
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:

The Department of Transport
Private Bag X 193
PRETORIA
0001

Email: shivambr@dot.gov.za

Tel: (012) 309 3872

Fax: (012) 309 3134

E-mail: mokubyas@dot.gov.za

Tel: (012) 309 3540

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.