



Republic of Namibia

## Ministry of Information and Communication Technology

### Implementation of the recently increased fines for admission of guilt in respect of various traffic violations and other offences

The Government of the Republic of Namibia has taken note of the recent demonstrations by taxi drivers in the city of Windhoek and other towns in the country in which calls were made for the Government to re-consider the implementation of higher fines for admission of guilt in respect of a number of traffic violations.

The outcry from the taxi industry emanates from the implementation on January 1, 2011 of a new fine list which was adopted by district magistrates in terms of the prescriptions of section 57 of the Criminal Procedure Act.

The Government wishes to take this opportunity to put on record that the scenes which were seen on national television involving clashes between law enforcement agencies and demonstrating citizens are unfortunate. Government is prepared to engage any grievances which citizens may have about the implementation of Government policy and programmes.

However, Government is not prepared to engage citizens on the basis of demands that a law which has been duly enacted by Parliament must be scrapped or its implementation measures be put on hold.

Ever since the demonstrations started earlier this week, law enforcement officers who were on the scene where some of the ugly incidents took place, urged demonstrators to raise their grievances in a civil and peaceful manner.

Last week law enforcement agencies and other stakeholders in the transport sector as well as the local authority engaged representatives of the taxi industry through their representatives to consider the substance of their grievances. Most of the grievances are being addressed by the relevant authorities. A meeting of government stakeholders met on 24 January 2011 to consider the specific grievances raised by representatives of the taxi industry and took firm decisions on the issues raised. The outcome of the meeting was communicated to the representatives of NABTA.

The demonstrations which took place on Monday and Tuesday (25-26 January 2011) which turned violent were apparently led by taxi drivers who are not necessarily members of NABTA. The fragmentation of representation of the industry does not enhance Government's ability to productively engage the issues raised.

Government is convinced that although the grievances raised are being addressed, it is necessary to provide information on the background to the measures which are now being contested.

It is against this background that Government wishes to provide the following additional information to explain how and why the increased fines were adopted and are being implemented:

1. The recently increased fines for admission of guilt are a result of the recent amendment of the Criminal Procedure Act, 1977 with the enactment of the Criminal Procedure Amendment Act, 2010. Act No. 13 of 2010, which came into force on 30 August 2010.

2. The purpose of the amendment was to increase the maximum amount for admission of guilt fines for various minor criminal and traffic offences from a maximum of N\$300.00 to N\$6000.00. Fines were not increased to target a specific group of people. The fact that notices to appear in court and which contained provision for admission of guilt were limited to much lower amounts for traffic offences, could have contributed to the misunderstanding.

3. Penalties and fines for traffic offences are prescribed in the Traffic and Transport Act 22 of 1999 and the regulations published under that Act. The Act, regulations and fines came into operation almost 10 years back on 6 April 2001. So higher fines for traffic offences have been in place for some time.

4. This means that the courts could impose these so-called higher fines as sentences from 6 April 2001 when a person appeared in court. Paying admission of guilt, like a speeding ticket you receive from a traffic officer however is a way of admitting your guilt WITHOUT appearing in court. Admission of guilt and its payment are regulated by the Criminal Procedure Act, 1977.

5. If a person commits one of the so-called lesser offences, he/she is not arrested and kept in custody. He/she is given a notice to appear in court on a specific day for his/her trial. On this notice there is an admission of guilt amount indicated. If the person does not want to go to court and want to admit his/her guilt he/she can do so by paying the admission of guilt fine before the court date. After paying the admission of guilt such person does not have to appear in court. This however does not mean that such a person has to pay the admission of guilt if he/she receives such a notice. Such person is always entitled to go to court and plead not guilty or plead guilty and present evidence as to why the court should sentence him/her to a lesser fine than the amount indicated as the admission of guilt.

6. The Criminal Procedure Act, since it came into operation in 1977 only allowed admissions of guilt to a maximum of N\$300.00. This means that since 2001, although higher fines were operational for traffic offences, traffic officers could not allow offenders to pay admission

of guilt for an amount higher than N\$300.00 and thus not go to court. Everyone can appreciate that this amount is economically outdated and clearly inadequate. The maximum amount which you can be required to pay to admit your guilt [without appearing in court] has now been increased to a maximum of N\$6 000.00 by an amendment to the Criminal Procedure Act, 1977, which has been referred to earlier. That is why traffic officers can now write you a ticket with admission of guilt in it for a much higher amount than the previous limit of N\$300.00. It simply allows for more appropriate punishment of offences by way of admission of guilt fines and the person served with a ticket no longer has to appear in court to be punished with the applicable penalties.

7. By giving the public the opportunity to pay admission of guilt on more of the lesser offences without appearing in court, the number of outstanding cases in our lower courts will be decreased substantially.

8. It is also not a case of traffic officers deciding what admission of guilt they will impose for a specific offence. The amounts which a traffic officer put as admission of guilt on the ticket for specific offences have been set and prescribed by magistrates. It is the same throughout the country.

9. In terms of section 57(5) the Criminal Procedure Act (section 57(5), the magistrate of each district is charged with the responsibility to determine the actual amount payable as admission of guilt fine in respect of various traffic violations administered by traffic authorities.

10. Pursuant to the requirement in section 57(5) of the CPA, the Chief magistrate coordinated the inputs of district magistrates of various district courts to review the Uniform Traffic fine List in order to come up with a list which is in line with the intention of the legislature to raise the traffic fines for various violations.

11. At a meeting of stakeholders convened on November 1, 2010 new levels of admission of guilt fines in terms of the amended CPA, 2010, were adopted.

12. If a specific group of people believe they are being targeted because they are given several notices with admission of guilt, they should also consider that they might be the persons who are committing more traffic offences than other drivers. They are not compelled to admit their guilt by paying this admission of guilt. They still are, and always will be, entitled to present their cases in court.

13. The facility of paying an admission of guilt is to reduce the number of traffic violations to be adjudicated through the courts and to curb the number of persons facing imprisonment for traffic violations. It is an option which is available to every citizen to make use of in order to avoid possible lengthy court proceedings which will require determination of guilt based on evidence led in court.

14. Where an offender is not happy to pay the fine, he/she is at liberty to appear in court and make representations before court including his/her inability to afford the fine imposed. The offender is also at liberty to place before the court mitigating factors which can be taken into account for a lesser sentence or to deny guilt, and compel the state to prove its case against him/her. An offender can also approach the public prosecutor and make written representations to the public prosecutor regarding the fine imposed.

15. The amounts eventually approved were based on consideration of statistics on the incidence of different violations including information on fatalities and injuries sustained in accidents. Based on the incidence of violations corresponding increased fines were determined in order to partially encourage positive changes in the behaviour of drivers.

16. The fine list approved by the district magistrates is intended for all road users, be they drivers, or pedestrians.

17. The Government fully understands that the taxi owners and/or drivers are affected by the impact of the fines because of the nature of their business which entail being on the road most of the time. The fine list is enforceable against all drivers in the country, not only taxi drivers or owners.

18. The Government has taken note of concerns raised about the limited availability of loading and disembarking bays for taxis throughout most of our towns. Relevant local authorities will be sensitized to look into availing such facilities to the taxi industry. This will take time to achieve, but is being addressed.

19. It is worth pointing out that most of the violations in respect of which traffic tickets have been issued are not related to the inadequate taxi ranks, but relate to flagrant disregard of safety measures in the cities such as the prohibition on picking commuters at unauthorized zones. Traffic authorities are willing to allow taxi drivers to pick passengers at non-prohibited zones on the road, provided the taxi drivers observe basic safety precautions, such as clearly indicating their intention to stop or turn to alert other road users and thus minimize accidents and obstruction of the flow of traffic.

20. Commuters/pedestrians who stop taxis at unauthorized points on the road are also liable to be fined.

21. The new fines list has been adopted in accordance to the prescribed procedure in the principal Act and will be implemented in full. The principal Act has determined the upper limit within which law enforcement bodies have to make determinations on appropriate levels of fines for specific violation. Such determinations have to be informed by the crime prevention objectives to be achieved in order to influence desirable behaviour on our roads.

22. Fines already imposed in terms of the new dispensation have to be honoured. Those who are for any reason unhappy to pay the fines have the option to approach the court and make representations why they should not pay. Failure to pay the fines will lead to the issuance of warrants of arrest for those who fail to pay or appear before court.

23. We urge the public to fully co-operate in the implementation of the newly introduced fines which are in line with a law which was duly passed by our national Parliament.