



AARTO

*A Fleet Manager's Guide to
Manage Risk, Reduce Cost and
Ensure Compliance*

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AARTO: An Overview

AARTO is the “Administrative Adjudication of Road Traffic Offences” Act and was first enacted by the Government of South Africa in 1998. AARTO pilot projects were implemented in Tshwane in July 2008 and Johannesburg in February 2009. Roll out of AARTO – including the demerit point system - to the rest of the country is expected before the end of the government’s financial year ending February 29th, 2012.

The overall objective of this new legislation is, quite simply, to make South Africa’s roads safer. In doing so, the stated goals of the AARTO program are toⁱ :

- 1) Develop an effective, efficient and streamlined system that will take routine traffic offenses out of the over-stretched court system and create incentives that increase compliance with road traffic laws;
- 2) Overcome wide discrepancies in the penalties imposed by different magistrates or applied in different jurisdictions for the same types of traffic violations;
- 3) Ensure uniformity in the different sentencing norms for the majority of serious traffic violations which are generally too low to be adequately prohibitive;
- 4) Ensure that sentences are more appropriately attuned to the differential capacity of offenders to pay – hence the need for alternative sentencing options;
- 5) Be tough on those who do not pay fines imposed and those who ignore summonses to appear in court;
- 6) Take persistent offenders and dangerous drivers off the road; and,
- 7) Reward good behaviour of drivers and fleet operatorsⁱⁱ.

Why AARTO?

Road traffic injuries are a major public health problem and leading cause of death and injury around the world. Traffic crashes kill more than 1.2 million people and injure or disable over 50 million people per yearⁱⁱⁱ.

Globally:

- 1) Road traffic crashes are the leading cause of death for children and young people aged 5–29 years^{iv};
- 2) It is expected that road crashes will be the leading cause of death for children aged 5-14 in the developing world by 2015^v;
- 3) Annual losses incurred as a result of traffic injuries are estimated to be more than USD \$518 billion^{vi}; and,
- 4) Road crashes cost low and middle-income countries USD \$65 billion annually, exceeding the total amount received in developmental assistance^{vii}.

In South Africa, road traffic fatalities are amongst the highest in the world.

In South Africa, road traffic fatalities are amongst the highest in the world^{viii} with over 700,000 police reported accidents, 15,000 deaths and 50,000 people seriously injured every year^{ix}.

According to Japh Chuwe of the Road Traffic Management Corporation (RTMC) in his May 2009 speech to the 41st Annual General Meeting of the Licence Officials of Southern African, the key reason traffic safety is such a serious problem in South Africa is because

‘the present system of road traffic fine collection is totally inadequate. Fines are either not paid, or are substantially reduced by the magistrates; or bribes are paid to get off the hook altogether. In some areas courts only accept the hearing of a limited number of traffic violations, which is detrimental to the necessary successful conclusion of all traffic-related cases. Currently, less than 20% of traffic cases are finalised and the fines paid. Simply put, the present system is untenable and needs to be radically overhauled - not just cosmetic changes’.

In an attempt to improve road safety, the South African government investigated the experiences of countries like Australia, Sweden and the United Kingdom, where government initiatives have significantly improved road safety. In doing so, it was determined that two of the most important catalysts in effecting an improvement in driver behaviour and legal compliance are:

- 1) well-planned, efficient and effective law enforcement, coupled with and supported by,
- 2) an equally effective and just road traffic adjudication system^x.

The key reason traffic safety is such a serious problem in South Africa is because ‘the present system of road traffic fine collection is totally inadequate’.

Consequently, AARTO is South Africa’s proposed solution to effect change and improve road safety.

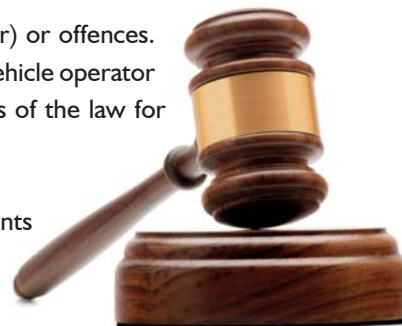
AARTO seeks to do this by imposing fines coupled with demerit-points for drivers, owners and operators which will lead to the suspension of driving privileges where drivers infringe on the law repeatedly^{xi}.

How AARTO Works

AARTO is a demerit point and fine-based traffic management system. AARTO is overseen by the Road Traffic Infringement Agency (RTIA), will likely be administered by the Road Traffic Management Corporation (RTMC) and will be enforced by local traffic authorities across the country.

The AARTO Act categorises traffic violations as either infringements (minor or major) or offences. Both will lead to fines and possibly demerit points against your drivers licence (and/or vehicle operator card) but offences, as in the past, are criminal offenses regarded as serious violations of the law for which you will be arrested and charged according to the Criminal Procedures Act.

The AARTO Charge Book defines the 1929 traffic violations categorised as infringements and the 126 traffic violations categorised as offenses. The Charge Book also prescribes precisely the fine and the number of demerits for each infringement and offence. Under AARTO, the maximum fine is R1,500 and the maximum number of demerits is 5. Up to 3 infringements can be included on a single Infringement Notice, but you pay only one fine - the largest of those on your notice - and receive demerits for only one violation – the one with the greatest number of demerits.



If you are caught committing a traffic violation, you will receive an Infringement Notice. This notice will be an AARTO 01, AARTO 02 or AARTO 03 notice. An AARTO 01 is an Infringement Notice completed by hand at the roadside and served in person. An AARTO 02 is an Infringement Notice completed electronically at the roadside and served in person or by registered mail and an AARTO 03 is an Infringement Notice for camera and other infringements served by registered mail.

If you receive an AARTO Infringement Notice you have 5 options.

- 1) **Pay the fine and incur the demerit points for the infringement.** If the fine is paid within 32 days of the date the infringement was issued (or receipt of the AARTO 02 or AARTO 03) you will receive a 50% discount on the fine to be paid. Note: if you receive an AARTO 02 or 03 by mail it must be sent to you by registered mail and you will be given an extra 10 days from the date of issue to be eligible for the 50% discount.
- 2) **Pay the fine in instalments and incur the demerit points for the infringement.** This is done using an AARTO 04 form and has to be done within the Infringement Notice or Courtesy Letter stage (see below) but if you choose this option, you lose the opportunity for the 50% discount.
- 3) **Nominate a driver.** If you receive an Infringement Notice for your vehicle but were not the driver at the time of the infringement, you can submit an AARTO 07 form indicating who the driver was. This must be done within the Infringement Notice stage (first 32 days after receiving the infringement). The RTIA must acknowledge the receipt of your nomination within 14 days but it is your responsibility not the RTIA's –as is the case with all submissions - to ensure receipt is confirmed by them.
- 4) **Make a representation.** If you believe there are reasonable grounds for cancelling your infringement, you can submit a sworn statement stating your case using an AARTO 08 form. Reasonable grounds would be factors including (but not limited to): the Infringement Notice was not sent to you by mail but not registered mail; the demerit or fine values are incorrect according to the Charge Book; you can prove that your vehicle was not where the infringement occurred at the time it occurred. A representation has to be done within the Infringement Notice stage or Courtesy Letter stage of the infringement and a representation officer will make a decision and inform you of the outcome. If you do not receive notification from the RTIA that they have received your representation within 21 days, you must repeat the process until your submission is acknowledged by the RTIA. If your request to cancel your infringement is accepted, your infringement (and fines and demerits) will be cancelled. If your representation is declined, you will still have to pay the fine and incur the

demerits and you will be required to pay an additional R200 to cover the cost of your representation. This charge is not applicable if you make a representation within the first 32 days of the infringement.

- 5) **Elect to be tried in court.** At any stage in the process you may decide to be tried in court (using an AARTO 10 form) rather than have your infringement adjudicated. In this circumstance, you will lose your right to the 50% discount; the infringement will be replaced by a summons; and you will be required to appear in court and defend yourself unless the case is dismissed by the public prosecutor^{xiii}. Note! If you are caught committing an offense (as opposed to an infringement) you will be tried in court regardless.

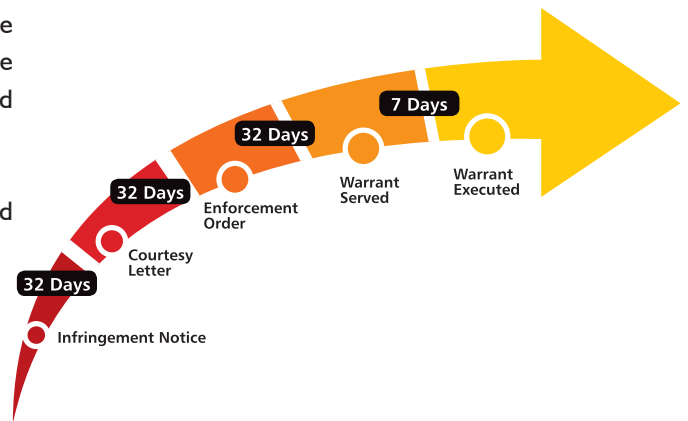
The AARTO Process

One of the defining characteristics of the AARTO system is the consistency of the fines and demerits regardless of where in the country they occur and the consistency of the process followed when infringements occur.

The process is the same for all infringements, for all 'infringers' and in all municipalities and regions of the country.

The process is as follows:

- 1) **Infringement occurs and you are given a notification by hand** (AARTO 01 or AARTO 02) at the time of the infringement. In this case, you have 32 days to pay the fine (or opt for one of the other options available to you).
- 2) **Infringement occurs and notification is sent to you by registered mail** within 40 days of the alleged infringement (AARTO 02 or AARTO 03). If you receive an Infringement Notice by registered mail, it is deemed to be received by you 10 days after it is sent regardless of whether or not you have received it.
- 3) **Courtesy Letter issued.** If you do not pay the fine or opt for any of the other options available to you within the first 32 days, you will receive a Courtesy Letter (reminder). If this occurs you will lose the option to receive a 50% discount on the fine and you will also incur an additional fee (R60 if delivered by registered mail and R100 if delivered in person) to cover the cost of the Courtesy Letter. Also, and in the case of an AARTO 03 Infringement Notice, if a Courtesy Letter is issued to you lose the option to nominate a driver. You have an additional 32 days from the date the Courtesy Letter is issued to pay the fine or opt for one of the other options available to you.
- 4) **Enforcement Order issued.** If you do not respond to your Courtesy Letter or opt for any of the other options available to you within the next 32 days, you will be sent an Enforcement Order. If this occurs you will incur an additional fee (R60 if delivered by registered mail and R100 if delivered in person) to cover the administration cost of the Enforcement Order. You must respond to the Enforcement Order within 32 days from the date the Enforcement Order is issued.



As an operator there are very serious implications for not complying with the AARTO Act.

If an operator's fleet exceeds a certain threshold of demerits points, their entire fleet will be suspended!

5) Warrant issued.

If you do not respond to your Enforcement Order or opt for any of the other options available to you within the next 32 days, a warrant will be issued and sent to the sheriff for execution. If the sheriff executes the warrant, the options available to the sheriff include:

- i. Seizing and selling of your movable property;
- ii. Seizing and defacing of your driving licence and/or professional driving permit;
- iii. Removing and defacing the licence disc of your vehicle(s);
- iv. Seize and deface the operator card of vehicle(s) of which you are the registered operator;
- v. Immobilising vehicle(s) which you are the registered operator of; and/or,
- vi. Reporting you to a credit bureau.

The Demerit Point System

AARTO is a demerit point-based traffic management regulation. When you are caught violating traffic laws, you are fined and a set number of demerit points (as defined by the AARTO Charge Book) are recorded against your driving license and/or a vehicle's operator card depending on the infringement. Every driver and vehicle operator card starts with 0 demerit points and a maximum of 12 points can be accumulated on your license or an operator card. On the 13th point, and for every point above 12, your license or operator card is suspended for 3 months.

Demerit points are subtracted from your driving record for demerit-free driving. Driver and operator card demerits are reduced at a rate of 1 demerit point for every 3 months you have a clean driving record. Driving while your license is suspended is a criminal offence for which you will be arrested and charged and an additional 6 demerits will be added to your record. If your license is suspended 3 times it is removed permanently and the only way to obtain a new license is to re-sit the driving exam after any suspension period is complete.

Implication for Fleet Owners and Operators

Under the AARTO regulation, fleet owners and operators are liable for certain traffic violations, infringements and demerits incurred by their operator card vehicles.

Companies that operate fleets are responsible for their vehicles; the driving behaviour of their employees and will receive infringements and operator card demerits for unlicensed drivers and vehicles, un-roadworthy vehicles, dangerous loads and overloading.

Consequently, just as an individual can incur infringements and demerits and have their license suspended; an operator card (and thus the vehicle associated with the operator card) can also incur infringements and demerits and be will also be suspended if it exceeds 12 points.

Furthermore, if the aggregate total of demerits for an operator's fleet exceeds a certain threshold of demerits points, their entire fleet will be suspended! For fleets with 20 or fewer vehicles the demerit threshold is an average of 12 points per vehicle. That threshold reduces on a sliding scale as the fleet size increases to a threshold average of 6 points per vehicle for fleets greater than 120 vehicles. If you exceed your fleet's demerit point threshold, your fleet will be suspended for 1 month for every point in excess of that threshold.

Under the AARTO regulation, fleet owners and operators are liable for the traffic violations, infringements and demerits incurred by their operator card vehicles.

While an operator card is suspended, a fleet operator's eNaTIS account is effectively frozen and no new vehicles or operator card licenses can be added to their account in the system. Additionally, if as the owner/operator of a vehicle or fleet, you are unaware of or fail to adhere to the requirements of an AARTO Enforcement Order, you risk having your eNaTIS account frozen and you will be prevented from obtaining any additional licenses or operator cards until all corresponding fines, penalties and legal fees have been paid.

Compliance with the AARTO Act also stipulates that it is the duty of all vehicle/fleet owners and operators to know who is driving their vehicles and they are required to record and have access to the following for all their drivers^{xiii}:

- i. Driver's full name;
- ii. A copy of acceptable identification (e.g. driver's license, ID or passport); and,
- iii. Driver's residential and postal addresses.

Managing AARTO Risks, Liabilities and Compliance

Clearly, with the potential to have drivers, vehicles and entire fleets suspended, as an operator there are very serious risks for not complying with the AARTO Act.

Furthermore, as the AARTO system is one that involves infringements and demerits and a fairly complex and time-sensitive infringement management process, it is likely that most fleet operators and managers will find complying with AARTO a somewhat time-consuming, costly and confusing process.

Undeniably, the implementation of AARTO will mean that fleet operators and managers will have to dedicate and/or reallocate resources to ensure compliance and minimise risk.

Drivers, HR personnel and fleet managers will all need AARTO training; policies and procedures will be required to properly manage infringements and the infringement lifecycle; and vehicle roadworthiness, loading and trip inspections will need to become regular vehicle and fleet management activities.

However, and as many industry voices including the Road Freight Association have concluded, the considerable risks and costs associated with AARTO can be minimised or avoided through training and awareness and the use of a database-driven software solution to manage drivers, vehicles, infringements and demerits^{xiv}.



Benefits of Effective AARTO Management and Compliance



While AARTO does bring new risks, liabilities and costs for fleet operators, compliance with AARTO will improve road safety in South Africa, reduce fatalities and injuries on the road and reduce the economic and societal cost of such loss.

Furthermore, for fleet managers, senior executives and corporate risk directors, the use of an effective AARTO compliance management software solution will not only improve the efficiency and effectiveness of your compliance activities but will also dramatically reduce cost, risk and potential liabilities. Some of the more significant benefits of using an AARTO infringement management software solution are:

- 1) Reduce the cost of fines and penalties by ensuring all deadlines and due dates are adhered to through automated features like email and SMS notifications and a real-time dashboard overview of penalty discount deadlines;
- 2) Avoid the costs of downtime from suspended licenses and operator cards by accurately managing demerit thresholds and enforcement deadlines;
- 3) Avoid the risk of civil proceedings against you as an operator by ensuring the effective management of fleet and driver demerits;
- 4) Reduce the time required to manage infringements with automated workflows and tools to scan and automatically upload infringements and trip inspections;
- 5) Avoid risk of third-party liability by ensuring that your drivers have not – or are not about to - exceeded their demerit threshold and drive your vehicles illegally;
- 6) Apply for the cancelation of infringements (representation) with confidence using tools such as automated Charge Book look up and trip inspection data;
- 7) Avoid the risk of operator card demerits and triple penalty fines by ensuring that all operator card infringements can be nominated properly;
- 8) Reduce suspension risks with real-time visibility on and prioritised management strategies for your most penalized drivers and operator cards;
- 9) Increase resource efficiency with a complete and streamlined AARTO management system that provides full control and oversight of the entire AARTO process;
- 10) Improve resource allocation and the effectiveness of training and awareness initiatives with a real-time map view of your fleet's 'worst offenders' and infringement 'hot spots';
- 11) Reduce the incidence of human error with automated AARTO form generation and document management; and,
- 12) Improve access to information and senior-level decision-making with a single, AARTO management system for all drivers, vehicles and divisions of your business.

Conclusion

Road safety is a serious problem in most of the developing world and particularly in South Africa where there are over 700,000 accidents; 15,000 deaths; and 50,000 people are seriously injured every year.

International experience has proven that well-planned, efficient and effective law enforcement, coupled with and supported by, an equally effective and just road traffic adjudication system are the most important catalysts in effecting an improvement in driver behaviour and legal compliance.

In South Africa, it is widely accepted that 'the present system of road traffic fine collection is totally inadequate at addressing the road safety problem' and the AARTO Act has been designed to bring about the change needed to improve road safety and reduce the enormous personal, corporate and societal losses related to road traffic accidents.

Industry-leaders and forward-thinking fleet managers recognise that the use of software solutions designed specifically for AARTO compliance management will be essential and significantly improve the efficiency and effectiveness of compliance management activities throughout a corporation.

AARTO is a complex piece of legislation and the risks and liabilities of non-compliance can be debilitating for the operators of vehicle fleets.

Although, the management of AARTO infringements and demerits will necessitate the allocation or re-allocation of resources; the cost, impact and risk of AARTO on fleet owners and operators need not be overly onerous.

Industry-leaders and forward-thinking fleet managers recognise that the use of database-driven software solutions - particularly those designed specifically for AARTO compliance management - will not only be essential for corporate fleet managers but will significantly improve the efficiency and effectiveness of compliance management activities throughout a corporation.

ENDNOTES:

- i http://www.aarto.gov.za/downloads/072_AARTO%20-%20ILO%20Conference%20Address%20-%202011%20May%202009.pdf
- ii <https://www.driving.co.za/documents/Exterior%20documents/RTMCMay2009ILOaddress.pdf>
- iii http://www.makeroadssafe.org/Documents/final_declaration_en.pdf
- iv http://www.makeroadssafe.org/Documents/final_declaration_en.pdf
- v http://www.iso.org/iso/main-focus_oct2009.pdf
- vi http://www.iso.org/iso/main-focus_oct2009.pdf
- vii <http://www.asirt.org/KnowBeforeYouGo/RoadSafetyFacts/RoadCrashStatistics/tabid/213/Default.aspx>
- viii <http://www.aartofacts.co.za/whatisAARTO.asp>
- ix http://aarto.co.za.dedi35.jnb2.host-h.net/public/downloads/072_AARTO%20-%20ILO%20Conference%20Address%20-%202011%20May%202009.pdf
- x http://www.aarto.gov.za/downloads/072_AARTO%20-%20ILO%20Conference%20Address%20-%202011%20May%202009.pdf
- xi <http://www.aartofacts.co.za/whatisAARTO.asp>
- xii <http://aarto.co.za/wia4.asp>
- xiii http://www.r2ms.co.za/Webinar_AARTO_and_Business_Case_for_R2MS.html
- xiv http://www.rfa.co.za/rfa/downloads/events/2011/convention/presentations/Gavin_Kelly-AARTO.ppt