

GOVERNMENT NOTICE NO. 404 Published on 10-8-2018

THE RAILWAYS (SAFETY MANAGEMENT) REGULATIONS, 2018

ARRANGEMENT OF REGULATIONS

Regulation

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GOVERNMENT NOTICE NO. 402 Published on 10-8-2018

THE RAILWAYS ACT

(ACT NO.10, 2017)

REGULATIONS

(Made under section 95)

THE RAILWAYS (SAFETY MANAGEMENT) REGULATIONS, 2018

PART I

PRELIMINARY PROVISIONS

- Citation 1. These Regulations may be cited as the Railways (Safety Management) Regulations, 2018.
- Interpretation 2.-(1) In these Regulations, unless the context otherwise requires:
“accident” means an unwanted or unintended sudden event or specific chain of events which have harmful consequences to railway operations;
- Act No. 10 of 2017 “Act” means The Railways Act;
“Corporation” means the Tanzania Railways Corporation established under section 4 of the Act;
“death” means death that has recently occurred from the accident if it occurs instantaneously or as a result of an injury arising from the accident upon proof by qualified medical practitioner;
“Director General” means the Chief Executive Officer of the Corporation appointed under section 20 of the Act;
“human factors” means applying human psychological, social, physical and biological characteristics in the design, operation or use of products or systems;
“Minister” means the Minister responsible for railways;
“occurrence” means an accident or incident that is reportable under these regulations;
“rail transport services” means a service for the transport of freight, passengers or both by rail;

- “safety initiative” means a proposed plan, project or course of action designed to achieve a specific safety target;
- “safety management system” means a comprehensive management system designed to manage safety elements in the work place;
- “safety plan” means a document prepared by the Corporation describing the components of its safety management system;
- “serious accident” means an accident which has an obvious impact on railway safety and includes such an accident that results in-
- (a) the death of a person;
 - (b) serious injuries to one or more persons;
 - (c) extensive damage to rolling stock, the infrastructure or the environment;
 - (d) extensive damage or loss of cargo; or
 - (e) interruption of communication for more than twenty four hours; and
- “train” means a locomotive with a vehicle attached or a light locomotive or motor trolleys which is designated as a train.

PART II

RAILWAY SAFETY MANAGEMENT SYSTEM

Components of
safety management
system

3. The Corporation shall implement and maintain a safety management system that includes the following components:
- (a) the Corporation safety policy, annual safety performance targets and the associated safety initiatives to achieve the targets approved by the Director General and communicated to employees;
 - (b) clear authorities, responsibilities and accountabilities for safety at all levels in the Corporation;
 - (c) a system for involving employees and their representatives in the development and implementation of the Corporation’s safety management system;
 - (d) systems for identifying applicable-
 - (i) railway safety regulations, rules, standards and orders, and the procedures for demonstrating

- compliance with them, and
- (ii) exemptions and the procedures for demonstrating compliance with the terms or conditions specified in the notice of exemption;
- (e) a process for-
 - (i) identifying safety issues and concerns, including those associated with human factors, third-parties and significant changes to railway operations, and;
 - (ii) evaluating and classifying risks by means of a risk assessment;
- (f) risk control strategies;
- (g) systems for accident and incident reporting, investigation, analysis and corrective action;
- (h) systems for ensuring that employees and any other persons to whom the Corporation grants access to its property, have appropriate skills and training and adequate supervision to ensure that they comply with all safety requirements;
- (i) procedures for the collection and analysis of data for assessing the safety performance of the Corporation;
- (j) procedures for periodic internal safety audits, reviews by management, monitoring and evaluations of the safety management system;
- (k) systems for monitoring management-approved corrective actions resulting from the systems and processes required under these Regulations; and
- (l) consolidated documentation describing the systems for each component of the safety management system.

Processes of safety management system

4. The Corporation shall implement and maintain a comprehensive safety management system that includes:
- (a) process for accountability;
 - (b) process with respect to a safety policy;
 - (c) process for compliance with regulations, rules and other instruments;
 - (d) process for managing railway occurrences;
 - (e) process for identifying safety concerns;
 - (f) risk assessment process;
 - (g) process for implementing and evaluating remedial

- action;
- (h) process for establishing targets and developing initiatives;
- (i) process for reporting contraventions and safety hazards;
- (j) process for succession plan; and
- (k) continual improvement of the safety management system.

Submissions of safety management system to Regulator

5.-(1) The Corporation shall submit to the Regulator the following information in respect of safety management system;

- (a) name, address and position of a person responsible for the Safety Management System;
- (b) a description of the Corporation's operations and rail network;
- (c) Corporation's safety policy;
- (d) annual safety performance targets and the associated safety initiatives to achieve targets for the calendar year in which submission is made;
- (e) information showing reporting structure and safety relationship of positions and departments in the Corporation, including organization charts;
- (f) a list of the applicable railway safety rules, standards, orders and exemptions;
- (g) a description of the Corporation's risk management process and risk control strategies;
- (h) a list of the Corporation's training and qualification programs, including those of external sources;
- (i) list of data collected by the Corporation for the purpose of assessing its performance;
- (j) a description of the Corporation's internal safety audit program; and
- (k) a list of titles and dates of all documents in the Corporation's safety management that describe how the Corporation is meeting its obligations with respect to each safety management component.

(2) The Corporation shall initially submit safety management system to the Regulator within sixty days prior to the commencement of implementation.

Safety performance

6. For the purpose of assessing the performance of

assessment

Corporation's Safety Management System, the Corporation shall collect, maintain and submit to the Regulator the following information:

- (a) accident and incident investigation reports and a description of corrective actions taken for accidents and incidents that meet reporting criteria.
- (b) accident rates expressed as follows:
 - (i) employee deaths, serious injuries and minor injuries, per 200,000 hours worked by the employees of the Corporation;
 - (ii) passenger deaths, serious injuries per million passenger-kilometer; and
 - (iii) train and level crossing accidents that meet the reporting criteria, per million train-kilometer or per ten billion ton-kilometer.
- (c) any other performance data requested by Regulator.

Periodical reporting requirements

7.-(1) The Corporation shall periodically report to the Regulator the following information:

- (a) any revisions made to the safety management system referred to in regulation 5;
 - (b) its safety performance relative to its safety targets; and
 - (c) its accident rates;
- (2) The Corporation shall include in the report its safety targets for the financial year in which the submission is made.
- (3) The report periods and deadlines for submitting the respective reports shall be:
- (a) for each of the quarter years, July to September, October to December and January to March where the report shall be submitted within forty days after the last day of the quarter;
 - (b) for the year commencing from July to June and the quarter year April to June of the same year the reports shall be submitted by 1st September of the following year.

Review of safety managements system

8. The safety management system shall be reviewed in circumstances where:

- (a) the Regulator issues a notice in writing to the Corporation to do so;

- (b) new infrastructure works or new rolling stock are accepted by the Regulator;
- (c) the Corporation considers it appropriate to do so;
- (d) the Corporation transfers its business activities to another organization.

Index and contents

9.-(1) The Corporation shall keep an up-to-date index of all the processes referred to in regulation 4 that it has implemented.

(2) The index shall indicate the date of the last revision of the Corporation's safety policy and shall indicate for each process the procedures, plans and methods required by this Part that are associated with the process, and the date of their last revision.

Designation of officer in-charge of safety

10.-(1) The Corporation shall designate an officer who shall be responsible for the operations and activities of the Corporation and shall be accountable to the Corporation for the safety management system and its effectiveness in achieving the highest level of safety in its railway operations.

(2) The officer in-charge shall, within forty five days upon his designation, provides the Director General with a signed declaration accepting accountability for the extent to which the requirements of the Safety Management System have been met.

(3) The Director General shall, as soon as practicable upon receipt of declaration made under sub-regulation (2) provide the Regulator and Minister with the name and declaration of the officer in-charge of safety.

(4) The Corporation may, in its safety management system, permit the officer in-charge of safety to designate one or more persons to develop and implement one or more of the processes required by this Part.

(5) A person to be designated as officer in-charge shall be in management position within the Corporation.

(6) Where the officer in-charge of safety designates a person under this regulation, he shall ensure that the person reports to him, on quarterly basis, with respect to:

- (a) the effectiveness of the procedures, plans and methods in contributing to the improvement of the safety of the railway company's operations; and
- (b) any challenge following the procedures or

implementing the plans and methods, and the manner in which those challenges have been or are being resolved or, if applicable, the reasons why they have not been or are not being resolved.

Safety policy and annual review

11.-(1) The Corporation shall include, in its safety management system, a written safety policy that reflects the railway company's commitment to promoting railway safety.

(2) The policy shall be approved and signed by the Director General.

(3) The Corporation shall-

- (a) ensure that its safety policy is reviewed annually; and
- (b) communicate its safety policy, and any changes of the policy, to its employees.

List of instruments

12.-(1) The Corporation shall include, in its safety management system, a list of the following instruments relating to railway safety:

- (a) any subsidiary legislation made under the Act that apply to the Corporation and that are in force;
- (b) any engineering standards approved by the Minister and the date of approval;
- (c) any exemptions granted by the Minister that apply to the Corporation and that are in effect;
- (d) any notice that relates to safety management system that has been issued to the Corporation by the Minister; and
- (e) in the case of an engineering standard or a rule, the date on which it was approved or established.

(2) The Corporation shall keep the list of instruments under these regulations up to date and shall indicate the date of its last revision.

Procedure for updating list of instruments

13. The Corporation shall include, in its safety management system, procedure for-

- (a) reviewing and updating the list of instruments referred to in regulation 12(1); and
- (b) verifying compliance with-
 - (i) the requirements of the regulations, engineering standards, rules, and notices and documents referred to in the list of

- instruments; and
- (ii) the terms of the exemptions referred to in the list of instruments.

Procedure for reporting occurrences

- 14.-(1) The Corporation shall include, in its safety management system, a procedure for-
- (a) reporting railway occurrence to the Corporation's management; and
 - (b) reviewing a railway occurrence.
- (2) The Corporation shall communicate to its employees the procedure for reporting railway occurrences.

Analyses and procedure

- 15.-(1) The Corporation shall, on a continual basis, conduct analysis of its railway operations to identify safety concerns, including trends, emerging trends or repetitive situations.
- (2) The analysis prescribed under sub-regulation (1) shall, at a minimum, be based on-
- (a) any reports of railway occurrences;
 - (b) any internal documentation relating to railway occurrences;
 - (c) any reports of injuries;
 - (d) the results of any inspections conducted by the Corporation or by the Regulator;
 - (e) any reports of contraventions or safety hazards that are received by the Corporation from its employees;
 - (f) any complaints relating to safety that are received by the Corporation;
 - (g) any data from safety monitoring technologies;
 - (h) the conclusions of previous annual report; and
 - (i) the findings of any safety audit reports.
- (3) The Corporation shall include, in its Safety Management System, a procedure for conducting the analysis referred to under this regulation.

Procedure, plan and methods for risk identification

16. The Corporation shall include, in its safety management system,
- (a) a procedure for identifying the risks that require remedial action, taking into account, for each risk, the likelihood that the risk will occur and the severity of its consequences;

- (b) a method for evaluating the level of risk, taking into account the likelihood that a risk will occur and the severity of its consequences.

Risk assessment

17.-(1) The Corporation shall conduct a risk assessment in the following circumstances:

- (a) when identifying a safety concern in its railway operations as a result of the analysis conducted under regulation 15;
- (b) when it intends to transport dangerous goods; or
- (c) when a proposed change to its Corporation, a change that may affect the safety of the public or personnel or the protection of property or the environment in the following:
 - (i) the introduction or elimination of a technology, or a change of technology;
 - (ii) the addition or elimination of a railway work, or a change to a railway work;
 - (iii) an increase in the volume of dangerous goods it transport;
 - (iv) a change to the route on which dangerous goods are transported; or
 - (v) a change affecting personnel, including an increase or decrease in the number of employees or a change in their responsibilities or duties.
- (2) The risk assessment shall-
 - (a) describe the circumstances that triggered the requirement to conduct the risk assessment;
 - (b) identify and describe the risks associated with those circumstances;
 - (c) identify the factors taken into account in the risk assessment, including the persons who may be affected and whether property or the environment is affected;
 - (d) indicate, for each risk, the likelihood that the risk will occur and the severity of its consequences; and
 - (e) identify the risks that require remedial action and its remedied action.

Remedial action,

18.-(1) The Corporation shall implement remedial action

evaluation and implementation	<p>with respect to the risks that requires remedial action as identified in its risk assessment.</p> <p>(2) The Corporation shall evaluate the effectiveness of the remedial action in reducing or eliminating the risks.</p>
Targets and initiatives	<p>19.-(1) The Corporation shall, for each financial year-</p> <p>(a) establish targets designed to improve the safety of its operations; and</p> <p>(b) develop initiatives to achieve each target.</p> <p>(2) The targets under this regulation shall be based on the analysis conducted and shall take into account the results of any previous analysis.</p>
Internal reporting	<p>20.-(1) The Corporation shall include, in its safety management system, a procedure that enables its employees to report, without fear of reprisal, a contravention of the Act or of any regulations, rules, orders or emergency directives made under the Act in relation to safety, or a safety hazard.</p> <p>(2) The Corporation shall include, in its safety management system, a policy for protecting its employees from reprisals for reporting a contravention or safety hazard.</p> <p>(3) The Corporation shall when developing the procedure and the policy under this regulation-</p> <p>(a) collaborate with its employees or a representative selected by its employees; and</p> <p>(b) communicate the procedure and the policy to its employees.</p>
Principles and methods of managing fatigue	<p>21.-(1) The Corporation shall apply the principles of managing fatigue when scheduling the work to the employees including the principal that-</p> <p>(a) human fatigue is governed by physiology;</p> <p>(b) human alertness is affected by circadian rhythms;</p> <p>(c) human performance degrades in relation to hours of wakefulness and accumulated sleep debt; and</p> <p>(d) human has baseline minimum physiological sleep needs.</p> <p>(2) The Corporation shall include, in its safety management system, a method for applying the principles of managing fatigue when scheduling the work of an employee who is required to work according to a schedule that-</p>

- (a) is not communicated to the employee at least twelve hours in advance;
 - (b) requires the employee to work beyond his normal work schedule; or
 - (c) requires the employee to work between midnight and 6:00 a.m.
- (3) Notwithstanding sub-regulation (1) and (2); this regulation shall not apply when scheduling the work of employees during an emergency.

Monitoring, implementation and reporting

22.-(1) The Corporation shall, on a continuous basis, monitor the implementation of its safety management system to verify-

- (a) whether the employees or a representative of employees are being involved in the processes as required by this Part;
 - (b) whether the targets established by the Corporation are being achieved; and
 - (c) whether the procedures required by this Part are complied with;
- (2) Monitoring under this regulation shall, where applicable include inquiry into-
- (a) the cause of any deficiencies in the implementation of the Corporation's Safety Management System and any actions being taken to remedy those deficiencies; and
 - (b) the reasons for not achieving targets.
- (3) The Corporation shall prepare an annual report setting out the conclusions of its monitoring activities.
- (4) The Corporation shall ensure that the conclusion of the annual report is submitted to the Regulator.

Scope of audit and plan

23.-(1) The Corporation shall conduct an audit of its Safety Management System annually to evaluate-

- (a) the extent to which the requirements related to each process have been implemented; and
 - (b) the extent to which the policy, procedures, plans and methods developed by the Corporation are effective in improving the level of safety of its railway operations.
- (2) The Corporation shall include, in its safety

management system, an audit plan that

- (a) defines the scope of each audit;
- (b) indicates the evaluation criteria to be applied;
- (c) specifies the method to be used in conducting each evaluation; and
- (d) sets out the schedule for evaluating each process.

(3) The Corporation shall, annually submit to the Regulator safety audit report referred under this regulation.

Approval of action plan

24.-(1) The Corporation shall prepare an action plan setting out the action to be taken to address each finding in the audit report that it identifies as a deficiency in its safety management system.

(2) The Director General shall approve action plan prepared under this regulation.

Review, analysis and evaluation

25. The Corporation shall keep a record of the factors taken into account in, and the results of-

- (a) the annual review of its safety policy;
- (b) each analysis conducted; and
- (c) each evaluation conducted.

Specified documents

26. The Corporation shall keep the following records:
- (a) risk register and other documentation relating to each risk assessment conducted;
 - (b) written description and written explanations that relates to Safety Management System;
 - (c) annual reports;
 - (d) audit plans;
 - (e) signed audit reports; and
 - (f) approved action plans.

PART III OFFENCES AND PENALTIES

Offences and penalties

27. A person who:
- (a) furnishes any return, report, written information or explanation containing any particulars which to his knowledge are false or incorrect; or
 - (b) hinders the Regulator or any person appointed under these regulations from carrying out his duties;
 - (c) fails to rectify any condition or to stop any activity

- when ordered to do so by the Regulator; or
(d) acts in contravention of any provisions of these regulations,

commits an offence and shall, on conviction be liable to a fine of not less than five million shillings and not exceeding ten million shillings or to imprisonment for a term of not less than two years and not exceeding five years or to both.

Compound of
offence

28.-(1) Notwithstanding the provisions of this Act relating to penalties, where a person admits in writing that he has committed an offence under these Regulations, the Director General or any other person authorised by him in writing may, at any time prior to the commencement of the proceedings by a court of competent jurisdiction compound such offence and order such person to pay sums of money, not exceeding one half of the amount of the fine to which such person would otherwise have been liable to pay if he had been convicted of such offence.

(2) Where an offence is compounded in accordance with subsection (1) and proceedings are brought against the offender for the same offence, it shall be a good defence for the offender to prove to the satisfaction of the court that the offence with which the offender is charged has been compounded under subsection (1).

(3) Where the person fails to comply with the compounding order issued under this section within the prescribed period, the Director General or any other person authorized by him in writing may-

- (a) in addition to the sum ordered, require the person to pay an interest at the rate prescribed in the regulations; and
(b) enforce the compounding order in the same manner as a decree of a court for the payment of the amount stated in the order.

Dodoma,
30 July, 2018

ISACK A. KAMWELWE
Minister for Works, Transport and Communication