

Section 5: Legal Scan of Applicable South African Legislation – Vehicle Registration and Licensing

5.1 Overview of Applicable Legislation

The following vehicle registration legislation relates to off-road vehicle use:

- National Road Traffic Act 93 of 1996;
- National Road Traffic Act Regulations;
- South African National Roads Agency Limited and National Roads Act 7 of 1998; and
- Environment Conservation Act 73 of 1989, Noise Regulations.

5.2 Definition of Off-Road Vehicles

In South Africa, vehicles are used:

- Exclusively on public roads;
- Exclusively off public roads (i.e. off-road); or
- Both on public roads and off-road.

A “public road” in terms of the National Road Traffic Act 93 of 1996, means any road, street or thoroughfare or any other place (whether a thoroughfare or not) which is commonly used by the public or any section thereof or to which the public or any section thereof has a right of access, and includes the verge of any such road, street or thoroughfare, any bridge, ferry or drift traversed by any such road, street or thoroughfare; and any other work or object forming part of or connected with or belonging to such road, street or thoroughfare.

The National Road Traffic Act 93 of 1996 does not specifically define an off-road vehicle. However, the following definitions generally relating to off-road vehicles are included:

- **“Motor vehicle”** means any self-propelled vehicle and includes:
 - A trailer; and

- A vehicle having pedals and an engine or an electric motor as an integral part thereof or attached thereto and which is designed or adapted to be propelled by means of such pedals, engine or motor, or both such pedals and engine or motor, but does not include:
 - Any vehicle propelled by electrical power derived from storage batteries and which is controlled by a pedestrian; or
 - Any vehicle with a mass not exceeding 230 kilograms and specially designed and constructed, and not merely adapted, for the use of any person suffering from some physical defect or disability and used solely by such person;
- **“Motor cycle”** means a motor vehicle which has two wheels and includes any such vehicle having a side-car attached;
- **“Motor quadrucycle”** means a motor vehicle, other than a tractor, which has four wheels and which is designed to be driven by the type of controls usually fitted to a motor cycle; and
- **“Motor tricycle”** means a motor vehicle, other than a motor cycle or a tractor, which has three wheels and which is designed to be driven by the type of controls usually fitted to a motor cycle.

The National Road Traffic Act Regulations also provide the following general definition for a motor vehicle / car:

- **Motor car** means a motor vehicle, other than a motor cycle, motor tricycle or motor quadrucycle designed or adapted solely or principally for the conveyance of not more than nine persons, including the driver.

Apart from the National Road Traffic Act and Regulations, the Regulations regarding Noise Control promulgated under Section 25 of the Environment Conservation Act 73 of 1989, defines a *“recreational vehicle”* as:

- (a) An **off-road vehicle**, scrambler, dune buggy or ultra-light aircraft;
- (b) A model aircraft, vessel or vehicle;
- (c) Any aircraft or helicopter used for sport or recreational purposes; or
- (d) Any other conveyance or model, which in the opinion of a local authority is a recreational vehicle.

On a provincial level the Western Cape Provincial Department of Environmental Affairs and Development Planning, produced the *“Provincial Guidelines for the Western Cape: Assessment and Evaluation of Proposed and Existing Off-road Routes: A Guide for Environmental Assessment Practitioners, Authorities and Route Planners, 2006”*. These guidelines currently

provide the optimum definitions relating to off-road vehicles. The following definitions are of relevance:

- **All Terrain Vehicle (“ATV”)**: A four-wheel drive vehicle which make use of engine power; and
- **Off-Road Vehicles (“ORVs”)**: Motorised, including 2-and 4-wheeled drive vehicles, all terrain vehicles, quad bikes and off-road trail bikes and motorcycles.

On a local government level the City of Tshwane Noise Management Policy provides the following definition of a “*recreational vehicle*”:

- a) An **off-road vehicle**, scrambler, dune buggy or ultra-light aircraft;
- b) A model aircraft, vessel or vehicle;
- c) Any aircraft or helicopter used for sport or recreational purposes;
- d) A vessel used on water; or
- e) Any other conveyance, vessel or model used for sport or recreational purposes.

5.3 Vehicle Registration and Licensing

In South Africa, vehicle registration and licensing are two separate processes (see **Table 5.1**).

All vehicles need to be registered. Any vehicle that is used on public roads must be registered, licensed and must be roadworthy (i.e. “street legal”).

Table 5.1: Vehicle Registration and Licensing in South Africa

| | Registration | Licensing |
|--------------------------|---|---|
| Description | <ul style="list-style-type: none"> All vehicle title-holders are required by law to register their vehicles, whether used on public roads or off-road | <ul style="list-style-type: none"> All vehicles that are used on public roads are required by law to be licensed |
| Applicable legislation | <ul style="list-style-type: none"> National Road Traffic Act | <ul style="list-style-type: none"> National Road Traffic Act |
| Responsible organisation | <ul style="list-style-type: none"> All vehicles are recorded on the National Traffic Information System (“NaTIS”)¹ Registering authorities are responsible for registration | <ul style="list-style-type: none"> All vehicles are recorded on NaTIS Licensing authorities are responsible for licensing |
| Period of validity | <ul style="list-style-type: none"> Registration is valid until: <ul style="list-style-type: none"> The title-holder of the vehicle changes; Ownership of the vehicle changes (with the permission of the title-holder); The vehicle is deregistered; 31 days after a vehicle is repossessed; and When the estate is wound up after the death of the vehicle's owner. | <ul style="list-style-type: none"> Licensing needs to be renewed annually |
| Type of vehicle | <ul style="list-style-type: none"> The following vehicles need to be registered: <ul style="list-style-type: none"> New vehicles; Pre-owned (used) vehicles; Built-up vehicles; Deregistered vehicles; Vehicles acquired from the estate of a deceased person; Repossessed vehicles; | <ul style="list-style-type: none"> There are various classes of vehicles as defined in the Act including motor vehicles, motorcycles, trucks etc. There are 7 classes of tourism vehicle licences, viz: <ul style="list-style-type: none"> Tuk-tuk service; Metered taxi service; Tourist service; Charter service; Coach-type service; |

¹ NaTIS is a system used by all the offices and/or appointed agents to execute the content of the National Road Traffic Act 93 of 1996

| Registration | Licensing |
|---|---|
| <ul style="list-style-type: none"> - Vehicles acquired outside the borders of South Africa; and - Vehicles previously reported as stolen. | <ul style="list-style-type: none"> - Courtesy service; and - Shuttle service. |

Registration is necessary to control the number and type of vehicles on the road, to ensure roadworthiness of vehicles and therefore ensure safety on the road and lastly to have a reference for stolen vehicles.

Failure to produce a current motor-vehicle licence when asked to do so by a member of South African Police Services (“SAPS”) or to display properly the disc known as the “clearance certificate” is an offence.

Table 5.2 provides an indication of vehicle registration and licensing for the various classes of off-road vehicles.

Table 5.2: Vehicle Registration and Licensing for Off-Road Vehicles

| Type of ORV | Registration | Licensing |
|-------------------------------|-----------------------------|---|
| Off-road and trail motorbikes | Compulsory for all vehicles | Compulsory only if used on public roads and the vehicle must be road-worthy |
| Quad bikes | Compulsory for all vehicles | Quad bikes may not be used on public roads thus no licensing is required |
| 4x4s | Compulsory for all vehicles | Compulsory only if used on public roads and the vehicle must be roadworthy |

5.4 Gap Analysis

The following possible gaps exist in legislation in terms of vehicle registration and licensing in the off-road sector:

- No legislated definition of off-road vehicles; and
- No specific class of off-road vehicles for registration or licensing.

In addition, registration of off-road only vehicles, such as private game vehicles and quad bikes, is not maintained i.e. on resale. Nor is it feasible to track owners through this registration process, especially if addresses change.

5.5 Conclusion

In terms of the registration of off-road vehicles, the issue is not one of legislation (it is currently compulsory for all types of off-road vehicles to be registered irrespective of where they are used), but rather of enforcement. Many off-road vehicles are used exclusively off-road, usually on private land, which makes policing and enforcement of registration nearly impossible.

With regards to vehicle licensing, off-road vehicles only need to be licensed if they are to be used on public roads.

In terms of off-road vehicle registration and licensing, perhaps the only gap in the legislation is that there is no national legislated definition of an off-road vehicle, as well as no specific class of off-road vehicles for registration and licensing.

It should however be noted, that the issue of off-road vehicle licensing is not for consideration as part of the development of the off-road strategy but is being discussed and addressed by relevant stakeholders outside of this process.

Not all the legal gaps identified here are addressed in the final off-road strategy. The strategy contains more detail about how some gaps have been addressed. The other gaps highlighted here may be addressed through possible future interventions.