed by his association and deliver all documents send to its members by the association;
  - (b) To lay criminal or internal charges with the Chief traffic officer or the relevant association depending on the facts of his findings when he observes any transgressions of this act or any legal prescripts by any person;
  - (c) An inspector must immediately produces his appointment card to any person who demands to see it and may not act as an inspector while his appointment certificate are not available on his person;

### **Submission of copies of membership cards to the agency**

- 25 The secretary of a provincial association must send a copy of each membership card issued by the association to the registrar without delay.

### **Notice of cancellation of membership to be submitted to agency**

- 26. The secretary of a provincial association must immediately inform the agency in writing when a membership card is suspended, withdraw or when the member terminates his membership with the association.

## CHAPTER IV

### *Operations and permits*

#### TOW TRUCK AND ROAD SIDE ASSISTANCE OPERATORS REGISTRATION AND PERMITS

##### **Registration of a towing or assistance service**

- 27(1) Each person or body who wants to provide a towing or assistance service must -
- (a) First apply for and obtain membership at the registered provincial towing and assistance association of the province in which he wants to operate;
  - (b) Apply to register his business and obtain a service provider's permit from the agency.
  - (c) have a valid service providers permit to carry on and ply his business;

##### **Tow truck or assistance service providers permit needed to do the business of service provisioning**

- 28 Nobody may ply or attempts to ply a towing or assistance service if he is not the holder of a valid relevant service providers permit.

##### **Application for a service provider's permit**

- 29(1) A person who wants to obtain a service providers permit applies on the prescribed form to the agency and -
- (a) attach a certified copy of the following documents to the application:
    - RSA identification document;
    - proof of registration of his business at the S.A. Receiver of revenue services;
    - proof of registration as an employer with the department of labour
    - proof of registration as employer at the unemployment insurance office
    - proof of registration at NaTIS as an operator in terms of the road traffic act
    - proof of the address of his permanent business office from the relevant local authority
    - proof of business licence from the relevant local authority
    - proof of membership of the relevant provincial association
  - (b) attach the prescribed fee.

##### **Registration of an application for a service provider's permit by the registrar**

- 30 Upon receiving an application for a service provider permit the registrar -
- (a) Register the application and confirm the payment of the prescribed fee;
  - (b) refers the application back to the applicant if the payment of the fee is not confirmed;
  - (c) Check the application for correctness if the fee has been confirmed and requests the further information and proof deemed necessary from the applicant or any other person deemed necessary by the registrar;

### **Circulation of application for a service provider's permit**

- 31 When the registrar is satisfied with the application he sends a copy of the application and relevant documents and information to the national association, the relevant provincial association, the SAPS, the Chief of the provincial traffic services of the relevant province and the chief traffic officer of the local authority in whose area the office of the applicant will be situated for their information and recommendations on the applications;

### **Approval of application**

- 32 The agency fully investigate and evaluate each application, heeding the recommendations of the persons and bodies indicated in section 31(1), and compile a recommendation and motivation for the board recommending that the application be approved or disapproved and indicate the requirements, specifications and conditions that must be imposed on the permit if approved.

### **Issuing of a service providers permit**

- 33 If the board approves the application the registrar issues the permit and informs the persons and bodies indicated in section 31(1) that the permit has been issued.

### **Specific conditions of service provider's permit**

- 34(1) The specific requirements, specifications and conditions that apply to that particular service provider will be indicated on the permit;
- 34(2) Each service provider must within 48 hours in writing reports to the CEO of SANRA, the CEO of the Provincial Roads Agency or the City engineer of the local authority as the case may be when a vehicle with a GVM of 3500 kg or more has been recovered on a road under the jurisdiction of the relevant authority indicating the exact spot where the recovery was done, the particulars of the service provider as well as the particulars of the vehicle that has been recovered. All damages to the road surface, shoulders, reserve, fences, signs or fittings caused by the accident or the recovery process must be described in detail on the report.

### **Confiscation of service providers permits**

- 35 If a traffic officer has reasonable grounds to believe that a service provider did not fully comply with the prescriptions of this act, the prescriptions of the national and relevant association or the general or specific conditions of his permit, such a traffic officer may confiscate the service providers permit of that operator and submit it without undue delay a fully motivated recommendation to the agency that the permit be withdrawn and attach the confiscated permit to that recommendation.

### **Withdrawal of service provider's permit**

- 36(1) In the event of a recommendation received in terms of section 34 the agency conducts a full investigation into the matter and make an appropriate recommendation to the board for a decision and withdraws the permit if the board approves it or return it to the service provider if the board orders it and inform the relevant traffic officer of the outcome of the matter. In the case where the permit is withdrawn all the persons and bodies indicated in section 31(1) must be informed.

- 36(2) In the event where the membership of a service provider is suspended or withdrawn in terms of any provision of this act or where the service provider terminates his membership with his association the registrar withdraw and cancels the permit of that service provider and inform persons or bodies indicated in section 31(1).
- 36(3) In the event of proven evidence that a service provider no longer have a registered tow truck or assistance vehicle register in his name or have not, for any reason, rendered the services for which he holds a service providers permit for a period that is longer than three months, the registrar withdraw the permit of that service provider and informs the persons and bodies indicated in section 31(1) of the withdrawal.
- 36(4) In the event where a service provider has been found guilty by a criminal or civil court of law of committing and offence under this act, or an offence related to the rendering of towing or assistance service where dishonesty or violence was the core element, the registrar withdraws the permit and inform the persons or bodies indicated in section 31(1) of the withdrawal.

#### **Appeal against the refusal, confiscation or withdrawal of service provider's permit**

- 37(1) An applicant who's application for a service providers permit has been refused or who's permit has been confiscated or withdrawn may appeal in writing to the Minister within sixty days form the date of refusal, confiscation or withdrawal.
- 37(2) The Minister may decide to confirm or reverse the refusal, confiscation or withdrawal of a permit and his decision is final.

#### **TOW TRUCK AND ROAD SIDE ASSIST ASSISTANCE VEHICLE PERMITS, FITNESS CERTIFICATES, IDENTIFICATION AND CLASSIFICATION.**

##### **Tow truck or road side assistance vehicle permit needed to use the tow truck or road side assistance vehicle.**

- 38(1) A service provider who wants to use a particular vehicle as a tow truck or assistance vehicle must first obtain a tow truck or assistance vehicle permit for that vehicle fore he may use that vehicle for that purpose.
- 38(2) Only a registered service provider who holds a valid service provider's permit may obtain a tow truck or assistance vehicle's permit.
- 38(3) A service provider may only obtain a tow truck or assistance vehicle's permit for a vehicle of which he is the registered owner.
- 38(4) A service provider must obtain a tow truck or assistance vehicle permit for each vehicle he wants to use for his operations.
- 38(5) The vehicle's permit must be kept on the relevant vehicle at all times when the vehicle is on a public road and must be produced without delay on demand of a traffic officer or association inspector.
- 38(6) Nobody may use or drive a tow truck or assistance vehicle on a public road if there are no valid tow truck or road side assistance vehicle permit applicable the that specific vehicle and the vehicle permit is not in the vehicle.

### **Application for a tow truck or assistance vehicle's permit**

- 39(1) A service provider who wants to use a particular vehicle as a tow truck or assistance vehicle on a public road must first apply on the prescribed form to the agency and pay the prescribed fee for a vehicle's permit for that vehicle and obtain the permit before he attempts to use the vehicle on a public road. The registration number of the vehicle and the service provider's permit unique number of the applicant must be indicated on the application.
- 39(2) Proof that the applicant is the registered owner of the vehicle for which he is applying for a vehicle's permit, as well as a valid fitness certificate for that vehicle must accompany the application for a permit.

### **Copy of fitness certificate to be submitted to the agency**

- 40 The examiner of vehicles of the vehicle testing station which issues a fitness certificate for a tow truck or assistance vehicle must submit a copy of that certificate to the agency without delay and the registration number of the vehicle as well as the service provider's unique permit number of the applicant must be indicated on the fitness certificate.

### **Issuing of permit and Specific conditions for a tow truck or assistance vehicle's permit**

- 41(1) If the registrar is satisfied that the application is in order he issues the permit to the applicant and informs the persons and bodies indicated in section 33(1) of the permit.
- 41(2) The specific requirements, specifications and conditions that apply to that particular permit will be indicated on the permit;

### **Confiscation of a tow truck or assistance vehicle's permit**

42. If a traffic officer have reasonable grounds to believe that a service provider did not fully comply with the prescriptions of this act, the prescriptions of the national and relevant association or the general or specific conditions of his permit, used his vehicle contrary the conditions of the vehicle's permit, that the vehicle are no longer fit or registered in the name of the permit holder, such a traffic officer may confiscate the vehicle's permit of that vehicle and submit it without undue delay a fully motivated recommendation to the agency that the permit be withdrawn and attach the confiscated permit to that recommendation.

### **Withdrawal of vehicle's permit**

- 43(1) In the event of a recommendation received in terms of section 42 the agency conducts a full investigation into the matter and make an appropriate recommendation to the board for a decision and withdraws the permit if the board approves it or return it to the service provider if the board orders it and inform the relevant traffic officer of the outcome of the matter. In the case where the permit is withdraw all the persons and bodies indicated in section 31(1) must be informed.
- 43(2) In the event where the membership of a service provider is suspended or withdrawn in terms of any provision of this act or where the service provider terminates his membership with his association the registrar withdraw and cancels all operators and vehicle permits of that service provider and inform persons or bodies indicated in section 31(1).

- 43(3) In the event of proven evidence that a service provider no longer have a tow truck or assistance vehicle register in his name or have not, for any reason, rendered the services for which he holds a service providers permit for a period that is longer than three months, the registrar withdraw all the vehicle permits of that service provider and informs the persons and bodies indicated in section 31(1) of the withdrawal.
- 43(4) In the event where a service provider has been found guilty by a criminal or civil court of law of committing and offence under this act, or an offence related to the rendering of towing or assistance service where dishonesty or violence was the core element, the registrar withdraws the permit and inform the persons or bodies indicated in section 31(1) of the withdrawal.

#### **Appeal against the refusal, confiscation or withdrawal of vehicle permit**

- 44(1) An applicant who's application for a vehicle permit has been refused or who's permit has been confiscated or withdrawn may appeal in writing to the Minister within sixty days form the date of refusal, confiscation or withdrawal.
- 44(2) The Minister may decide to confirm or reverse the refusal, confiscation or withdrawal of a permit and his decision is final.

#### **FITNESS CERTIFICATES**

##### **Tow truck and assistance vehicle fitness certificate applicable to that specific vehicle needed to obtain a tow truck or assistance vehicle's permit for that vehicle.**

- 45(1) A valid tow fitness certificate issued in terms of this act by a nominated association inspector must be issued for the vehicle before a vehicle's permit in terms of section 38 may be issued for that vehicle.
- 45(2) A fitness certificate issued in terms of this act valid for a maximum period of one year from the date of the fitness test of that vehicle. A fitness certificate become null and void at the time that the relevant vehicle in any way become not fit in terms of the law or the rules of the relevant association.

##### **Application for a fitness certificate in terms of this act**

- 46(1) Application for a fitness certificate for a tow truck or assistance vehicle must be made at the secretary of the relevant association and if required by the secretary also taken to a registered testing station inside the area of the registering authority in who's are the business office of the relevant service provider is situated for a roadworthy certificate. The secretary nominates an association inspector of the association to check and issue a fitness certificate if he finds the vehicle fit in terms of the law and the rules of the association.
- 46(2) The registration number of the relevant vehicle for which application has been made for a fitness certificate as well as the unique number of the service provider's who is the registered owner of the vehicle must be indicated on the fitness certificate.

##### **Copy of fitness certificate to be submitted to the relevant provincial association**

- 47 The holder of a fitness certificate must submit a copy of that certificate (and if instructed to do so by the secretary of his association also a copy of the roadworthy certificate mentioned in section 46) to the secretary of his relevant provincial association without delay after having obtaining it.



### **Specific conditions of a fitness certificate**

- 48 The specific requirements, specifications and conditions applicable to a tow truck or assistant vehicle will be indicated on the fitness certificate of the vehicle by the relevant association inspector.

### **Confiscation of a fitness certificate**

49. If a traffic officer have reasonable grounds to believe that a fitness certificate has been issued while the relevant vehicle is not registered in the name of the applicant of the permit or that the vehicle do not comply with the requirements applicable to the class of vehicle or has been wrongly classified or is not roadworthy in terms of the road traffic act, such a traffic officer may confiscate the fitness certificate of that vehicle and submit it without undue delay a fully motivated recommendation to the agency that the permit be cancelled and attach the confiscated certificate to that recommendation.

### **Withdrawal of fitness certificate**

50. In the event of a recommendation received in terms of section 42 the agency conducts a full investigation into the matter and make an appropriate recommendation to the board for a decision and withdraws the certificate if the board approves it or return it to the service provider if the board orders it and inform the relevant traffic officer of the outcome of the matter. In the case where the certificate is cancelled all the persons and bodies indicated in section 31(1) must be informed.

### **Appeal against the refusal, confiscation or withdrawal of fitness certificate**

- 51(1) An applicant who's application for a fitness certificate has been refused or who's certificate has been confiscated or withdrawn may appeal in writing to the Minister within sixty days form the date of refusal, confiscation or withdrawal.
- 51(2) The Minister may decide to confirm or reverse the refusal, confiscation or withdrawal of the certificate and his decision is final.

### **EQUIPMENT OF VEHICLE AND IDENTIFICATION OF TOW TRUCKS AND ASSISTANCE VEHICLES AND TOW TRUCK AND ASSISTANCE VEHICLE DRIVERS AND ASSISTANTS**

#### **Tow trucks and assistance vehicles, drivers and assistants to be properly equip, identified and marked**

- 52(1) Every tow truck and assistance vehicle must be properly designed, build and equip to be able to do the type and class of work it is to be used for safely, efficiently and effectively as prescribed.
- 52(2) Every tow truck and assistance vehicle must be properly and clearly identified and marked as prescribed.
- 52(3) Every tow truck or assistance vehicle driver and assistant must be properly equip to do their work with safety, efficiency and effectiveness as prescribed.
- 52(4) Equipment must conform to the quality and standards determined by the SABS for such equipment in its applicable standards specification.
- 52(5) No other person than the appointed driver or assistant may be transported in or on a tow truck or road side assistance vehicle.

## CLASSIFICATION OF TOW TRUCKS AND ASSISTANCE VEHICLES AND THE CLASSIFICATION AND TYPING OF TOWING AND ASSISTANT SERVICES.

### **Tow trucks and assistance vehicles to be classified and marked with its classification and the classification and typing of towing and assistance services.**

- 53(1) The Minister by way of the regulations of this act determines, describes and defines the classes and type of services that may be rendered by the towing and assistance industry.
- 53(2) The Minister by way of the regulations of this act determines, describes and defines the different classes of towing and assistant vehicles and the types and classes of vehicles that may be services by each class of tow truck and assistance vehicle.
- 53(3) The Minister by way of the regulations of this act determines, describes and defines the general requirement, specifications and conditions to which the different classes of tow trucks and assistance vehicles must conform to.
- 53(4) The Minister by way of the regulations of this act determines, describes and defines the general requirements, specifications and conditions that applies to the different types and classes of services and different types and classes of service providers, operators, drivers and assistants.
- 53(5) The Minister by way of the regulations of this act determines, describes and defines the additional requirements, specifications and conditions to which the agency, CEO, registrar, board, national association and provincial associations must conform.

## TOW TRUCK AND ASSISTANCE VEHICLE DRIVER PERMITS

### **Tow truck or assistant vehicle driver's permit needed to drive a tow truck or assistance vehicle.**

- 54(1) Any person who wants to drive a tow truck or assistance vehicle must first apply for and obtain a tow truck or assistance vehicle driver's permit according to the provisions of this act before he may drive such a vehicle on a public road and renders services on the road.
- 54(2) A person must be a registered member of the provincial association of the province in which area he wants to work in order to obtain and keep a drivers permit.

### **Application for a drivers permit**

- 55) A person who wants to obtain a tow truck or assistance vehicle drivers permit applies on the prescribed form according to the provisions of this act to the agency and -
- (a) attach a certified copy of the following documents to the application:
- RSA identification document;
  - proof of his valid membership to the relevant provincial association
  - proof of registration as taxpayer at the S.A Receiver of revenue services;
  - proof of registration as an employee with the department of labour
  - proof of registration as employee at the unemployment insurance office
  - proof of his permanent residential address from the relevant local authority
  - proof of membership of the relevant provincial association.
  - Proof of possession of an appropriate drivers licence
  - proof of possession of a professional driving permit for goods

proof of possession of an acceptable high speed driving course certificate  
proof of possession of an acceptable medical first aid course certificate  
proof of possession of an acceptable basic fire fighting course certificate  
proof of possession of an acceptable basic dangerous material incident control certificate  
proof of possession of an acceptable basic road traffic point duty course certificate  
proof of possession of an acceptable basic radio communication operator certificate

(b) attach the prescribed fee.

### **Registration of an application for a drivers permit by the registrar**

56. Upon receiving an application for a drivers permit the registrar -

- (a) Register the application and confirm the payment of the prescribed fee;
- (b) refers the application back to the applicant if the payment of the fee is not confirmed;
- (c) Check the application for correctness if the fee has been confirmed and requests the further information and proof deemed necessary from the applicant or any other person deemed necessary by the registrar;

### **Circulation of application for a drivers permit**

57(1) When the registrar is satisfied with the application he sends a copy of the application and relevant documents and information to the national association, the relevant provincial association, the SAPS, the Chief of the provincial traffic services of the relevant province and the chief traffic officer of the local authority in who's area the permanent address of the applicant is situated for their information and recommendations on the applications;

57(2) The agency fully investigate and evaluate each application, heeding the recommendations of the persons and bodies indicated in section 31(1), and compile a recommendation and motivation for the board recommending that the application be approved or disapproved and indicate the requirements, specifications and conditions that must be imposed on the permit if approved.

### **Approval of the application for a drivers permit**

58 When he is satisfied that the application for a drivers permit is in order, heeding the recommendations of the persons and bodies indicated in section 31(1), submit the application to the board with a motivated recommendation for approval or disapproval and indicate the special conditions that must imposed on the permit if approved.

### **Issuing of a drivers permit**

59. If the board approves the application the registrar issues the permit and informs the persons and bodies indicated in section 31(1) that the permit has been issued.

### **Specific conditions of drivers permit**

- 60(1) The specific requirements, specifications and conditions that apply to that particular will be indicated on the permit;
- 60(2) A driver must have his drivers permit on his person and produce it without delay on demand of a traffic officer or an association inspector.
- 60(3) A tow truck or assistance vehicle driver may not drive a tow truck or assistance vehicle on a public road if he does not have his drivers permit on his person.
- 60(4) A driver may only drive those tow trucks or assistance vehicles indicated on his appointment certificate on a public road.

### **Confiscation of drivers permit**

- 61. If a traffic officer have reasonable grounds to believe that a tow truck or assistance vehicle driver did not fully comply with all the prescriptions of this act, the prescriptions of the road traffic act, the prescriptions of the national and relevant association or the general or specific conditions of his permit, such a traffic officer may confiscate the relevant drivers permit of that driver and submit it without undue delay a fully motivated recommendation to the agency that the permit be withdrawn and attach the confiscated permit to that recommendation.

### **Withdrawal of drivers permit**

- 62(1) In the event of a recommendation received in terms of section 34 the agency conducts a full investigation into the matter and make an appropriate recommendation to the board for a decision and withdraws the permit if the board approves it or return it to the driver if the board orders it and inform the relevant traffic officer of the outcome of the matter. In the case where the permit is withdraw all the persons and bodies indicated in section 31(1) must be informed.
- 62(2) In the event where the membership of a driver is suspended or withdrawn in terms of any provision of this act or where the driver terminates his membership with his association the registrar withdraw and cancels the permit of that driver and inform persons or bodies indicated in section 31(1).
- 62(3) In the event of proven evidence that a driver no longer drive a tow truck or assistance vehicle for any reason, no longer rendered the services for which he holds a drivers permit for a period that is longer than three months, are not or no longer in the employ of a service provider or in the event of his drivers licence or professional driving permit being suspended or cancelled, the registrar withdraw the permit of that driver and informs the persons and bodies indicated in section 31(1) of the withdrawal.
- 62(4) In the event where a service provider has been found guilty by a criminal or civil court of law of committing and offence under this act, or an offence related to the rendering of towing or assistance service where dishonesty or violence was the core element, the registrar withdraws the permit and inform the persons or bodies indicated in section 31(1) of the withdrawal.

### **Appeal against the refusal, confiscation or withdrawal of drivers permit**

- 63(1) An applicant who's application for a drivers permit has been refused or who's permit has been confiscated or withdrawn may appeal in writing to the Minister within sixty days form the date of refusal, confiscation or withdrawal.
- 63(2) The Minister may decide to confirm or reverse the refusal, confiscation or withdrawal of a permit and his decision is final.

## TOW TRUCK AND ASSISTANCE VEHICLE DRIVERS APPOINTMENT CERTIFICATES:

### **Employers of tow truck and assistance vehicles drivers must provide such drivers with appointment certificates**

- 64(1) A service provider who wants to use a person as a driver on his tow truck or assistance vehicle must first take that person in his permanent employment, ascertain that the person are a member of the relevant provincial association and have a valid appropriate drivers permit required by this act and then issue that person with an appointment certificate according to the provisions of this act before he allows such a driver to drive his vehicles.
- 64(2) A driver may only drive a tow truck if he has a tow truck driver's permit of the appropriate class and that tow truck have a valid tow truck permit and is registered in the name of his employer. A driver may only drive and render towing services on that routes indicated on the tow truck permit of the relevant tow truck he is driving and render the class and type of services indicated on the relevant service provider's and tow truck permit.
- 64(3) A driver may only drive an assistance vehicle if he has an assistance vehicle driver's permit of the appropriate class and that assistance vehicle has a valid assistance permit and is registered in the name of his employer. A driver may only drive and render assistance services on that routes indicated on the assistance vehicle's permit of the relevant assistance vehicle he is driving and render the class and type of services indicated on the relevant service provider's and assistance vehicle's permit.

### **Issuing of driver's appointment certificate by operator**

- 65 The employer must issue the certificate as indicated in this act and must also withdraw such a certificate immediately when the holder of the certificate is no longer in the employ of the operator.

### **Copy of driver's appointment certificate to be submitted to the registrar**

- 66 An operator must send a copy of each appointment certificate he issues to his drivers to the registrar without delay and also immediately inform the registrar in writing when he withdraws or cancels such an appointment certificate.

## TOW TRUCK AND ASSISTANT VEHICLE ASSISTANTS.

### **A tow truck or assistance vehicle assistant must have a assistant's permit**

- 67(1) Any person who wants to work as an assistant on a tow truck or assistance vehicle must first apply for and obtain an assistants permit according to the provisions of this act before he may assists on such a vehicle and renders services on the road.
- 67(2) A person must be a registered member of the provincial association of the province in which area he wants to work in order to obtain and keep an assistant's permit.

### **Application for an assistants permit**

68 A person who wants to obtain a tow truck or assistance vehicle assistant's permit applies on the prescribed form according to the provisions of this act to the agency and –

(a) attach a certified copy of the following documents to the application:

RSA identification document;

proof of his valid membership to the relevant provincial association

proof of registration of at the S.A Receiver of revenue services;

proof of registration as an employee with the department of labour

proof of registration as employee at the unemployment insurance office

proof of his permanent residential address from the relevant local authority

proof of membership of the relevant provincial association.

proof of possession of an acceptable basic medical first aid course certificate

proof of possession of an acceptable basic fire fighting course certificate

proof of possession of an acceptable basic dangerous material incident control course certificate

proof of possession of an acceptable basic road traffic point duty course certificate

proof of possession of an acceptable basic radio communication course certificate

(b) attach the prescribed fee.

### **Registration of an application for an assistants permit by the registrar**

69. Upon receiving an application for an assistant's permit the registrar -

- (a) Register the application and confirm the payment of the prescribed fee;
- (b) refers the application back to the applicant if the payment of the fee is not confirmed;
- (c) Check the application for correctness if the fee has been confirmed and requests the further information and proof deemed necessary from the applicant or any other person deemed necessary by the registrar;

### **Circulation of application for an assistants permit**

70(1) When the registrar is satisfied with the application he sends a copy of the application and relevant documents and information to the national association, the relevant provincial association, the SAPS, the Chief of the provincial traffic services of the relevant province and the chief traffic officer of the local authority in who's area the permanent address of the applicant is situated for their information and recommendations on the applications;

70(2) The agency fully investigate and evaluate each application, heeding the recommendations of the persons and bodies indicated in section 31(1), and compile a recommendation and motivation for the board recommending that the application be approved or disapproved and indicate the requirements, specifications and conditions that must be imposed on the permit if approved.

### **Approval of the application for an assistant's permit**

71. When he is satisfied that the application for an assistant's permit is in order, heeding the recommendations of the persons and bodies indicated in section 31(1), submit the application to the board with a motivated recommendation for approval or disapproval and indicate the special conditions that must be imposed on the permit if approved.

### **Issuing of an assistant's permit**

- 72 If the board approves the application the registrar issues the permit and informs the persons and bodies indicated in section 31(1) that the permit has been issued.

### **Specific conditions for an assistant's permit**

- 73(1) The specific requirements, specifications and conditions that apply to that particular permit will be indicated on the permit;
- 73(2) An assistant must have his permit on his person and produce it without delay on demand of a traffic officer or an association inspector.
- 73(3) A tow truck or assistance vehicle driver may not assist on a tow truck or assistance vehicle on a public road if he does not have his assistant's permit on his person.
- 73(4) An assistant may only assist on those tow trucks or assistance vehicles indicated on his appointment certificate on a public road.

### **Confiscation of an assistant's permit**

74. If a traffic officer has reasonable grounds to believe that a tow truck or assistance vehicle assistant did not fully comply with the prescriptions of this act, the prescriptions of the road traffic act, the prescriptions of the national and relevant association or the general or specific conditions of his permit, such a traffic officer may confiscate the relevant assistant's permit of that assistant and submit it without undue delay with a fully motivated recommendation to the agency that the permit be withdrawn and attach the confiscated permit to that recommendation.

### **Withdrawal of an assistant's permit**

- 75(1) In the event of a recommendation received in terms of section 34 the agency conducts a full investigation into the matter and make an appropriate recommendation to the board for a decision and withdraws the permit if the board approves it or return it to the assistant if the board orders it and inform the relevant traffic officer of the outcome of the matter. In the case where the permit is withdrawn all the persons and bodies indicated in section 31(1) must be informed.
- 75(2) In the event where the membership of an assistant is suspended or withdrawn in terms of any provision of this act or where the assistant terminates his membership with his association the registrar withdraws and cancels the permit of that assistant and inform persons or bodies indicated in section 31(1).
- 75(3) In the event of proven evidence that an assistant no longer assists on a tow truck or assistance vehicle for any reason, no longer rendered the services for which he holds an assistant's permit for a period that is longer than three months, or is no longer in the employ of a service provider, the registrar withdraws the permit of that assistant and informs the persons and bodies indicated in section 31(1) of the withdrawal.

75(4) In the event where an assistant has been found guilty by a criminal or civil court of law of committing an offence under this act, or an offence related to the rendering of towing or assistance service where dishonesty or violence was the core element, the registrar withdraws the permit and inform the persons or bodies indicated in section 31(1) of the withdrawal.

#### **Appeal against the refusal, confiscation or withdrawal of an assistant's permit**

76(1) An applicant who's application for an assistant's permit has been refused or who's permit has been confiscated or withdrawn may appeal in writing to the Minister within sixty days from the date of refusal, confiscation or withdrawal.

76(2) The Minister may decide to confirm or reverse the refusal, confiscation or withdrawal of a permit and his decision is final.

#### **TOW TRUCK AND ASSISTANCE VEHICLE ASSISTANT'S APPOINTMENT CERTIFICATES**

##### **Employers of tow truck and assistance vehicle assistants must provide such assistant's with appointment certificates**

77(1) A service provider who wants to use a person as an assistant on his tow truck or assistance vehicle must first take that person in his permanent employment, ascertain that the person are a member of the relevant provincial association and have a valid appropriate assistant's permit required by this act and then issue that person with an appointment certificate according to the provisions of this act before he allows such a driver to assist on his vehicles.

77(2) An assistant may only assist on a tow truck if he have a tow truck assistant's permit of the appropriate class and that tow truck have a valid tow truck permit and is registered in the name of his employer. An assistant may only assist and render towing services on that routes indicated on the tow truck permit of the relevant tow truck he is assisting on and render the class and type of services indicated on the relevant service provider's and tow truck permit.

77(3) An assistant may only assist on an assistance vehicle if he have an assistance vehicle assistant's permit of the appropriate class and that assistance vehicle have a valid assistance permit and is registered in the name of his employer. An assistant may only assist on and render assistance services on that routes indicated on the vehicle's permit of the relevant assistance vehicle he is assisting on and render the class and type of services indicated on the relevant service provider's and assistance vehicle's permit.

##### **Issuing of an assistant's appointment certificate by operator**

78 The employer must issue the certificate as indicated in this act and must also withdraw such a certificate immediately when the holder of the certificate is no longer in the employ of the operator.

##### **Copy of assistant's appointment certificate to be submitted to the registrar**

79. An operator must send a copy of each appointment certificate he issues to his assistants to the registrar without delay and also immediately inform the registrar in writing when he withdraws or cancels such an appointment certificate.



## **CHAPTER V**

### *General matters*

#### **Cross national and provincial border operations**

- 80(1) Any service provider, driver and assistant who needs to provide his services across a national or provincial border must first apply and obtain the written permission from both his own and the association of the other province or country he wishes to operate before he attempts to do the operation.
- 80(2) An application for permission to operate across a border must be made for each individual trip and permission will also cover the return trip of the specific trip. No other operations may be executed while on the route covered by the permission to operate cross border.
- 80(3) The operator who applies for a cross border permission must pay the fee demanded by the involved provincial associations.
- 80(4) The driver of a tow truck or assistance vehicle which is on its way across borders must have the relevant permission on the vehicle and produce it to a traffic officer or association inspector who demands to see the permission.

#### **Powers and duties of traffic officers**

- 81 A traffic officer have, in addition to any other powers given by this or any other act, the following powers and duties inside his area of jurisdiction in relation to the agency, board, national association, provincial associations, association inspectors, service providers, operators, drivers and assistants –
- (a) to enter without prior appointment or warrant at any reasonable time the offices of the agency, board, national association, provincial associations, association inspectors, service providers, drivers and assistants as well as any container, records, registers, books, files and vehicles in order to search for any information or documents required by that officer in order to ascertain if the provisions of this act are being conformed to and to do the necessary investigations if he is investing a case or complaint.
- (b) to demand certified copies of any documents in the possession of the agency, board, national association, provincial associations, association inspectors, service providers, drivers and assistants if he requires it for official purpose or the execution of his duties.
- (c) to give instructions to any service provider, driver or assistant to produce any documents that they must have and produce on demand in terms of this and any other act.
- (d) to instruct any service provider, driver or assistant to immediately leave any scene on a public road or to immediately move any vehicle, part of a vehicle or the load or part of the load of any vehicle that constitutes a danger or obstruction on a public road or to assist the traffic officer in protecting a scene on a public road. The payment involved in moving a vehicle, its parts or load on instruction from a traffic officer will be for the account of the owner or estate of the owner of that vehicle.

### **Serving and sending of document and legal process**

- 82 Documents or any legal process which are sent by registered mail to the legal addresses of a service provider, driver or assistant will be deemed to be properly and duly delivered and served after fourteen work days from the date it was handed in and registered at the relevant postal authorities.

### **Offences and penalties**

- 83(1) Any person who contravenes or fails to comply with any provision of this act or with any direction, condition, demand, determination, requirement, term, or request thereunder, shall be guilty of an offence.
- 83(2) Any member of an association, management committee of an association, association inspector, service provider, driver or assistant who fails to subject themselves to the authority of his relevant association or inspector or fails or refuse to comply with the instructions, codes and guidelines of his association is guilty of an offence.
- 83(3) Any person who is convicted of an offence in terms of section 83(1) shall be liable to a fine not exceeding R 2000. 00 or an imprisonment of not more than three months.
- 83(4) Any person who is convicted of an offence in terms of section 83(2) shall be liable to a fine of not more than R 1000. 00 or an imprisonment not exceeding one month.
- 83(5) The court may order that a repeating offender be banned from being a service provider, driver or assistant for a period of not longer than three years.

### **Access to information**

- 84 Anybody who can show a legal need to any information held by the agency, the board, the national association, provincial association, inspector, service provider, driver or assistant may request such information upon the payment of the determined fee.

### **General conditions for the national association, provincial associations, association inspectors, service providers, drivers and assistants**

- 85 The minister may by way of the regulations of this act prescribe and amend the general conditions applicable to the national association, provincial associations, association inspectors, service providers, drivers or assistants.

### **Regulations.**

- 86 The minister may by way of notices in the provincial gazette make any regulations and amendments to the regulations he deems necessary to properly administer the act

### **By-laws**

- 87 A municipality may, subject to the provisions of this act and the road traffic act, make any by-laws that are not in conflict with this act to regulate the towing and assistance business, service providers, drivers and assistants in their area of jurisdiction including the issuing of local permits for that purpose against the payment of the fees determined by that municipality.

## **Fees**

88(1) The fees payable to a provincial association are as follow -

- |     |  |       |
|-----|--|-------|
| (a) | Application for membership of provincial association | R 200 |
| (b) | Monthly membership fee                               | R 100 |
| (c) | Annual renewal of membership                         | R 200 |
| (d) | Fee for duplicate membership card                    | R 100 |
| (e) | Application for a fitness certificate test           | R 200 |
| (f) | Issuing of fitness certificate                       | R 100 |

88(2) The maximum fine that may be imposed on a member who has been found guilty of a transgression of the code of conduct of the association is R 500 per charge.

88(3) The fees and levies payable to the agency are as follow -

- |     |  |        |
|-----|--|--------|
| (a) | Application to be registered as a service provider   | R 500  |
| (b) | Monthly levy for service providers                   | R 200  |
| (c) | Annual renewal of registration as a service provider | R 200  |
| (d) | Application for service providers permit             | R 200  |
| (e) | Annual renewal of service providers permit           | R 100  |
| (f) | Application for a driver's permit                    | R 200  |
| (g) | Annual renewal of a driver's permit                  | R 100  |
| (h) | Application for an assistants permit                 | R 100  |
| (i) | Annual renewal of an assistants permit               | R 100  |
| (j) | Fee for a duplicate document, permit or information  | R 200  |
| (k) | Application to register as the national association  | R 1000 |
| (l) | Application to register as a provincial association  | R 500  |

88(4) The Minister may from time to time by notice in the government gazette amends the fees payable to a provincial association, national association and the agency.

88(5) The minister, in consultation with the national association and the board, determines and prescribes the fees that may be charged by service providers for services rendered by them and may by notice in the government gazette increase such fees from time to time.

88(6) No service provider may charge anybody for any services that are not indicated in the regulations of this act or charge a higher fee than prescribed for such services.

88(7) The fees prescribed for a service indicated in the regulations of this act is all inclusive and no additional moneys other than the prescribed fee may be charged for any reason as a result of rendering a specific service.

### **Interim transitional provisions**

- 89 The Minister may prescribe any interim and or transitional provision that may be necessary to implement this act.

### **Complaints**

- 90 The agency to be the designated body to handle complaints against operators from the public.

### **Short title of act and commencement**

92. This act shall be called the National Tow truck act, 2002 and shall come into operation on a date fixed by the President by proclamation in the government gazette.