

# New railway regulations heighten safety and security obligations

By Kate Collier, Minenhle Shabalala | 21 June 2022

*New railway safety regulations have been published which set out the safety measures that must be followed by those engaged in activities on South Africa's railways and the requirements for reporting incidents.*

In keeping with the global trend to prioritise safety and health, on 3 June 2022 the Minister of Transport published new regulations relating to the National Railway Safety Regulator Act (Act) under Government Gazette No 46471 (Regulations). The Regulations aim to improve the level of railway security in South Africa, which was once lauded as the most advanced railway system in Africa. The rail network has been severely compromised by cable and scrap metal theft over many years, but criminal activity ran rampant during the Covid-19 lockdown.

The Regulations focus on safety and security requirements at various stages of design, construction, operation or alteration of infrastructure and operations. The Regulations also set out what accidents and incidents need to be managed and reported to the Railway Safety Regulator (Regulator).

This entails conducting risk assessments of security management within the railway operation. Operators must adopt a Security Management Plan to ensure a more secure railway operation and a Safety of Persons Compliance Plan to ensure the safety of persons within the railway environment in terms of sections 30(d) and (f) of the Act.

## Security Management Plan

Security-focused risk assessments must evaluate measures in place to protect the railway system from theft, vandalism, and other criminal acts that could have an impact on safe railway operations. In accordance with Regulation 5, the security management plan must incorporate:

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- roles and responsibilities assigned to officials to give effect to the Regulations;
- measures to manage safety and security, including responding to incidents and taking measures to prevent their recurrence;
- the appointment or designation of a Security Compliance Officer;
- the deployment of security personnel and technology or any other innovative means to ensure security;
- details of the reports required by the Regulator;
- emergency and contingency plans; and
- strategies to reduce trespassing, unauthorised access and theft.

## Safety of Persons Compliance Plan

A Safety of Persons Compliance Plan applies to everyone in the railway environment, including passengers and those with special needs. Measures to protect persons from harm or danger, including, injury, robbery, assault, terrorism, and other criminal acts within the railway environment must be addressed. This extends to the safety of those on board trains, including the train crew, and the safety of persons within the station precinct. It includes the adoption of emergency plans and emergency evacuation plans. The Regulations set out several other requirements in respect of passengers and persons in the station precinct. Operators must appoint or designate a Safety of Persons Officer, who will be responsible for ensuring compliance with the Regulations.

It is important to note that both plans must be submitted to the Regulator with the operator's safety permit application and operators must conduct awareness programmes to improve safety in the railway environment.

## Railway occurrences

Operators must report all safety and security incidents in accordance with the provisions of the Act or any other regulations promulgated in terms of the Act. The Regulator may also require an operator to submit ad hoc reports, where appropriate.

The Regulations provide context to section 37 of the Act, which requires operators to manage and report on mandatory railway events. Network operators, train operators, station operators or a combination of network, train and station operators must put systems and procedures in place to report notifiable railway events.

Notifiable railway events include operational railway occurrences, security-related railway incidents, incidents related to the transportation of dangerous goods, crowd-related railway incidents and industrial action. Examples include collisions either on the railway or at crossings with other vehicles, derailments, unauthorised movements, and persons struck by trains or locomotives, among others.

Operators must report fatalities and injuries resulting from railway occurrences and all fatalities and injuries to personnel performing safety-critical and safety-related work which occurred during the normal execution of their duties, including slips, trips, falls from height, electric shocks and service road accidents on the operator's premises. This obligation extends beyond employees to include contractors and subcontractors.

Operators must establish, implement and maintain procedures for reporting railway occurrences. When more than one operator is involved in a railway occurrence, all affected operators must report the incident to the Regulator in accordance with the reporting timelines. Contravention of any of the Regulations may result in a fine or penalty for the operator.

A fundamental shift in the way health and safety is viewed by the legislature calls for operators in the industry to revise their security policies and assess whether procedures are in place to address identified safety and security risks when conducting risk assessments and implementing subsequent plans as required by the Regulations.

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