



GOVERNMENT GAZETTE

OF THE

REPUBLIC OF NAMIBIA

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GOVERNMENT NOTICE

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Government Notice

OFFICE OF THE PRIME MINISTER

No. 416

2022

PROMULGATION OF ACT OF PARLIAMENT

The following Act which has been passed by the Parliament and signed by the President in terms of the Namibian Constitution is hereby published in terms of Article 56 of that Constitution.

No. 11 of 2022: Road Fund Administration Amendment Act, 2022.

Act No. 11, 2022

ROAD FUND ADMINISTRATION AMENDMENT ACT, 2022

EXPLANATORY NOTE:

- _____ Words underlined with a solid line indicate insertions in existing provisions.
- [] Words in bold type in square brackets indicate omissions from existing provisions.

ACT

To amend the Road Fund Administration Act, 1999 so as to provide for exemption from payment of entry fees, writing-off of annual licence fees or interest or penalties imposed on annual licence fees and waiving of interest or penalties imposed on annual licence fees; and to provide for incidental matters.

(Signed by the President on 29 December 2022)

BE IT ENACTED as passed by the Parliament, and assented to by the President, of the Republic of Namibia as follows:

Amendment of section 18 of Act No. 18 of 1999

1. Section 18 of the Road Fund Administration Act, 1999 (Act No. 18 of 1999) (hereinafter referred to as the “principal Act”) is amended by the insertion after subsection (5) of the following subsections:

“(5A) The chief executive officer must, subject to an application referred to in subsection (5C), exempt a person from payment of the entry fee in the following circumstances:

- (a) for cross-border military exercises approved by the Minister responsible for defence;
- (b) for the cross-border transport of medical staff or patients;
- (c) in order to temporary grant any member of the police force of a country permission to enter Namibia, as approved -
 - (i) by the Minister responsible for safety and security; or
 - (ii) any other Minister authorised by Cabinet; or
- (d) in any other circumstances approved by the Minister on the recommendation of the board.

(5B) Before the Minister approves the circumstances referred to in subsection (5A)(d), the Minister must -

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- (a) publish a notice in the *Gazette* requesting the public to lodge objections within 30 days of that notice; and
- (b) consider such objections, if any, before granting such approval.

(5C) A person who is liable for payment of the entry fee imposed under subsection (1)(b) may apply to the chief executive officer in the prescribed form and manner for exemption from payment of such entry fee.

(5D) The board may, in respect of the annual licence fees imposed under subsection (1)(c) or any interest calculated or penalty imposed under this Act, write off any debt which has prescribed in terms of the Prescription Act, 1969 (Act No. 68 of 1969).

(5E) The chief executive officer may, subject to the approval of the board, waive any unprescribed debt not exceeding N\$ 1 000 000 which relates to any interest calculated or penalty imposed on annual licence fees in cases where the interest or penalty exceeds the original amount of the annual licence fees.

(5F) A person who is liable for payment of any interest or penalty imposed on annual licence fees may apply to the chief executive officer in the prescribed form and manner for the interest or penalty to be waived as contemplated in subsection (5E).

(5G) The chief executive officer must -

- (a) exercise his or her powers under subsection (5E) subject to such policies and directives pertaining to oversight as the board may issue from time to time; and
- (b) provide the board with written reasons for granting or refusing to grant an application for a waiver under subsection (5E).

(5H) The Minister may waive payment of an unprescribed debt which relates to interest calculated or penalty imposed on annual licence fees which debt exceeds N\$ 1 000 000.

(5I) A person who is liable for payment of any interest or penalty imposed on annual licence fees may apply to the Minister in the prescribed form and manner for the interest or penalty to be waived as contemplated in subsection (5H).

(5J) Subject to subsection (5K), the Minister may waive payment of an unprescribed debt as contemplated in subsection (5H) subject to the chief executive officer vetting and recommending such application.

(5K) The Minister and the chief executive officer must consider the following when considering an application for a waiver contemplated in subsection (5E) or (5I) -

- (a) the extent that the waiver is practicable and will not lead to the evasion of annual license fees as a road user charge;

Act No. 11, 2022**ROAD FUND ADMINISTRATION AMENDMENT ACT, 2022**

- (b) sound risk management practices;
- (c) if the object of such waiver is to relieve financial hardship or if prospects of debt recovery are unlikely; and
- (d) any other circumstance which may be prescribed.

(5L) The Minister may, amend the threshold prescribed by subsections (5E) and (5H) by notice in the *Gazette*.

(5M) The Minister may make regulations relating to -

- (a) the time frames within which an application for exemption and waiver must be processed;
- (b) the time frames within which an application for exemption or waiver must be submitted;
- (c) the intervals and manner in which the chief executive officer must report to the board;
- (d) the forms and supporting documents required for applications contemplated in subsection (5C), (5F) and (5I);
- (e) the information and evidence proof as may be reasonably required in order to duly consider each application, including information and evidence relevant to payment of the outstanding licence fees or any portion of such licence fee;
- (f) the application fees payable in respect of an application for exemption or waiver; or
- (g) any other matter which the Minister considers necessary for the efficient administration of the exemption and waiver process.

(5N) A person who makes a false statement or provides false information in an application form contemplated in subsection (5C), (5F) or (5I) commits an offence and is on conviction liable to a fine not exceeding N\$ 20 000 or to imprisonment for a period not exceeding one year or both such fine and such imprisonment.”.

Amendment of section 29 of Act No. 18 of 1999

2. Section 29 of the principal Act is amended by the addition after subsection (12) of the following subsection:

“(13) Section 18(5A) to (5N) applies to annual licence fees imposed under section 18(1)(c) or any interest calculated or penalty imposed on licence fees which are due and payable on or after the date of commencement of section 18(5A) to (5N).”.

Act No. 11, 2022**ROAD FUND ADMINISTRATION AMENDMENT ACT, 2022****Short title and commencement**

3. This Act is called the Road Fund Administration Amendment Act, 2022 and comes into operation on a date determined by the Minister by notice in the *Gazette*.
