CHAPTER 2 LEVYING OF TOLL

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2.1 OVERVIEW

2.1.1 The SANRAL is empowered, with the Minister's approval, to declare any specified national road or portion thereof, including any bridge or tunnel on a national road, to be a toll road, subject to certain requirements.

2.1.2 The SANRAL is also empowered, with the Minister's approval, to amend or withdraw any such declaration.

2.1.3 The SANRAL is also empowered to levy and collect tolls, grant exemption from the payment of tolls, restrict the levying of a toll on a particular toll road to specific times, suspend the levying of a toll on a particular toll road for a specified period, whether for all vehicles or vehicles within a particular category, and withdraw such exemption, restriction or suspension, as the case may be.

2.2 POLICIES AND PROCEDURES

2.2.1 Definition of the national road or portion thereof to be a toll road

2.2.1.1 In terms of the Act, the SANRAL, with the Minister's approval, may only declare a national road or portion thereof, including any bridge or tunnel on a national road, to be a toll road.

2.2.1.2 Details of the declaration of the national road will therefore already be available and the declaration of such road or portion thereof as a toll road should make reference to such declaration details.

2.2.2 Schematic Diagram

2.2.2.1 The SANRAL's survey service provider must prepare a schematic diagram indicating the proposed positions of the main line and ramp toll plazas.

2.2.2.2 The schematic diagram must be provided to the SANRAL.

2.2.3 Declaration process

2.2.3.1 The Minister will not give approval for the declaration of a toll road unless:

2.2.3.1.1 The SANRAL has given notice, generally, of the proposed declaration and has given the general public the opportunity to comment on the proposed declaration and any other matter with regard to the toll road (and particularly as to the positions of the toll plazas) within a specified period (which may not be shorter than 30 days);

2.2.3.1.2 The SANRAL has in writing requested the Premier in whose province the road proposed as a toll road is situated, to
comment on the proposed declaration and any other matter with regard to the toll road (and particularly as to the positions of the toll plazas) within a specified period (which may not be shorter than 60 days)\(^\text{10}\);

2.2.3.1.3 The SANRAL has in writing given every municipality in whose area of jurisdiction the road is situated the same opportunity to comment\(^\text{11}\) on the proposed toll road, as the aforementioned opportunity granted to the Premier of the relevant province;

2.2.3.1.4 The SANRAL has, with its application to the Minister for approval of the declaration, forwarded its proposals in that regard together with a report:

2.2.3.1.4.1 Providing details of comments and representations that have been received;

2.2.3.1.4.2 Indicating the extent to which any of the matters raised in such comments and representations have been accommodated in such proposals\(^\text{12}\);

2.2.3.1.4.3 Indicating why any other comments or representation received cannot or have not been accommodated in the proposals;

2.2.3.1.5 The Minister is satisfied that the SANRAL has considered the comments and representations received.

2.2.3.2 If the SANRAL has failed to give notice of the proposed declaration of a national road as a toll road, or has not called for comments from the Premier in whose province the road proposed as a toll road is situated, or has not called for comments from municipalities in whose area of jurisdiction the proposed road is situated, or has not provided the Minister with the required report, then the Minister is obliged to refer the SANRAL’s application and proposals back to it and to require proper compliance with the provisions of the Act.

2.2.3.3 Likewise, if the Minister is not satisfied that the SANRAL has considered comments and representations received, then the Minister must refer the application and proposals back to the SANRAL and order it to properly consider such comments and representations, before the application and the SANRAL’s proposal will be considered for approval\(^\text{13}\).

2.2.3.4 If the Minister approves the declaration of any specified national road or any specified portion thereof to be a toll road, such declaration will only become effective fourteen days after a notice to that effect by the SANRAL has been published in the Government Gazette\(^\text{14}\).

2.2.3.5 Any national road or portion of a national road (including any bridge or tunnel thereon) which:

2.2.3.5.1 Was declared a toll road under the previous Act; and

2.2.3.5.2 Which immediately before the incorporation date of the SANRAL existed; and
2.2.3.5.3 which immediately before the incorporation date of the SANRAL operated as a toll road under the previous Act, will be regarded and treated for all purposes as if it had been declared a toll road under the Act\textsuperscript{15}.

2.2.4 Amendment of an existing declaration of a toll road

2.2.4.1 The SANRAL may not amend the declaration of a toll road or any portion thereof without the approval of the Minister.

2.2.4.2 In the event that the proposed amendments are a substantial variation of the existing declaration of the national road or portion thereof as a toll road, then the SANRAL shall follow the process set out in paragraph 2.2.3 above and shall thereafter submit its application and proposals to the Minister for approval.

2.2.4.3 Notice of the amendment must be published in the Government Gazette and shall take effect fourteen days after the date of publication.

2.2.4.4 In practice, where appropriate, the sheets of the existing declaration which are affected by the proposed amendment are replaced and this is referred to in the amending declaration.

2.2.5 Withdrawal of a declaration of a toll road

2.2.5.1 The SANRAL may not withdraw the declaration of a toll road or any portion thereof without the approval of the Minister.

2.2.5.2 Notice of the withdrawal must be published in the Government Gazette and shall take effect fourteen days after the date of publication.

2.2.6 Publication of toll tariffs, exemptions, restrictions and suspensions

2.2.6.1 If a national road or any specified portion thereof has been declared a toll road, the amount of toll that may be levied or any rebate thereon and any increase or reduction thereof will be determined by the Minister on the recommendation of the SANRAL\textsuperscript{16}.

2.2.6.2 The amount of toll that may be levied may differ in respect of:

2.2.6.2.1 different toll roads;

2.2.6.2.2 different vehicles or different categories of vehicles driven or used on a toll road;

2.2.6.2.3 Different times at which any vehicle or any vehicle of a particular category is driven or used on a toll road;

2.2.6.2.4 Different categories of road users, irrespective of the vehicles driven or used by them\textsuperscript{17}.

2.2.6.3 The amount of toll that is levied on a particular toll road must be published in a notice in the Government Gazette by the head of the Department\textsuperscript{18}.

2.2.6.4 The toll that will be payable will be payable from a date and time determined by the Minister on the recommendation of the

\textsuperscript{15} Section 27(6)
\textsuperscript{*} Section 27(3)(a)
\textsuperscript{2} Section 27(3)
\textsuperscript{*} See definitions B and Section 27(3)(c)
\textsuperscript{*} Section 27(3)(d)
SANRAL. This date and time must be specified in the notice published in the Government Gazette. The date may not be earlier than fourteen days after the date on which the notice is published in the Government Gazette.

2.2.6.5 The SANRAL is empowered to levy and collect the toll which has been determined by the Minister. Such toll is payable at a toll plaza by any person driving or using a vehicle that travels through the toll plaza, or at any other place subject to conditions that the SANRAL may determine. If a toll is payable at a place other than a toll plaza, notice thereof must be given in the Government Gazette in accordance with the provisions described above.

2.2.6.6 The SANRAL is entitled to grant exemption from the payment of toll on a particular toll road in respect of:

2.2.6.6.1 all vehicles of a category determined by the SANRAL; or

2.2.6.6.2 the vehicles of a category determined and specified which are driven or used on the toll road at a time determined and specified by the SANRAL.

2.2.6.7 The SANRAL may also grant exemption from the payments of toll on a particular toll road to:

2.2.6.7.1 all users of the road of a category determined by the SANRAL, irrespective of the vehicles driven or used by them on the toll road;

2.2.6.7.2 users of the road of a category determined and specified when driving or using vehicles on the toll road at a time determined and specified.

2.2.6.8 The SANRAL may restrict the levying of toll on a particular toll road to the hours or other times determined by the SANRAL.

2.2.6.9 The SANRAL may suspend the levying of toll on a particular toll road for any specified or unspecified period further:

2.2.6.9.1 in respect of all vehicles generally; or

2.2.6.9.2 in respect of all vehicles or a category determined by the SANRAL.

2.2.6.10 If the levying of toll on a specified toll road is suspended for a specified or unspecified period, the SANRAL is entitled to resume the levying of toll after the suspension.

2.2.6.11 Notice of any exemption, restriction or suspension granted in terms of the Act will only become effective fourteen days after notice to that effect by the SANRAL has been published in the Government Gazette.

2.2.7 Contravention of the Act

2.2.7.1 Any person liable for toll who, at a toll plaza or other place for the payment of toll determined and made known by the SANRAL, refuses or fails to pay the amount of toll that is due is:
2.2.7.1.1 guilty of an offence and punishable on conviction with imprisonment for a period not longer than six months or a fine, or both the term or imprisonment and fine; and

2.2.7.1.2 is liable in addition, to pay the SANRAL a civil fine of R1000-00.

2.2.7.2 The SANRAL may, with the Minister's approval, set up and apply a points demerit system with regard to persons who refuse or fail to pay the amount of any toll for which they are liable.

2.2.7.3 Such points demerit system shall provide for:

2.2.7.3.1 recording a specified number of demerit points against the name of the offender for each occasion on which the offender refuses or fails to pay the toll;

2.2.7.3.2 imposing any specified civil penalty and other sanction on any offender whose demerit points equal or exceed a specified number.

2.2.7.4 The Minister shall not grant approval for the establishment of a points demerit system unless:

2.2.7.4.1 the SANRAL has given notice of the proposed introduction of the points demerit system and in the notice:

2.2.7.4.1.1 has broadly outlined the proposed system; and

2.2.7.4.1.2 has invited interested persons to comment on the proposed points demerit system, and in particular on the civil penalties and other sanctions proposed; and

2.2.7.4.1.3 has allowed interested persons thirty days to furnish their written comments and representations to the SANRAL;

2.2.7.4.2 the SANRAL has provided its proposals to the Minister with:

2.2.7.4.2.1 a report on the comments and representations received;

2.2.7.4.2.2 an indication in such report of the extent to which any of the matters raised in such comments and representations have been accommodated in the proposals; and

2.2.7.4.3 the Minister is satisfied that the SANRAL has properly considered the comments and representations received.

2.2.7.5 If the Minister is not satisfied that the SANRAL has given proper notice of the proposed points demerit system or properly considered the comments and representations received, then the Minister must refer the application and proposals back to the SANRAL and order for it to properly comply with the provisions of the Act or consider such comments and representations before the application and the SANRAL's proposal will be considered for approval.

2.2.7.6 If the Minister approves the implementation of a points demerit system, the provisions of such system must be published in the Government Gazette and...
will take effect and become enforceable and binding thirty days after publication.\textsuperscript{32}

2.2.7.7 The SANRAL shall be entitled to provide for the increase in the number of demerit points recorded per occasion of non payment of toll to be increased in accordance with a specified sliding scale or formula:

2.2.7.7.1 for second and subsequent cases of non payment of toll;

2.2.7.7.2 according to the size of the amounts determined as toll, so that the greater the amount determined as toll, the higher the number of demerit points recorded upon not paying the toll.\textsuperscript{33}

2.2.7.8 The SANRAL is entitled to impose any one of the following sanctions on offenders in appropriate circumstances, in addition to or instead of a civil penalty:

2.2.7.8.1 a reprimand and a warning issued in writing; or

2.2.7.8.2 suspension of the offender's right to use the toll road concerned for such period determined by the SANRAL and specified in writing in the notice of suspension furnished to the offender; or

2.2.7.8.3 a prohibition on the use of that road, issued in writing by the SANRAL; or

2.2.7.8.4 any prescribed sanction that is less than that provided for above.\textsuperscript{34}

2.2.7.9 The SANRAL may not impose any civil penalty or other sanction on any person unless it has first applied the rules of natural justice with regard to such person. This implies, at the very least, that such person is given an opportunity to present his or her case as to why the amount of any toll was not paid.\textsuperscript{35}

2.2.8 The SANRAL is entitled to institute legal proceedings to recover toll monies owing to it.\textsuperscript{36}

2.2.9 The SANRAL's right to institute legal proceedings is not adversely affected by:

2.2.9.1 the conviction and sentencing of the person in terms of the Act;

2.2.9.2 the payment by such person of a civil fine in terms of the Act; or

2.2.9.3 the imposition of a civil penalty or other sanction on such person in terms of the Act.
2.3 ANNEXURES

2.3.1 Precedent of a general notification to declare a national road to be a toll road;

2.3.2 Precedent of the content of a letter to a Premier requesting comment on the SANRAL's intention to declare a national road to be a toll road;

2.3.3 Precedent of the content of a letter to a Municipality requesting comment on the SANRAL's intention to declare a national road to be a toll road;

2.3.4 Precedent of the declaration of a national road as a toll road;

2.3.5 Matters to be contained in the memorandum to the SANRAL's Board of Directors requesting approval for the declaration of a national road as a toll road;

2.3.6 Matters to be contained in the memorandum to the Minister of Transport requesting approval for the declaration of a national road as a toll road.
2.3 ANNEXURES

Annexure 2.3.1 Precedent of a notification to the general public of the proposed declaration of an existing national road or national route as a toll road

This is an example only and must be adapted to suit the circumstances

NOTIFICATION OF INTENTION TO DECLARE NATIONAL ROAD * FROM * TO * AS A TOLL ROAD, WHICH WILL BE KNOWN AS THE * TOLL ROAD

By virtue of the powers vested in me by Section 27(4)(a) of The South African National Roads Agency Limited and National Roads Act (Act No. 7 of 1998), the South African National Roads Agency Limited (“the SANRAL”) hereby gives notice of its intention to recommend to the Minister of Transport the declaration of National Route * from a point * metres south of the intersection between the centrelines of the N* Section * and N* Section *, along the proclaimed National Road to the * Border at * to be a continuous Toll Road.

The extent of the proposed Toll Road and the approximate positions of the proposed Toll Plazas are indicated on the sketch attached hereto (figure 1).

By virtue of section 27(4)(a)(ii) of the said Act all interested persons are herewith invited to make written representations to the SANRAL on the proposed declaration of the proposed Toll Road and positioning of the Toll Plazas within 30 (thirty) days from the date of this notice. All written representations must be addressed to the Regional Manager, * Region, Private Bag *, *, *, and can be faxed to *:Attention *.

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CHIEF EXECUTIVE OFFICER
THE SOUTH AFRICAN NATIONAL ROADS AGENCY LIMITED
2.3 ANNEXURES

Annexure 2.3.2 Precedent of a letter to the Premier giving notification of the SANRAL's intention to declare an existing national road or national route as a toll road
This is an example only and must be adapted to suit the circumstances

NOTIFICATION OF INTENTION TO DECLARE NATIONAL ROAD * FROM * TO * AS A TOLL ROAD, WHICH WILL BE KNOWN AS THE * TOLL ROAD

By virtue of the powers vested in me by Section 27(4)(b)(i) of The South African National Roads Agency Limited and National Roads Act (Act No. 7 of 1998), the South African National Roads Agency Limited (“the SANRAL”) hereby gives notice of its intention to recommend to the Minister of Transport the declaration of National Route * from a point * metres south of the intersection between the centrelines of the N* Section * and N* Section *, along the proclaimed National Road to the * Border at * to be a continuous Toll Road.

The extent of the proposed Toll Road and the approximate positions of the proposed Toll Plazas are indicated on the sketch attached hereto (figure 1).

Please would you provide us with your written comments on the proposed declaration or any other matter with regard to the toll road (and particularly, as to the positions of the toll plazas) within 60 (sixty) days from the date of this notice.

All written representations must be addressed to the Regional Manager, * Region, Private Bag *, *, *, and can be faxed to *:Attention *.

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CHIEF EXECUTIVE OFFICER
THE SOUTHAFRICAN NATIONAL ROADS AGENCY LIMITED
2.3 ANNEXURES

Annexure 2.3.3 Precedent of the content of a letter to a Municipality requesting comment on the SANRAL’s intention to declare an existing national road or national route as a toll road

This is an example only and must be adapted to suit the circumstances

NOTIFICATION OF INTENTION TO DECLARE NATIONAL ROAD * FROM * TO * AS A TOLL ROAD, WHICH WILL BE KNOWN AS THE * TOLL ROAD

By virtue of the powers vested in me by Section 27(4)(b)(i) of The South African National Roads Agency Limited and National Roads Act (Act No. 7 of 1998), the South African National Roads Agency Limited (“the SANRAL”) hereby gives notice of its intention to recommend to the Minister of Transport the declaration of National Route * from a point * metres south of the intersection between the centrelines of the N* Section * and N* Section *, along the proclaimed National Road to the * Border at * to be a continuous toll road.

The extent of the proposed Toll Road and the approximate positions of the proposed Toll Plazas are indicated on the sketch attached hereto (figure 1).

Please would you provide us with your written comments on the proposed declaration or any other matter with regard to the toll road (and particularly, as to the positions of the toll plazas) within 60 (sixty) days from the date of this notice.

All written representations must be addressed to the Regional Manager, * Region, Private Bag *, *, *, and can be faxed to *:Attention *.

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CHIEF EXECUTIVE OFFICER
THE SOUTH AFRICAN NATIONAL ROADS AGENCY LIMITED
2.3 ANNEXURES

Annexure 2.3.4 Precedent of a proposed declaration of an existing national road or national route as a toll road

This is an example only and must be adapted to suit the circumstances

NATIONAL ROAD * FROM * TO * : DECLARATION AS A TOLL ROAD

By virtue of the powers vested in me by section 27(1)(a)(i) of The South African National Roads Agency Limited and National Roads Act (Act No. 7 of 1998), I hereby declare National Route * from a point * metres south of the intersection between the centrelines of the N* Section * and N* Section *, along the proclaimed National Road to the * Border at * to be a toll road.

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CHIEF EXECUTIVE OFFICER
THE SOUTH AFRICAN NATIONAL ROADS AGENCY LIMITED
2.3 ANNEXURES

Annexure 2.3.5 Matters to be contained in the memorandum to the SANRAL’s Board of Directors requesting approval for the proposed declaration of an existing national road or national route as a toll road

This is an example only and must be adapted to suit the circumstances

MEMORANDUM PERTAINING TO THE PROPOSED DECLARATION OF AN EXISTING NATIONAL ROAD OR NATIONAL ROUTE AS A TOLL ROAD

This memorandum must contain the following information:

(a) details of the national road for which the toll road declaration is proposed;

(b) details of the proposed positions of the toll plazas contemplated for the proposed toll road;

(c) the reasons for the proposed declaration of the national road as a toll road;

(d) proof of compliance with the notice provisions of the Act;

(e) details of any comments and/or representations received from the general public, municipalities (in whose area of jurisdiction the proposed toll road would be situated), and the Premier (in whose province the proposed toll road would be situated);

(f) a report on these comments containing an analysis thereof and an indication of the extent to which such comments have been or could be accommodated;

(g) the budget required in the event that the existing national road or national route is declared a toll road.
2.3 ANNEXURES

Annexure 2.3.6 Matters to be contained in the memorandum to the Minister of Transport requesting approval for the proposed declaration of an existing national road or national route as a toll road

MEMORANDUM PERTAINING TO THE PROPOSED DECLARATION OF AN EXISTING NATIONAL ROAD OR NATIONAL ROUTE AS A TOLL ROAD

This memorandum must contain the following information:

(a) details of the national road for which the toll road declaration is proposed;

(b) details of the proposed positions of the toll plazas contemplated for the proposed toll road;

(c) the reasons for the proposed declaration of the national road as a toll road;

(d) proof of compliance with the notice provisions of the Act;

(e) details of any comments and/or representations received from the general public, municipalities (in whose area of jurisdiction the proposed toll road would be situated), and the Premier (in whose province the proposed toll road would be situated);

(f) a report on these comments containing an analysis thereof and an indication of the extent to which such comments have been or could be accommodated;

(g) the budget required in the event that the existing national road or national route is declared a toll road;

(h) the minutes of the meeting of SANRAL's Board of Directors at which the decision was taken to apply to the Minister for the declaration of the national road as a toll road.