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GOVERNMENT NOTICES • GOEWERMENTSKENNISGEWINGS

DEPARTMENT OF TRANSPORT**NO. 170****14 FEBRUARY 2020****THE NATIONAL RAILWAY SAFETY REGULATOR ACT, 2002 (ACT NO. 16 OF 2002)****PUBLICATION FOR COMMENTS: DRAFT RAILWAY SAFETY AND SECURITY REGULATIONS, 2020**

The Minister of Transport, in terms of section 50(1) (a) of the National Railway Safety Regulator Act, 2002 (Act No. 16 of 2002) as amended, hereby publishes for comments the draft Railway Safety and Security Matters Regulations, 2020.

Interested persons are invited to submit written comments on these draft Regulations to the Director-General, Department of Transport for the attention of Mr R. Shivambu or Mr. S.Mokubanye within 60 days after the date of publication of this notice:

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DEPARTMENT OF TRANSPORT**NATIONAL RAILWAY SAFETY REGULATOR ACT, 2002 (ACT NO.16 OF 2002)****AS AMENDED****DRAFT RAILWAY SAFETY AND SECURITY REGULATIONS, 2020**

The Minister of Transport under sections 30(d), 30(f) and 31(h) of the National Railway Safety Regulator Act, 16 of 2002 as amended intends to make the Regulations set out in the Schedule:

SCHEDULE**Definitions**

1. In these Regulations any word or expression to which a meaning has been assigned in the Act has the meaning so assigned unless the context indicates otherwise:

“NIMS” means the National Information and Monitoring System as stipulated in section 39 of the Act;

“penalty fee Regulations” means the Penalty Fee Regulations, 2011 as amended;

“Railway system” means an integration of technologies, statutory, environmental and business requirements, and human factors, designed for the safe transportation of people and freight on a railway network;

“security” for the purpose of these regulations means all the measures that are taken to protect the railway system with its associated operational elements to ensure safe railway operations ;

“safety” means the persons condition of being protected from harm or danger, risk, or injury within the railway operational environment;

“SANS 3000-1” means South African National Standard - Railway safety management, Part 1: General.

“Safety and Security Manager” means a person or an officer who is delegated with the responsibility to ensure compliance with minimum requirements of safety and security by the operators in order to protect people, railway systems and the environment.

“safety and security compliance plan” means a plan submitted by an Operator to the Regulator in terms of regulation 6 of these Regulations;

“the Act” means the National Railway Safety Regulator Act, 2002 (Act No. 16 of 2002) as amended;

Purpose

2. (1) The purpose of these Regulations is to prescribe the minimum safety and security requirements to be complied with by the operators in order:

- (a) to protect railway system and its associated environment, which is inclusive of the railway infrastructure, rolling stock and railway freight; and
 - (b) to protect persons, including persons with special needs.
- (2) These regulations focus on the following areas:
 - (a) the security requirements for elements of the railway system that have an impact on safe railway operations; and
 - (b) the requirements to ensure safety of persons within the railway operational environment.

Application

- 3. These Regulations apply to all operators as defined in section 1 of the Act.

PART A: RAILWAY SECURITY REQUIREMENTS

Security Compliance Requirements

- 4. The operator shall develop and implement a Security policy which addresses security matters which include but not limited to the following:
 - (a) Security risk assessment within the railway operations;
 - (b) Security compliance planning and management;
 - (c) The Implementation of the Security Compliance Plan;
 - (d) Monitoring of compliance with the Security Compliance Plan;
 - (e) The operators Audits and Inspections;
 - (f) Review of the Security Policy; and
 - (g) Communication, Education and Awareness.

Security Compliance Plan

5. (1) The operator must develop and implement a Security Compliance Plan in order ensure a more secure railway operation. This plan may integrate the requirements of both the safety of persons and the security compliance.
- (2) The operator's Security Compliance Plan must include measures to protect the railway system from theft, malicious damage and other criminal acts that impact safe railway operations.
- (3) The plan referred to in regulation 5 (1) shall be based on the risk assessment conducted by the operators
- (4) The plan referred to in regulation 5 (1) shall address, but not limited to the following matters, as far as they affect safe railway operations in accordance with the purpose of these regulations:
- (a) Roles and responsibilities with regards to the development and implementation of the Security Compliance Plan;
 - (b) the appointment of a Security Compliance Officer;
 - (c) security incidents management which includes responding to incidents and measures to mitigate recurrence thereof;
 - (d) deployment of security personnel at strategic areas at the operator's facilities, station precincts, on trains and railway networks or depots;
 - (e) deployed technology and other innovative means of ensuring security which includes electronic security systems and aids;
 - (f) preventative measures of ensuring security;
 - (g) implementation and monitoring of measures to mitigate recurrences of security incidents;
 - (h) reporting in accordance with the requirements of the Regulator;
 - (i) management of emergencies and contingencies;

- (j) security of Freight operations, rail freight; taking into account risk profiles of the operational areas inclusive of stations, tunnels, subways, stairways, or other areas which need to be accessed by passengers; and
 - (k) Operator's strategy for reducing trespassing and other unauthorised access, malicious injury, damage and theft of railway assets.
- (5) Operator shall appoint or designate a person under its control as a Safety and Security Manager, who shall be responsible for the implementation of the Security Compliance Plan
- (6) Notwithstanding the appointment of the Safety and Security Manager, the operator shall remain responsible for compliance with the requirements of these regulations.

Submission of the Security Compliance Plan

6. (1) The operator must submit to the Regulator a Security Compliance Plan which is in accordance with the requirements stated in these regulations.
- (2) The submission of the plan stated in regulation 6 (1) shall accompany and be integrated with the operator's safety permit application in accordance with the safety permit application process.
- (3) Notwithstanding the provisions in regulation 6 (1), in processing the application, the Regulator may—
- (a) request additional information;
 - (b) require the Operator to comply with any outstanding requirements imposed by these Regulations;
 - (c) accept or reject the information provided by the applicant; and

- (d) impose conditions in the approval of the safety permit

Appointment of a Safety and Security Manager

7. (1) The Operator must appoint and designate a Safety and Security Manager.
- (2) The Safety and Security Manager shall be responsible to ensure operator's compliance with the requirements stated in these regulations in order to protect people, railway systems and the environment and to ensure operator's compliance with the relevant security legislation.
- (3) The Safety and Security Manager shall be delegated with the following responsibilities in accordance with the requirements stated in these regulations:
- (a) develop, implement and enforce security policy, plan and procedures;
 - (b) review security policy, plan and procedures;
 - (c) ensure that a security risk assessment are conducted;
 - (d) ensure the implementation of mitigation measures based on the recommendations made in the risk assessment report;
 - (e) ensure the reporting of security incidents to the Regulator;
 - (f) ensure the investigation of safety and security incidents that takes place directly or indirectly in connection with that operator's railway operations;
 - (g) implement safety and security measures, evaluate and improve effectiveness of these measures;
 - (h) conduct security awareness programmes; and
 - (i) ensure that persons used in executing security activities are registered with the applicable authority.

PART B: REGULATIONS REGARDING SAFETY OF PERSONS**Compliance Requirements for Safety of Persons**

8. (1) The operator must develop and implement Safety Compliance Plan in order to ensure safety of persons within the railway operational environment including passenger safety and persons with special needs. The requirements for a Safety and Security Compliance Plan may be integrated into one plan.
- (2) The operator's Safety and Security Compliance Plan must include measures to protect the persons from harm or danger, injury, robbery, assault, terrorism and other criminal acts of other parties within the railway environment
- (3) The plan referred to in regulation 8 (1) shall be based on the risk assessment conducted by the operators
- (4) The plan referred to in regulation 8 (1) shall address but not be limited to the following matters, as far as they affect safety of persons including persons with special needs within the railway environment in accordance with the purpose of these regulations:
- (a) safety of persons on board including the train crew;
 - (b) safety of persons in and around the station precinct;
 - (c) passenger handling safety plans inclusive of special trains;
 - (d) passenger safety inspections;
 - (e) emergency plans (which also address train operation disruptions);
 - (f) emergency evacuation procedures;
 - (g) monitoring of implemented safety and security measures;
 - (h) evaluate and improve effectiveness of these measures;
 - (i) safety of passengers; taking into account risk profiles of the operational areas such as stations, tunnels, subways, stairways, or other areas where passengers need to access; and

(j) punishable offences on trains

- (5) The emergency evacuation plan must be developed and implemented to cater for rolling stock and infrastructure failures especially in tunnels.
- (6) The operator must conduct safety and security awareness programmes with the aim of improving safety of persons within the railway environment.
- (7) The operator must take reasonable measures to ensure that no passenger embarks or disembarks a moving train.
- (8) The operator must take reasonable measures, informed by the risk assessment conducted by the operator, to ensure that all doors of a stationary train are closed prior to the setting the train in motion.
- (9) An operator shall incorporate into their safety management system a detailed plan on operation of doors while the train is stationary.
- (10) The operator must take reasonable measures, to ensure that all persons are safely inside the train from the origin to the destination of the train trip.
- (11) No train operator may commission and operate a train with broken windows and when its doors are dysfunctional.
- (12) An operator must take reasonable and effective means to prevent or avoid overcrowding on train platforms and on-board trains.
- (13) An operator must ensure that all trains provide for adequate signage to communicate updated safety related messages to passengers.

- (14) Audio and visual communication must be fitted on platforms and in trains to enable continuous communication with passengers of conditions prevailing on platforms and in the train.
- (15) All trains must be fitted with applicable safety equipment and aids in accordance with applicable standards, which shall include; fire extinguishers, harnesses, grab handles, poles and seats.
- (16) All platforms and trains must have adequate lighting in accordance with applicable standards

Safety of Persons In and around the Station Precinct

- 9. (1) An operator must provide proper signage in proximity to trains to indicate the dangers to which persons may be exposed.
- (2) An operator must ensure that all walk ways, subways, platforms, platform shelters and pedestrian bridges have adequate lighting.
- (3) An Operator must have seamless communication between the central control points and emergency centres.
- (4) An operator must take reasonable and effective measures to prevent or avoid overcrowding within and around the station precinct.
- (5) An Operator must develop and implement operating procedure to ensure that passengers will always be informed of unsafe conditions in and around the station precinct.
- (6) An Operator must monitor and enforce compliance with its Safety and Security Compliance Plan.

Submission of the Safety Compliance Plan

10. (1) The operator must submit to the Regulator Safety Compliance Plan which is in accordance with the requirements stated in these regulations.
- (2) The submission of the plan stated in regulation 10 (1) shall accompany and be integrated into the operator's safety permit application in accordance with the safety permit application process.
- (3) Notwithstanding the provisions in regulation 10 (1), in processing the application, the Regulator may—
- (a) request additional information;
 - (b) require the Operator to comply with any outstanding requirements imposed by these Regulations;
 - (c) accept or reject the information provided by the applicant; and
 - (d) impose conditions in the approval of the safety permit

Oversight by the Regulator

11. The Regulator will embark on the following oversight activities:
- (a) assess the safety and security compliance documentation submitted as part of the safety permit application, in accordance with the safety permit application process.
 - (b) the Regulator will do planned audits and inspections to establish and verify the integrity of the operator's Safety and Security plan implementation.
 - (c) a railway safety inspector may, at any time and without prior notice, enter or cross property under control of an operator in order to carry out

an audit or an inspection in respect of railway operations provided for under these regulations.

- (d) issue Notices, instructions, directives and penalties where applicable.
- (e) notwithstanding the provisions in regulation 6(2), the Regulator may in its discretion determine, on a case-by-case basis, how an operator may demonstrate compliance with regulation 6; and
- (f) the railway safety inspector shall exercise powers to deal with non-compliance with these regulations in accordance with the provisions of the Act.

Reporting

- 12. (1) An operator must report the safety and security incident in accordance with the provision of the Act and in the format prescribed by the regulator.
- (2) In addition to any reports that an operator is required to submit in terms of the Act and the applicable regulations and standards, the Regulator may require the operator to submit ad hoc reports on any aspect of these Regulations.
- (3) In order to ensure that such reports are standardised, the Regulator may issue guidelines on the format and content of such reports.

Exemptions

- 13. The Minister may, upon a properly motivated application by an operator or any other person to whom these regulations apply and subject to such terms and conditions as he or she deems necessary;
 - (a) exempt such operator from compliance with part of, or all provisions of these regulations, or

- (b) extend the period of commencement of compliance with the requirements stated in these regulations

Offences

- 14. A person commits an offence if he or she hinders or obstructs a railway safety inspector from exercising his or her powers or performing his or her duties in terms of the Act or these Regulations.

Penalties

- 15. An operator or passenger who contravenes any provision of these regulations, may be liable to pay a fine or penalty as determined by the Minister in terms of the Penalty Fees Regulations made under section 45A of the Act.

Appeals

- 16. (1) An operator who is aggrieved by a decision made by the Regulator under these Regulations may appeal against that decision to the Board of the Regulator.
- (2) The right to appeal shall be exercised in terms of section 44 of the Act.

Transitional arrangement

- (1) 17. Any person who is unable to comply with these regulations within the stipulated time must make submission to the minister in terms of regulation 13.

Short title

18. These regulations shall be called Railway Safety and Security Regulations, 2020 and are published for comments.

DEPARTMENT OF TRANSPORT

NO. 171

14 FEBRUARY 2020

NATIONAL RAILWAY SAFETY REGULATOR ACT, 2002 (ACT NO.16 OF 2002)**THE NATIONAL RAILWAY SAFETY STANDARDS DEVELOPMENT
REGULATIONS, 2020**

The Minister of Transport, in terms of section 50(3)(a) of the National Railway Safety Regulator Act, 2002 (Act No. 16 of 2002) , hereby publish for comments the draft Railway Safety Standards Development Regulations, 2020, made under section 29(1), of that Act, in the Schedule.

Interested persons are invited to submit written comments on these draft Regulations to the Director-General, Department of Transport, within 60 days after the date of publication of this notice, for the attention of: Rhulani Shivambu

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SCHEDULE

Definitions

1. In these regulations any word or expression to which a meaning has been assigned in the Act has the meaning so assigned and, unless the context otherwise indicates –

“existing standard” means a national, industry or local standard developed prior to the promulgation of these Regulations;

“industry standard” means a standard developed, adopted or accepted by a railway industry association in accordance with these regulations to meet specific industry requirements;

“interface” means an area, point either physical, organisational or location where two or more operators’ activities meet and where the activities have the potential to affect one another;

“international standard” means a standard that is relevant to safe railway operations that is developed by a competent body outside the Republic of South Africa;

“intraface” means an area, point or location, either physical or organizational, where the activities or assets (or both) of two or more functional disciplines within a railway operator meet, and where the activities or assets (or both) interact or have potential to affect one another;

“local standard” means a standard developed, adopted or accepted by the relevant operator in accordance with these regulations to meet specific local, geographical, route, operational, and interface or intraface requirements;

“local standards committee” means the relevant operators committee established

in terms of regulation 8(2)(a) of these regulations and is responsible to develop local standards;

“national standards” means a standard approved and issued by the South African Bureau of Standards (SABS) under the Standards Act, 2008 (Act No. 8 of 2008)

“regulator standard” means a standard developed, accepted or adopted by the board in accordance with these regulations to meet the general technical and operational safety requirements of operators.;

“standard” means a document, compiled by a recognised standard body in terms of these regulations;

“technical committee” means a committee established by the board in terms of regulation 6(1)(a)(i) of these regulations and is responsible for the development and acceptance of standards to be adopted by the board;

“ the Act” means the National Railway Safety Regulator Act, 2002(Act No.16 of 2002).

Application

2. These regulations apply to the board and all persons authorised under the Act to conduct railway operations.

Factors to be considered in the development, adoption or acceptance of standards

3 (1) A Board or any other person in developing, adopting or accepting a standard must—

(a) take into account the practicality of its application and its affordability;

- (b) ensure that an investigation is conducted as to the suitability of existing international or other standards that may be adopted or accepted for the required purpose;
- (c) take into account general technical and operational safety requirements of railway operators;
- (d) take into account the objections of affected operators in order to harmonise operations at interfaces;
- (e) take into account possible risks involved should a standard not be developed; and
- (f) ensure that introduction of new standards is staggered and reasonably spaced in order to allow for the structured absorption of its content into safety management systems.

(2) Any standard developed, adopted or accepted in terms of these Regulations, should be based on consolidated results of science, technology, engineering and experience with the view to promote optimum safety.

(3) Any standard published by the Regulator or industry association will become valid at least 90 days after publication, or later as may be determined by the Regulator. In exceptional cases where a shorter period to validity is deemed justified (less than 90 days), the Regulator or industry association should obtain prior Railway Safety Regulator Board approval for such deviation.

Role of the Board of the Regulator

4. The board may develop new standards or adopt or accept existing standards in terms of these regulations.

Identification of need for a standard

5 (1) The need for the development, adoption or acceptance of a standard may be identified by-

- (a) the Regulator;
- (b) an industry association;

- (c) an operator; or
- (d) any other person.

(2). Except for the provisions contemplated in regulation 6, the Regulator shall be consulted by any persons contemplated in regulation 5(1)(b)(c) and (d) for a need of a new standard to determine if the standard is to be categorized as a regulator standard or an industry or a local standard.

Procedure for adoption or acceptance of existing standards as regulator standard

6 (1) The procedure to be followed by the board for the adoption or acceptance of existing standards as regulator standards and the amendment of existing regulator standards is the following:

(a) (i) The board must establish a technical committee responsible for development, adoption or acceptance.

(ii) A technical committee shall comprised of representatives of relevant parties such as organs of state, industry associations, consumer organisations, non-governmental organisations, organized labour and operators;

(b) the technical committee may, where deemed necessary, appoint subcommittees or working groups comprising experts in the field to be covered by the standard;

(c) the technical committee must conduct the technical review and editing of the draft standard referred to in paragraph (b) and recommend the adoption of the draft standard by the board;

(d) the standard referred to in paragraph (b) must be published by the Regulator for a period not less than 60 days in the Government Gazette for comment by interested parties;

(e) after the collation and consideration of comments received as contemplated in paragraph (d), comments accepted by the technical committee may be incorporated into the regulator standard;

(f) the regulator standard must be submitted to the board for adoption; and

(g) Adopted regulator standards referred to in Annexure A are binding to the operators once published in the Government Gazette.

Procedure for the acceptance or adoption of national standards

7(1) The procedure to be followed by the board for the adoption or acceptance of national standards is the following:

(a) The Board may adopt or accept a national standard as developed in terms of the Standards Act, 2008 (Act No. 8 of 2008);

(b) The technical committee as contemplated in sub-regulation 6 (1) must review and consider the national standard for adoption and acceptance by the board;

(c) After consideration of the national standard the Technical Committee may submit its recommendations on the national standard to the board for acceptance or adoption; and

(d) The accepted and adopted standard referred to in Annexure A are binding to the operators once published in the Government Gazette.

Procedure for development, adoption or acceptance of industry standards

8 (1) A railway industry association may develop, adopt and accept standards for safe railway operations.

(2) The procedure to be followed by a railway industry association for the development, adoption and acceptance of standards as industry standards or the amendment of existing industry standards is the following:

(a) A technical committee must be appointed by the railway industry association for the development, adoption or acceptance of an industry standard;

(b) the technical committee may, where deemed necessary, appoint subcommittees or working groups comprising experts in the field to be covered by the standard;

(c) the subcommittees or working groups are responsible for the development of a draft industry standard;

(d) the technical committee must conduct the technical review and editing of the draft industry standard referred to in paragraph (c) and approve the draft standard;

(e) a working group comprising experts in the field to be covered by the industry standard must be formed by the technical committee referred to in paragraph (a);

(f) the working group is responsible for the development of a draft industry standard;

(g) the technical committee must undertake a technical review and editing of the standard referred to in paragraph (d), before the railway industry association approves the standard;

(h) after approval in terms of paragraph (d), the standard must be published in the Government Gazette for no less than 60 days for comment by interested parties; and

(i) after the collation and consideration of comments received pursuant to the publication of the standard in terms of paragraph (h), relevant

comments may be incorporated and the standard approved by the railway industry association;

(j) the industry standard must be submitted to the railway industry association for approval and adoption;

(k) Approved railway industry standards must be communicated by the railway industry association to its members.

(l) Approved industry standards must be published in the Government Gazette by the railway industry association, after the Regulator is satisfied that all the due processes have been followed.

(3) The industry association shall inform the Regulator accordingly, demonstrating that due process has been followed in this regard.

Procedures for developing local standards

9. (1) An operator is required to develop local standards where local conditions or requirements necessitate deviation from or additions to regulator or industry standards to ensure safe railway operations.

(2) The following procedure applies to the development of local standards and the amendment of existing local standards to ensure safe railway operations:

(a) The operator must establish a local standards committee for the development of local standards;

(b) the local standards committee referred to in paragraph (a) must make use of relevant local expertise to develop local standards;

(c) the local standard committee must, in developing local standard, address specific local, geographical, route, operational, interface or intraface requirements;

(d) the developed local standards must be reviewed and edited by the local standards committee and submitted to the operator's representative who has the relevant authority and responsibility for adoption; and

(e) after approval and adoption of the local draft standard, by the local standards committee, the standard must be communicated to all interested and affected parties for implementation .

(3) An operator who has developed a standard in accordance with the procedure contemplated in sub-regulation (1) must be able to demonstrate to the regulator that-

(a) the proposed local standard is based on appropriate practice;

(b) due process has been followed in the development of the standard.

(4) An operator may approach a railway industry association to assist with the development of a local standard in accordance with the procedure contemplated in sub- regulation 6(1);

(5) (a) In circumstances which pose a threat to safe railway operations, an operator may implement a local standard prior to the adoption by a local standards committee;

(b) The standard contemplated in sub-regulations 5(a) shall be reviewed and approved by the local standard committee within 5 working days after coming into effect.

Responsibility, review and amendment of standards

10. (1) The party responsible for a standard must review that standard for relevance and consistency whenever there is a change in process, technology, structure, legislation or any other relevant externalities.

(2) When a standard has been found to be irrelevant, inapplicable or inconsistent with the current needs it must be amended or retracted.

Incorporation of existing standards

11 (1) Any existing standards adopted or accepted by the board, including standards on annexure “A”, shall become binding and enforceable to all operators.

(2) Notwithstanding the provisions of any other law, the copyright in a regulator standard or a publication vests in the Regulator.

(3) No person may, without the authorization of the Regulator in any manner or form, publish, reproduce or record any document or part thereof.

(4) Sub-regulation (3) of this regulation does not prevent any person from making a copy of such a document for his or her own personal use.

Repeal of Regulations

12 The National Railway Safety Standards Development Regulation published in Government Gazette No. 30164 of 17 August 2007 is hereby repealed.

Short title

13 These regulations are called the Railway Safety Standards Development Regulations, 2020 and are published for comments.

Annexure A: List of existing Railway Safety Standards to be incorporated into the Railway Safety Standards Development Regulations, 2020

NO	STANDARD NO	TITLE	Year Published
1	SANS 3000-1	Railway Safety Management: General	2016
2	SANS 3000-2-1	Requirements for systemic engineering and operational safety standards - Electrical distribution and overhead traction systems	2017
3	SANS 3000-2-2	Requirements for systemic engineering and operational standards: Track and civil infrastructure	2016
4	SANS 3000-2-2-1	Technical requirements for engineering and operational standards: Track, civil and electrical infrastructure - Level Crossings	2012
5	SANS 3000-2-3	Requirements for systemic engineering and operational safety standards – Rolling Stock	2017
6	SANS 3000-2-4:	Technical requirements for engineering and operational standards: Train authorization and control, and telecommunication	2013
7	SANS 3000-2-5	Technical requirements for engineering and operational standards: Operational Principles for Safe Movement on Rail	2013
8	SANS 3000-2-6	Technical requirements for engineering and operational standards: Interoperability, interface and intraface management	2013
9	SANS 3000-4	Human Factors Management	2011
10	SANS 10405	Transportation of Dangerous Goods by Rail	2014
11	RSR 00-3	Occurrence Management	2016
12	RSR 00-4-1	Human Factors Management - Fatigue Management Standard	2016
13	RSR 00-2-3-1	Requirements for systemic engineering and operational safety standards – Rolling Stock - Wheels, axles and bearings Standard	2016
14	RSR 00-2-7	Requirements for systemic engineering and operational safety standards – Railway Stations	2016

WARNING!!!

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