

GOVERNMENT NOTICE NO. 409 Published on 10-8-2018

THE RAILWAYS (ACCIDENT, INCIDENT REPORTING AND INVESTIGATION)
REGULATIONS, 2018

ARRANGEMENT OF REGULATIONS

PART I
PRELIMINARY PROVISIONS

1. Citation.
2. Interpretation.

PART II
ACCIDENT, INCIDENT REPORTING AND INVESTIGATION

3. Accidents and incidents reportable to Regulator.
4. Investigations and inquiries.
5. Persons conduct or participate in investigation.
6. Access to the site of an accident or incident earmarked for investigation.
7. Preservation of evidence.
8. Use of evidence.
9. Disclosure of evidence.
10. Reports of investigated accidents and incidents.
11. Recommendations by Regulator.
12. Duty of Regulator to consider representations.
13. Miscellaneous functions of Regulator.
14. Offences and penalties.
15. Compound of offences.

—————
SCHEDULES
—————

GOVERNMENT NOTICE NO. 409 Published on 10-8-2018

THE RAILWAYS ACT
(No. 10 OF 2017)

REGULATIONS

(Made under section 95)

THE RAILWAYS (ACCIDENT, INCIDENT REPORTING AND INVESTIGATION)
REGULATIONS, 2018

PART I
PRELIMINARY PROVISIONS

Citation

1. These Regulations may be cited as the Railways
(Accident Reporting and Investigation) Regulations 2018.

Interpretation

2. In these Regulations unless the context requires
otherwise:

“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;

“incident” means any occurrence, other than accident in
relation to operation of trains or affecting the safety
of operation;

“level crossing” means an intersection of road and railway at
the same level;

“Minister” means the Minister responsible for railways;

“railway property” means railway vehicles and infrastructure;

“rolling stock” means a vehicle that operates on or uses the
rail track;

“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.

“train” means a locomotive with a vehicle attached or a light locomotive or motor trolleys which is designated as a train.

PART II

ACCIDENT, INCIDENT REPORTING AND INVESTIGATION

Accidents, incidents
reportable to Regulator

3.-(1) The Corporation shall, immediately and by the quickest means available, notify the Regulator all serious accidents in a manner prescribed in the First Schedule.

(2) Where an accident involves loss of life or serious injury to any person, the Corporation shall cause the matter to be reported to the Minister, Board, police station and administrative authority nearest to the scene of an accident.

(3) Where staff or property of the Corporation have in any month been involved in an accident, other than those categorised as serious, the Corporation shall report to the Regulator of every such occurrence during that month not later than ten days after the end of the month.

(4) A report referred to in sub-regulation (3) shall contain a list of every occurrence during the month in question and shall specify the date, time and place of each occurrence.

(5) The duty to notify the Regulator of an accident or incident involving the death or serious injury of a person shall not arise where the Corporation reasonably believes that:

- (a) the death or serious injury of that person was a result of natural causes, assault, suicide or attempted suicide;
- (b) the accident or incident did not involve the movement of rolling stock.

(6) A report under sub-regulation (1) shall, as the Corporation is reasonably able to provide at the time of the notification contain-

- (a) the date and time of the accident or incident;

- (b) the geographical location of the accident or incident and the nearest point of access to that location;
 - (c) the point of origin and intended destination of any rolling stock involved in the accident or incident;
 - (d) brief details of the accident or incident and the sequence of events leading to it;
 - (e) the names and roles of staff with responsibility for the movement of rolling stock involved in the accident or incident;
 - (f) in the case of an accident, an estimate of the number of people seriously or fatally injured;
 - (g) the number of passengers on board any rolling stock at the time of the accident or incident;
 - (h) the number of crew on board the rolling stock at the time of the accident or incident;
 - (i) the vehicle number and type;
 - (j) the extent of damage;
 - (k) the type and an estimate of the quantity of any dangerous goods on board the rolling stock;
 - (l) the weather conditions at the time of the accident or incident;
 - (m) details of any emergency service attending the scene of the accident or incident; and
 - (n) contact details of the person in command of the accident scene.
- (7) For the purpose of sub regulation (2), the Corporation shall report to the Regulator as follows-
- (a) any additional information not supplied at the time of reporting; and
 - (b) such further information about the accident or incident as the Regulator may reasonably require;
- (8) Where the Corporation does not know the extent of a person's injuries, he shall regard that person as having suffered a serious injury if:
- (a) that person has been removed from the site of the accident or incident to a hospital; and
 - (b) the Corporation suspects that the person has sustained a serious injury.

Investigations and inquiries

4.-(1) Railway accidents shall be investigated internally by Corporation and results reported to the Regulator within two months after occurrence of the accident.

(2) Subject to sub-regulations (4) and (5) selected accidents and incidents will be investigated by the Regulator.

(3) In any case the Minister may order an inquiry with regard to any accident or incident.

(4) The Regulator shall make the necessary arrangements to investigate selected accidents or incidents:

(a) where the accident is a serious accident; or

(b) where it is not a serious accident but is an accident or incident with high potential for harm.

(5) In determining whether the Regulator should make an investigation under this regulation, the following considerations shall be taken into account:

(a) the seriousness of the accident or incident;

(b) whether it forms part of a series of accidents or incidents;

(c) its impact on railway safety;

(d) requests from the Corporation;

(e) the extent to which an investigation will improve the safety of railways and prevent accidents and incidents, and

(f) any other matter that the Regulator considers to be reasonable in the circumstances.

(6) During the course of investigation, the Regulator shall, so far as is reasonably practicable, take into account any information relating to the accident or incident expressed by any party.

(7) The Regulator shall determine the extent of, and the procedure to be followed in carrying out an investigation conducted by him or by a person appointed pursuant to regulation 5(1).

(8) The Regulator shall conclude his examination at the site of an accident or incident in the shortest possible time in order to enable the infrastructure that is closed as a result of the accident or incident to be restored and opened to railway services as soon as practicable.

(9) The Regulator may discontinue an investigation conducted by him at any time and shall state reasons for doing so.

(10) The Regulator may undertake an investigation into the circumstances of an accident or incident where he has previously determined that no investigation will be conducted.

Persons conduct or participate in investigation

5.-(1) The Regulator may appoint any suitably qualified person to conduct or participate in that was supposed to be conducted an investigation by him.

(2) A person appointed under sub-regulation (1) may exercise such powers of an inspector as are necessary to enable him to perform his functions under the terms of his appointment.

(3) In relation to an investigation of an accident or incident being conducted, the Regulator may:

- (a) request assistance from any public body or any other person acting under a power conferred on him by any law;
- (b) request assistance from a person other than a person mentioned in paragraph (a) at such times and in such manner as he may reasonably determine.

(4) Where the Regulator requests assistance from a person in accordance with this regulation, that person shall assist him.

(5) The Regulator may pay reasonable reward to a person who assists it in pursuance of the provisions of sub-regulation (3).

Access to site of an accident or incident earmarked for investigation

6.-(1) Subject to sub-regulation (2), a person other than a person appointed under regulation 5(1) shall not-

- (a) have access to the site of an accident or incident earmarked for investigation by Regulator, including the rolling stock, infrastructure or traffic control and signalling systems involved in such accident or incident; or
- (b) remove from or interfere with, or cause to be removed from or interfered with, anything at the site of an accident or incident earmarked for investigation by the Regulator without the consent of the person appointed to conduct or participate in an investigation and until such time as he has concluded his examination or removal

of evidence at the site or determined that he will not conduct an investigation.

(2) Notwithstanding sub regulation (1), a person may have access to, or remove anything from the site of an accident or incident, only in so far as may be necessary for the purpose of-

- (a) saving life or preventing further injury or suffering;
- (b) preventing further damage or destruction;
- (c) preventing danger, and
- (d) protecting the site.

(3) Where a person intends to enter a site of an accident or incident in exercise of a power conferred on him by an enactment he shall notify officer in-charge of the site of his intention to do so, together with details of any action he proposes to take while on the site.

(4) Where an officer in-charge of the site receives notification of action proposed by a person referred to in sub-regulation (3) and a question arises as to the desirability of the proposed action to be taken, the officer in-charge of the site shall refer the question without delay to the Corporation.

Preservation of
evidence

7.-(1) For the purpose of conducting investigation of an accident or incident in the most efficient way and within the shortest time, an officer in-charge of the site may, where appropriate, in cooperation with any person acting in exercise of a power conferred on him by an enactment, require any person to supply a list of all evidence relating to the accident or incident which is in his possession or control.

(2) A person acting in exercise of a power conferred on him who is investigating an accident or incident shall-

- (a) preserve any evidence that he obtains in the course of his investigation;
- (b) notify an officer in-charge of the site of his intention to collect, examine, analyse evidence or interview a witness;
- (c) provide to Regulator details of the action he has taken;
- (d) provide to Regulator a list of the evidence that he has taken; and
- (e) upon request by Regulator, provide access to or copies of any evidence he has taken or

information he has obtained in the course of his investigation.

(3) Sub-regulation (2) shall apply until such time as the Regulator has concluded his investigation and no longer requires the evidence or has determined that he will not conduct an investigation.

Use of evidence

8.-(1) Subject to sub regulations (2) and (3) of regulation 7, the Corporation, shall not move or use any item that can form part of evidence, or may become relevant to an investigation by the Regulator, except where it is necessary to do so for the purpose of:

- (a) saving life, preventing further injury or suffering;
- (b) restoring railway operations;
- (c) preventing further damage or destruction;
- (d) preventing danger, or
- (e) protecting the site until the Regulator has concluded his investigation, no longer requires the evidence or has determined that he will not conduct an investigation.

(2) The Corporation, may with the consent of the Regulator, move or use items that shall form part of evidence relating to an accident or incident earmarked for investigation provided that a record of the condition, position and location of the evidence is retained before it was moved or used.

(3) In the course of investigation into an accident or incident, a person appointed to conduct or participate in an investigation may, for the purpose of examining or analysing an article, dismantle or alter the composition of it, whether or not such dismantling or altering has the effect of destroying it.

(4) Where a person appointed to conduct or participate in an investigation decides to dismantle or alter the composition of an article, and has reason to believe that any person exercising a power conferred on him under any law would be entitled to analyse or examine that article for the purpose of his own investigation into that accident or incident, that person shall:

- (a) before commencing such dismantling or alteration, give notice to each of persons entitled to analyse or examine that article of his intention to do so;

- (b) permit those persons to be present during such examination or analysis;
- (c) consider any reasonable representations those persons may make as to the impact such dismantling or alteration; and
- (d) provide those persons with access to all records and reports relating to the examination or analysis.

(5) A person shall not disclose any information to any person except a person acting under a power conferred on him by law, any information he obtains in connection with that analysis or examination without the consent of the Regulator.

(6) The Regulator shall release to any person exercising a power conferred on him by an enactment, any evidence that he no longer requires, where:

- (a) he has reason to believe that that person would be entitled to collect that evidence for the purpose of his own investigation;
- (b) that evidence:
 - (i) is not prohibited from being disclosed under these regulations or any other enactment, or
 - (ii) is not evidence to which sub-regulation (3) applies.

(7) The Regulator shall release to the Corporation evidence that he no longer requires for the purposes of investigation provided that before he does so he shall consult with any person known to him to be leading an investigation under statutory or legal powers into the accident or incident in respect of which the evidence was obtained.

Disclosure of evidence

9. Subject to other laws to the contrary, the Corporation or an officer authorized by the Regulator to conduct investigation shall not disclose any evidence received in the course of an accident investigation.

Reports of investigated accidents and incidents

10.-(1) The Regulator may at any time provide a final or interim report, advice, recommendations or information relating to an accident or incident to relevant authorities, in such form and manner, as the Regulator considers appropriate in the circumstances, taking account of:

- (a) the nature and seriousness of the accident or incident;
 - (b) the speed at which the report, advice, recommendations or information needs to be given or acted upon;
 - (c) the stage which the investigation has reached; and
 - (d) the relevance or importance of the examination or investigation findings.
- (2) Upon conclusion of an investigation conducted by the Regulator into accidents or incidents of a type described in sub-regulation 4(2), the Regulator shall prepare a final report:
- (a) in the shortest time and not later than four months after the date of the occurrence of accident or incident; and
 - (b) shall include in the report such information as described in the Second Schedule as is relevant to the accident or incident.
- (3) Upon the conclusion of an investigation conducted by the Regulator, other than one to which regulation 4(2) applies, the Regulator shall report to the Minister in a manner prescribed in the Second Schedule.
- (4) A report prepared under this regulation may relate to more than one accident or incident.

Recommendations by
Regulator

- 11.-(1) The Regulator shall address a recommendation contained in a report prepared under regulation 10 to the Corporation copied to the Minister.
- (2) Upon receipt of the recommendation, the Corporation shall,
- (a) ensure that the recommendation is duly taken into consideration;
 - (b) report to the Regulator within twelve months:
 - (i) giving full details of any measure taken to implement the recommendation;
 - (ii) giving full details of any proposed measure to implement the recommendation and the proposed timetable for securing that implementation; or
 - (iii) giving a full explanation as to why the recommendation cannot be acted upon, and

- (c) report to the Regulator if at any time the information provided to the Regulator pursuant to sub-regulation (b) is rendered inaccurate.

Duty of Regulator to consider representations

12.-(1) Before issuing the report of investigation, the Regulator may seek clarification from any party who is likely to be affected by the report on any issue.

(2) A person whose clarification is sought may make representations in response to the report within fourteen days from service of the notice or within such longer period as may be determined by the Regulator.

(3) The Regulator shall consider any representations it receives under this regulation and may amend the report in consequence of any such representation.

(4) A person to whom a report or part of a report has been supplied under this regulation shall not disclose its contents without the permission of the Regulator.

Miscellaneous functions of Regulator

13.-(1) In addition to the investigatory role, the Regulator may conduct studies into, monitor and analyse any matter it considers relevant to the effective investigation of accidents or incidents including:

- (a) the responses of those persons to whom the recommendations of the Regulator are addressed;
- (b) technological and other developments; and
- (c) statistics and trends relating to the railway industry including those relating to accidents and incidents.

(2) In order to assist the Regulator in carrying out the activities described in sub-regulation (1), the Regulator may request assistance or information from any public body, or any person exercising a power conferred on him by law, or accident investigating bodies of other countries.

(3) The Regulator may arrange for publication of the study or the analysis in such form and in such manner as it considers appropriate.

(4) The Regulator shall use its best endeavours to exchange information with accident investigating bodies within Tanzania or other countries for the purpose of:

- (a) developing common investigation methods;
- (b) drawing up common principles for the follow up of safety recommendations; or

- (c) adapting to the development of technical and scientific progress.

Offences and penalties

14. A person who:

- (a) fails to report an accident to the Regulator in the manner prescribed under these Regulations;
- (b) fails to assist the Regulator when required to do so in accordance with regulation 5(4);
- (c) unlawfully enters the site of accident or otherwise interferes or causes interference of evidence contrary to regulation 6;
- (d) fails to preserve evidence which is, or which he reasonably considers may be, relevant to an accident or incident earmarked for investigation by the Regulator or that Regulator directs him to preserve, contrary to regulation 7;
- (e) moves or uses evidence relevant to an investigation by the Regulator in contravention of regulation 8 (1);
- (f) discloses evidence in contravention of regulation 9;
- (g) fails to comply with regulation 11 on recommendations by the Regulator;
- (h) discloses the contents of a report before it is made public;
- (i) obstructs or hinders the Regulator or any other person appointed under the Act or these Regulations from doing his duties, or
- (j) otherwise acts in contravention 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 offences

15.-(1) Notwithstanding the provisions of these Regulations 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 sub regulation (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 sub regulation (1).

(3) Where the person fails to comply with the compounding order issued under this regulation within the prescribed period, the Corporation 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.

FIRST SCHEDULE

(Made under regulation 3(1))
ACCIDENT NOTIFICATION FORM

Accident or Incident Reporting Form		
This form may be used for written follow up notifications under regulation 3(1) after immediate notification has been made by telephone		
Name of operator making the Notification:		
Contact details for person completing this form		
Name:		
Address:		
E-mail address:		
Telephone Number:		
About the accident		
On what date did the accident happen?		
At what time did the accident happen? (Please use the 24 hour clock eg 0600)		
What was the weather condition at the time? (brief details where		
Location of the accident and the nearest point of access:		
Names and roles of any staff with responsibility for movement of the relevant rolling stock involved in the accident or incident:		

Railways (Accident, Incident Reporting and Investigation)

Gn. No. 409 (Contd.)

CASUALTIES		Passengers	Crew	Others
Numbers of people fatally injured:				
Number of people seriously injured:				
Names of any other persons/organisations whose property has been involved in the accident or incident:				
Number of passengers on board any rolling stock involved at the time of the accident or incident:				
Number of crew on board the rolling stock involved at the time of the accident:				
Contact details for the person in command or control of the accident or				
Name:				
Position:				
Telephone number:				
Details of any emergency service attending the accident or incident				
Delays to services				
What lines were affected?				
Was the route blocked as a result of accident?(yes/no)		From	To	
For how long was the route blocked?				
About the train(s) involved in the accident/incident				
Train 1: What was the train number?				
What were the time and place of				
What was the place of destination?				
What type of train was it? (Give the locomotive and/or unit details where possible)				
Train 2: What was the train number?				
What were the time and place of				
What was the place of destination?				

What type of train was it? (Give the locomotive and/or unit details where	
Give the type and an estimate of the quantity of any dangerous goods on board the rolling stock involved at the time of the accident or incident.	
DESCRIPTION OF THE ACCIDENT	
Please use a separate sheet of paper to describe the accident. Give as much detail as you can, including:	
Signature of person completing	
Date:	

—————
SECOND SCHEDULE
—————

(Made under regulation 10)

BASIC CONTENT OF AN ACCIDENT AND INCIDENT INVESTIGATION REPORT

1. SUMMARY

The summary shall contain a short description of the occurrence, when and where it took place and its consequences. It shall state the direct causes as well as contributing factors and underlying causes established by the investigation. The main recommendations shall be quoted and information shall be given on the addressees.

2. IMMEDIATE FACTS OF THE OCCURRENCE

(1) The occurrence:

- date, exact time and location of the occurrence,
- description of the events and the accident site including the efforts of the rescue and emergency services,
- the decision to establish an investigation, the composition of the team of investigators and the conduct of the investigation.

(2) The background to the occurrence:

- staff and contractors involved and other parties and witnesses,
- the trains and their composition including the registration numbers of the items of rolling stock involved,
- the description of the infrastructure and signalling system - track types, switches, interlocking, signals, train protection,
- means of communication,
- works carried out at or in the vicinity of the site,
- trigger of the railway emergency plan and its chain of events,
- trigger of the emergency plan of the public rescue services, the police and the medical services and its chain of events.

(3) Fatalities, injuries and material damage:

- Passengers and third parties, staff, including contractors,
- cargo, luggage and other property,

- rolling stock, infrastructure and the environment.

(4) External circumstances:

- weather conditions and geographical references.

3. RECORD OF INVESTIGATIONS AND INQUIRIES

(1) Summary of testimonies (subject to the protection of identity of the persons):

- railway staff, including contractors,
- other witnesses.

(2) The safety plan:

- the framework organisation and how orders are given and carried out,
- requirements on staff and how they are enforced,
- routines for internal checks and audits and their results,
- interface between different actors involved with the infrastructure.

(3) Rules and regulations:

- relevant rules and regulations made under the Act or other written laws,
- other rules such as operating rules, local instructions, staff requirements, maintenance prescriptions and applicable standards.

(4) Functioning of rolling stock and technical installations:

- signalling and control command system, including registration from automatic data recorders,
- infrastructure,
- communication equipment,
- rolling stock, including registration from automatic data recorders.

(5) Documentation on the operating system:

- Measures taken by staff for traffic control and signalling,
- exchange of verbal messages in connection with the occurrence, including documentation from recordings,
- measures taken to protect and safeguard the site of the occurrence.

(6) Man-machine-organisation interface:

- Working time applied to the staff involved,

- medical and personal circumstances with influence on the occurrence, including existence of physical or psychological stress,
- design of equipment with impact on man-machine interface.

(7) Previous occurrences of a similar character.

4. ANALYSIS AND CONCLUSIONS

(1) Final account of the event chain:

- establishing the conclusions on the occurrence, based on the facts established in item (3).

(2) Discussion:

- Analysis of the facts established in item (3) with the aim of drawing conclusions as to the causes of the occurrence and the performance of the rescue services.

(3) Conclusions:

- Direct and immediate causes of the occurrence including contributory factors relating to actions taken by persons involved or the condition of rolling stock or technical installations,
- underlying causes relating to skills, procedures and maintenance.

(4) Additional observations:

- Deficiencies and shortcomings established during the investigation, but without relevance to the conclusions on causes.

(5) Measures that have been taken:

- Record of measures already taken or adopted as a consequence of the occurrence.

(6) Recommendations.

Dodoma,
30 July, 2018

ISACK A. KAMWELWE
Minister for Works, Transport and Communication