

## CHAPTER 29:10

### MUNICIPAL TRAFFIC LAWS ENFORCEMENT ACT

*Acts 36/1961, 32/1969, 12/1973 (s. 270), 48/1976 (s. 82), 3/1979 (s. 121), 25/1983, 12/1986 (s. 14), 22/2001(s. 4).*

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**AN ACT to facilitate the enforcement and administration of the law relating to road traffic and to vehicles on roads by providing for the punishment without prosecution of certain offences under bylaws or regulations made by municipal councils; and to provide for other matters connected with or arising out of the foregoing.**

[Date of commencement: 22nd December, 1961.]

#### **1 Short title**

This Act may be cited as the Municipal Traffic Laws Enforcement Act [*Chapter 29:10*].

#### **2 Interpretation**

In this Act—

“default penalty” means a default penalty prescribed in terms of paragraph (b) of section *nine*;

“fixed penalty” means a fixed penalty prescribed in terms of paragraph (a) of section *nine*;

“Minister” means the Minister of Local Government, Rural and Urban Development or any other Minister to whom the President may, from time to time, assign the administration of this Act;

“period of grace” means the period of four days following the giving of a notice in terms of subsection (1) of section *four*;

“proceedings” means any criminal proceedings in respect of the act or omission constituting the offence specified in the notice under subsection (1) of section *four*;

“revenue officer” means a revenue officer appointed under section 3 of the Stamp Duties Act [*Chapter 23:09*].

#### **3 Application of Act**

This Act shall apply to any offence committed in respect of a vehicle, for which offence a fixed penalty has been prescribed in terms of section *nine*, being an offence created—

(a) by any by-law made by a municipal council under powers conferred upon it by any law for—

(i) preventing the obstruction by means of a vehicle of any road, footway or other public place; or

(ii) regulating, supervising or controlling—

A. parking garages and parking places and the use thereof;

B. bus stops, bus stations, bus termini and loading or off-loading areas for buses and other vehicles and the use thereof;

C. parking meters or other devices for the regulation or control of the parking of motor vehicles;

or

(iii) the prohibition or regulation of the parking of vehicles in any road or sanitary lane; or

- (iv) the prohibition or regulation of the use of any road by vehicles generally or by any particular class of vehicles for the purpose of controlling traffic; or
- (b) by section 4 of the Foreign Representatives' Parking Privileges Act [*Chapter 3:02*]; or
- (c) by section 43 of the Road Traffic Act [*Chapter 13:11*] in respect of failing to conform to indications given by a traffic sign erected under that Act for controlling the matters referred to in subparagraphs (i) to (iv) of paragraph (a).

#### **4 Notice may be given in respect of certain offences**

(1) Where an authorized officer finds a person on any occasion and has reason to believe that on that occasion he is committing or has committed an offence to which this Act applies, such authorized officer may give him the prescribed notice in writing offering the opportunity of the discharge of any liability to conviction of that offence by payment in terms of this Act of the appropriate fixed penalty together with any default penalty that may have accrued by the date of payment.

(2) If a person to whom a notice in terms of subsection (1) has been given—

- (a) pays the fixed penalty within four days of the date of the giving of the notice, no default penalty shall be payable;
- (b) fails to pay the fixed penalty within the period of grace there shall, in addition to the fixed penalty, be payable such default penalty as may be prescribed:

Provided that no payment pursuant to the notice may be made in terms of this Act after the lapse of twentyfive days from the date of the giving of the notice.

(3) Where a notice in terms of subsection (1) has been given to any person—

- (a) no criminal proceedings in respect of the offence concerned shall be instituted against him till the expiry of twenty-five days following the date of the giving of the notice;
- (b) payment pursuant thereto of the fixed penalty together with any default penalty that has become payable shall discharge him from the offence concerned and no criminal proceedings in respect thereof shall be instituted against him.

(4) Where an authorized officer finds a vehicle on any occasion and has reason to believe that on that occasion there is being or has been committed in respect of it an offence to which this Act applies, he may proceed under this section as if he had found a person reasonably believed by him to be committing the offence, and for that purpose a notice securely affixed to the vehicle in a conspicuous position shall be deemed to be given to the person liable for that offence.

(5) Where an authorized officer has reason to believe that there is being or has been committed an offence to which this Act applies, he may require—

- (a) the owner, driver or person in charge of the vehicle concerned to furnish to such authorized officer immediately his name and address; and
- (b) where such driver or person in charge of the vehicle is not the owner thereof, to furnish to such authorized officer the name and address of such owner; and if such owner, driver or person in charge of the vehicle refuses or fails to furnish the name and address so required or gives a false name or address, he shall be guilty of an offence and liable to a fine not exceeding level five or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

[Subsection as amended by section 4 of Act No. 22 of 2001]

(6) For the purposes of this section—

“authorized officer” means a prescribed officer in terms of section 356 of the Criminal Procedure and Evidence Act [*Chapter 9:07*] or a person employed under any law as a parking supervisor to assist the police in the enforcement of any by-laws or regulations.

#### **5 Person to whom fixed penalty to be paid**

Payment of a fixed penalty, together with any default penalty that may have been prescribed under section *four* shall be made—

- (a) where the by-law or regulation which has been contravened was made by a municipal council designated by the Minister, by statutory instrument, to the town clerk or other officer of such municipal council duly authorized by it to receive the same; or
- (b) where the by-law or regulation which has been contravened was made by any other municipal council, to the revenue officer for the area under the jurisdiction of such municipal council.

#### **6 Application of sums received by way of fixed penalties**

The sums received by a municipal council by way of fixed penalties and default penalties for any offences shall be paid—

- (a) where the offence concerned occurred in a local government area for which a housing account has been established in terms of section 301 of the Urban Councils Act [*Chapter 29:15*], to that account;
- (b) where the offence concerned occurred outside an area referred to in paragraph (a), to the parking account established by the municipal council in terms of section 191 of the Urban Councils Act [*Chapter 29:15*].

## **7 Evidence of payment or non-payment of fixed penalty**

In any proceedings a certificate that payment of a fixed penalty and any default penalty was or was not made to the town clerk or other duly authorized officer of the municipal council concerned or revenue officer, as the case may be, by a date specified in the certificate shall, if the certificate purports to be signed by the town clerk, other duly authorized officer or revenue officer, as the case may be, be sufficient evidence of the facts stated, unless the contrary is proved.

## **8 Particulars to be included in notice**

A notice given in terms of subsection (1) of section *four* shall specify—

- (a) the offence alleged, giving such particulars of the offence as are necessary to provide the person to whom it is given with reasonable information of the allegation;
- (b) the period of grace during which only the appropriate fixed penalty shall be payable, and the amount of such fixed penalty;
- (c) the default penalty which shall, in addition to the fixed penalty, be payable after the expiry of the period of grace and the amount of such default penalty;
- (d) the date of expiry of the period during which no criminal proceedings for the offence may be instituted and after which no payment pursuant to the notice shall be permitted;
- (e) the town clerk or other duly authorized officer of the municipal council to whom and the address at which payment of the appropriate fixed penalty and any default penalty may be paid.

## **9 Amount of fixed penalty and default penalty**

The Minister, after consultation with the Minister responsible for justice and the municipal council concerned, may prescribe—

- (a) in relation to any offence referred to in paragraph (a), (b) or (c) of section *three*, the fixed penalty that shall be payable, which penalty shall not be greater than one-third of the maximum fine prescribed by law in respect of such offence within the area under the jurisdiction of such council; and
- (b) in relation to any offence for which he has prescribed a fixed penalty in terms of paragraph (a), a default penalty that shall be payable, which penalty shall not be greater than one-third of the maximum fine prescribed by law in respect of such offence within the area under the jurisdiction of such council.

## **10 Penalty for interference with notice affixed to vehicle**

A notice affixed to a vehicle under subsection (4) of section *four* shall not be removed or interfered with before the fixed penalty and any default penalty that may have been prescribed has been paid except by or under the authority of the owner, driver or person in charge of the vehicle, and any person contravening the provisions of this section shall be guilty of an offence and liable to a fine not exceeding one hundred dollars or, in default of payment, to imprisonment for a period not exceeding one month.

## **11 Rights under section 356 of Cap. 9:07 modified**

(1) If no payment of the appropriate fixed penalty and any default penalty that may have become payable has been made before the expiry of the period of twenty-five days after the date of the giving of a notice in terms of subsection (1) of section *four*, no person shall be entitled to avail himself of the rights conferred by subsections (1), (2), (3), (4) and (5) of section 356 of the Criminal Procedure and Evidence Act [*Chapter 9:07*] in respect of the offence specified in the notice.

(2) Where payment of the fixed penalty and any default penalty that may have become payable referred to in subsection (1) has not been made in the circumstances referred to in that subsection, a summons shall be served on the person against whom it is intended to take proceedings, hereinafter called “the offender”, in respect of the offence specified in the notice issued under section *four*, requiring him to appear in court on a date fixed in the summons, being not less than thirty days after the summons is served, to answer a charge of having committed the offence in question, and a declaration in the form prescribed shall be attached to the summons.

(3) Service of a summons referred to in subsection (2) may be by post or in accordance with the Criminal Procedure and Evidence Act [*Chapter 9:07*]:

Provided that where service has been by post and the offender has not—

- (a) signed the declaration referred to in subsection (2) and transmitted that declaration, the summons and the amount referred to in paragraph (b) of subsection (4) to the clerk of the court concerned in accordance with subsection (4); or
  - (b) appeared in court in answer to that summons; no further proceedings shall be taken against him in respect of the offence specified in the notice issued under section *four* until a summons and declaration referred to in subsection (2) have been served upon him in accordance with the Criminal Procedure and Evidence Act [*Chapter 9:07*].
- (4) If the offender—
- (a) signs the declaration referred to in subsection (2) admitting that he is guilty of the offence in question; and
  - (b) transmits that declaration and the summons to the clerk of the court concerned, together with an amount equal to treble the fixed penalty in question, so that the declaration, summons and amount are received by the clerk of the court not later than fourteen days before the date upon which the offender is to appear in

court; he shall thereupon not be required to appear in court in answer to the summons, and no further proceedings shall be taken against the offender in respect of the said offence.

(5) All moneys received by the clerk of the court in terms of subsection (4) shall be paid into the Consolidated Revenue Fund.

## **12 Regulations**

The Minister may by regulation make provision for all matters which he considers it necessary or expedient to provide for in order that the purposes of this Act may be achieved, and, in particular— (a) for prescribing, the forms of notice and declaration under sections *four* and *eleven*;

(b) for prescribing the fixed and any default penalty for an offence in respect of each municipality.