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**GENERAL NOTICES**  
**ALGEMENE KENNISGEWINGS**

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**NOTICE 242 OF 2008****DEPARTMENT OF TRANSPORT****PUBLICATION FOR COMMENTS: NATIONAL RAILWAY SAFETY  
REGULATOR AMENDMENT BILL, 2007**

The above- mentioned draft Bill is hereby published for public comments. Interested persons are invited to submit written comments on the draft Bill by not later than 7 March 2008. Submission should be posted to the Director – General Department of Transport for the attention of Adv. A Masombuka and Marius Luyt at:

The Department of Transport  
Private Bag x193  
PRETORIA  
0001

**NATIONAL RAILWAY SAFETY REGULATOR AMENDMENT BILL, 2007****GENERAL EXPLANATORY NOTE:**

[ ] Words in bold type in square brackets indicate omissions from existing enactments.

\_\_\_\_\_ Words underlined with a solid line indicate insertions in existing enactments.

**BILL**

**To amend the National Railway Safety Regulator Act, 2002; so as to amend certain definitions and to insert a new definition; to include unsafe behaviour as well as conditions in the scope of the Act; to empower the Minister to include monorail systems, trams, systems running on pneumatic tyres and railways running on narrow gauges in the ambit of the Act; to provide for the Regulator to exempt railways rather than the Minister; to clarify that that operators remain responsible for railway safety; to provide for the removal of the duty to promote the use of rail directly from the Regulator's objects; to provide for the Regulator to enter into more informal arrangements with role players rather than only having to conclude formal agreements; to clarify the role of operator associations; to delete a duplicated paragraph; to provide that Minister of Finance will no longer have to approve the terms and conditions of service of the Chief Executive Officer (CEO); to require the Regulator's annual report to be submitted within five months after the financial year end rather than three, in line with the Public Finance Management Act; to provide that the CEO may appoint staff members rather than the Board; to provide that the Minister will no longer be required to approve conditions of service of staff members; to empower the CEO to delegate his or her powers and duties; to provide that the Regulator's funds will include penalties and fees for providing advice and training and other prescribed sources; to provide that the Regulator may charge fees for administering safety permits; to clarify the types of permits in connection with which standards may be imposed; to empower the Minister to make regulations to adopt existing standards as well as to develop new ones; to provide for the mandate and functions of the Regulator as the competent authority in connection with the transportation of dangerous goods by rail; to provide that the CEO rather than the Minister may appoint inspectors; to empower inspectors to investigate the transportation of dangerous goods prior to their transportation by rail; to provide that operators must investigate railway occurrences and to empower the Regulator to take steps if they fail**

to do so; to empower the Board of the Regulator to subpoena witnesses and documents in connection with investigations; to clarify the circumstances in which the Regulator may request information; to empower the Minister to make regulations for the payment of penalties by operators who default; and to provide for incidental matters.

**BE IT ENACTED** by the Parliament of the Republic of South Africa as follows:—

### **Amendment of section 1 of Act 16 of 2002**

1. Section 1 of the National Railway Safety Regulator Act, 2002 (Act No. 16 of 2002) (hereinafter referred to as the principal Act) is hereby amended—

(a) by the substitution for the definition of “dangerous goods” in subsection (1) of the following definition:

“(iii) “dangerous goods” means the commodities, substances and goods that are capable of posing a significant risk to health and safety or to property or the environment that are listed in the appropriate standard specification of the South African Bureau of Standards [SABS 0228 “The] for the identification and classification of dangerous substances and goods [“];”

(b) by the substitution for the definition of “network” in subsection (1) of the following definition:

“(vii) “network” means a system of railway infrastructure elements comprising track and civil infrastructure and, where appropriate, the rail reserve on which it is situated, train control systems and electric traction infrastructure which constitutes running lines, railway yards, sidings and private sidings, freight terminals, cargo depots, marshalling yards and any part of a station on or in which the said elements are situated and any other matter that may be prescribed;”

(c) by the substitution for the definition of “network operator” in subsection (1) of the following definition:

“(viii) “network operator” means the person or persons who have the ultimate management accountability for the safety of the network, including the proper construction, maintenance, integrity and operation of the network and compliance with operating standards of rolling stock thereon and for the authorisation and direction of the safe movement of rolling stock on [in control of railway traffic on the network, including the management of] the network;”

- (d) by the insertion for the definition of "rail reserve" immediately after the definition of "prescribe" of the following definition in subsection (1):

(xiiA) "rail reserve" means the land on which a network is situated as declared or proclaimed in terms of relevant legislation or as acquired by the relevant network operator or other person who owns the network or part thereof, and includes, where the context indicates, the part of a road reserve on which the railway is situated;"

- (e) by the substitution for the definition of "station" in subsection (1) of the following definition:

"(xxv) "station" means a facility for passengers to enter or leave a train, including [railway station or] a railway passenger terminal and a passenger halt, and includes for the purposes of security and crowd management, facilities for passenger modal transfer and commercial activities forming part of the station, and also includes any other place that may be prescribed, but excludes that part of the network running through the station;"

- (f) by the substitution for the definition of "train operator" in subsection (1) of the following definition:

"(xxvii)"train operator" means the [a] person or persons who have the ultimate management accountability for the safety and integrity of rolling stock on a network, including responsibility for the maintenance and operation of rolling stock; [in control of the movement and the management of rolling stock on a network]"

- (g) by the substitution for subsection (7) of the following subsection:

"(7) For the purposes of this Act, a threat to safety is a hazard or condition, or behaviour, that could reasonably be expected to develop into a situation in which illness or injury to, or death of, a person or in which damage could be caused to the environment or property, and a threat to safety is immediate if such a situation already exists."

### **Amendment of section 3 of Act 16 of 2002**

2. Section 3 of the principal Act is hereby amended—

- (a) by the substitution for paragraph(a) of subsection (1) thereof of the following paragraph:

"(a) the operation of any railway within, or partly within, the Republic with a track gauge equal to or wider than 600mm subject to paragraph (b); and"

(b) by the substitution for paragraph(b) of subsection (1) thereof of the following paragraph:

“(b) any other system designed to transport passengers or freight or both, declared by the Minister by notice in the *Gazette* to be a railway or railway operation, or both, for the purposes of this Act, including, but not limited to—

(i) a system running on a monorail or a magnetic levitation system;

(ii) a fixed rail or track system where the vehicles run on pneumatic tyres; or

(iii) a tramway or tram system;”

(c) by the substitution for paragraph (d) of subsection (2) thereof of the following paragraph:

“(d) any railway exempted by the Regulator **[Minister]** by notice in the *Gazette* from compliance with this Act;”

#### **Amendment of section 5 of Act 16 of 2002**

3. Section 5 of the principal Act is hereby amended by the substitution for paragraphs (a) and (b) thereof of the following paragraphs:

“(a) oversee safety of [in the] railway transport [industry] while operators remain responsible for such safety within their areas of responsibility;

(b) promote improved safety performance in the railway transport industry in order to promote the use of rail as a mode of transportation [through improved safety performance in the railway transport industry];”

#### **Amendment of section 6 of Act 16 of 2002**

4. Section 6 of the principal Act is hereby amended by the substitution for subsection (2) thereof of the following subsection:

“(2) The Regulator must conclude an appropriate co-operative agreement or arrangement with every relevant organ of state to give effect to the co-operation contemplated in subsection (1).”

#### **Amendment of section 7 of Act 16 of 2002**

5. Section 7 of the principal Act is hereby amended by—

(a) the substitution for paragraph (b) of subsection (2) thereof of the following paragraph:

“(b) formally recognise associations [an association] representing operators, including other railway industry enterprises, to collaborate with it [to act on its behalf] in respect of the development of standards or any other matter that the Regulator

deems necessary;"

- (b) by the deletion of paragraph (n) of subsection (2) thereof.

#### **Amendment of section 9 of Act 16 of 2002**

6. Section 9 of the principal Act is hereby amended as follows:

- (a) by the substitution for paragraph (c) of subsection (3) thereof of the following paragraph:

"(c) The terms and conditions of service of the chief executive officer are determined by the board after consultation with [and approved by] the Minister **[in consultation with the Minister of Finance];**"

- (b) by the substitution for subsection (6) thereof of the following subsection:

"(6) The board must forward the report referred to in subsection (5)(d), approved by it, to the Minister within five [three] months after the end of the financial year concerned."

#### **Amendment of section 10 of Act 16 of 2002**

7. Section 10 of the principal Act is hereby amended by the substitution for subsections (1) and (2) thereof of the following subsections:

**"10. (1) [Subject to the written instructions of the board,]** The chief executive officer may appoint such staff members for the Regulator as are necessary to perform the work arising from or connected with the Regulator's functions.

(2) The terms and conditions of service of staff of the Regulator are determined by the board **[and approved by the Minister, in consultation with the Minister of Finance] ."**

#### **Amendment of section 11 of Act 16 of 2002**

8. Section 11 of the principal Act is hereby amended by the addition of the following subsection:

"(6) The chief executive officer may delegate any power or duty conferred or imposed on him or her to any staff member of the Regulator, subject to any conditions imposed by the board, and subsections (2) to (5) apply with the necessary changes to such a delegation."

#### **Amendment of section 17 of Act 16 of 2002**

9. Section 17 of the principal Act is hereby amended by the substitution for subsection (1) thereof of the following subsection:

- “(1) The funds of the Regulator consist of—
- (a) money appropriated by Parliament;
  - (b) fees paid to the Regulator in terms of section 23(2); **[and]**
  - (c) penalties payable in terms of regulations made under section 45A(1);
  - (d); fees for providing services, including advice and training materials relating to its functions to any person or institution in or outside the Republic, as determined by the Regulator;
  - (e)~~[(c)]~~ donations or contributions received by the Regulator, with the approval of the Minister, from any source; and
  - (f) any other fees or sources of income that may be prescribed.”

#### **Amendment of section 23 of Act 16 of 2002**

10. Section 23 of the principal Act is hereby amended by the substitution for subsection (2) thereof of the following subsection:

“(2) The Regulator may determine and charge fees [a fee], including periodic fees, for, receiving, processing, and assessing [a] safety permit applications, and for the subsequent administration of such permits, and such fees may differ between different operators according to criteria which the Regulator deems reasonable.”

#### **Amendment of section 24 of Act 16 of 2002**

11. Section 24 of the principal Act is hereby amended by the substitution for subsection (1) thereof of the following subsection:

“(1) The board may make standard conditions applicable to one or more types or categories of safety permit.”

#### **Amendment of section 29 of Act 16 of 2002**

12. Section 29 of the principal Act is hereby amended by the substitution for subsection (1) thereof of the following subsection:

“(1) The Minister must make regulations on the procedure to be followed by the board and any other person in the development or adoption of standards for safe railway operations.”

#### **Amendment of section 30 of Act 16 of 2002**

13. Section 30 of the principal Act is hereby amended by—  
the substitution for paragraph (a) thereof of the following paragraph:

“(a) A new or proposed construction or operation which may impact on safe railway operations and which requires the approval of the Regulator, and the procedure for such approval, including the noting of objections;”

**Insertion of Part 4 in Chapter 5 of Act 16 of 2002**

14. The principal Act is hereby amended by the insertion of the following Part in Chapter 5:

**"Part 4****Transportation of dangerous goods by rail****Functions and mandate of Regulator**

31A. Without derogating from the other functions of the Regulator in terms of this Act, the functions and mandate of the Regulator in terms of section 7(1)(b) include, but are not limited to, the following:

- (a) conducting audits, inspections and occurrence investigations, including into activities prior to the transportation of dangerous goods by rail that may affect such transportation including, but not limited to, manufacture, packaging, storage, loading, off-loading, certification and documenting;
- (b) acting as the competent authority for South Africa in international agreements and arrangements relating to the transportation of dangerous goods by rail;
- (c) developing and enforcing regulations and standards relating to the transportation of dangerous goods by rail in terms of this Act;
- (d) developing and implementing standard operating procedures with other organs of state in terms of section 6;
- (e) providing technical advice to consignors, consignees and operators;
- (f) appointing agents who are suitably qualified specialists to undertake the functions of the Regulator in this Part; and
- (g) undertaking other functions to ensure the safe transportation of dangerous goods by rail.

**Regulations regarding the transportation of dangerous goods by rail**

31B. The Minister may make regulations on the following insofar as they may have an impact, either directly or indirectly, on safe railway operations:

- (a) providing for investigations and audits by the Regulator, operators and other persons into activities prior to, during and after the transportation of dangerous goods by rail;
- (b) imposing requirements on consignors and consignees of dangerous goods including, but not limited to, classifying, packaging, marking, placarding, storing, loading, off-loading, certifying and documenting such goods, or training of staff and occurrence management;
- (c) imposing operational requirements on operators;

- (d) delineating responsibilities and interfaces between consignors, consignees, operators and other parties;
- (e) subject to section 29, incorporating standards into the regulations;  
and
- (g) any other matter that could contribute to the safe transportation of dangerous goods by rail.

#### Replacement of section 32 of Act 16 of 2002

15. Section 32 of the principal Act is hereby replaced by the following section:

**“32. (1) The chief executive officer [Minister] may, in writing, appoint any suitably qualified person as a railway safety inspector to perform the functions contemplated in section 33.**

**(2) A railway safety inspector must be provided with a certificate of appointment signed by the chief executive officer. [Minister, or by the chief executive officer on behalf of the Minister, setting out the functions of the inspector]”**

#### Amendment of section 33 of Act 16 of 2002

16. Section 33 of the principal Act is hereby amended by the addition of the following subsections:

“(4) In addition to the powers contemplated in subsections (1) to (3), a railway safety inspector may in the event of any railway occurrence, non-compliance with this Act or any other activity affecting the safe transportation of dangerous goods by rail, audit, inspect or investigate such occurrence, non-compliance or activity despite the fact that it took place prior to the actual transportation by rail.

(5) The activities contemplated in subsection (4) include, but are not limited to, classification, packaging, marking, placarding, storage, loading, off-loading and documenting of dangerous goods”

#### Amendment of section 38 of Act 16 of 2002

17. Section 38 of the principal Act is hereby amended by—

(a) the substitution of the word “Regulator” for the word “Board” wherever it occurs in subsections (1), (2), (3) and (4).

(b) the addition of the following subsections:

“(8) An operator must investigate every railway occurrence that takes place directly or indirectly in connection with that operator’s railway operations.

(9) The Regulator may issue a directive to any operator to conduct an investigation into any railway occurrence and its surrounding circumstances, in the manner and within the time directed by the Regulator, and to furnish a written report to the Regulator on completion of the investigation.

(10) If the Regulator is not satisfied with the manner in which the investigation was conducted or with the findings thereof, or is of the opinion that the root cause or causes of the occurrence have not been identified, it may direct the operator to re-investigate the matter or carry out further investigations in the manner and within the time directed.

(11) Operators must comply with directives issued under this section.

(12) The costs of an investigation or re-investigation by an operator in terms of this section will be for the account of the operator concerned.

(13) In exercising its functions under this section, the Regulator or a committee of inquiry established by it may—

(a) in its discretion allow any person affected by or interested in the relevant investigation or the duly authorised representative of such person, to appear before it and to—

(i) give evidence or make oral or written representations relevant to such investigation;

(ii) call witnesses and lead evidence on any question relevant thereto; or

(iii) question any person who testified as a witness in such investigation;

(b) summons any person who may reasonably be able to give material information concerning such investigation to appear before it to give evidence or to produce any document or object in their possession or custody or under their control which may reasonably have a bearing thereon;

(c) call upon and administer an oath to or obtain an affirmation from any person present before it, who has been or might be summoned in terms of paragraph (b) or otherwise;

(d) question any person who has been called upon under paragraph (c) or require such person to produce any document or object in their possession or custody, or under their control, which may reasonably have a bearing on the investigation.

(14) Such a summons must be in the prescribed form, signed by the chairperson of the Board or another person authorised by the Board and served in the prescribed manner.

(15) The law relating to privilege as applicable to a witness summoned to give evidence or produce any document or object before a court of law will apply in respect of the questioning of any person by, or the production of any document or object before, the Regulator in terms of this section."

### **Replacement of section 40 of Act 16 of 2002**

**18.** Section 40 of the principal Act is hereby replaced by the following section:

**"40.** The Regulator may require, in writing, that a person must, within a specified time or on a regular basis, provide the Regulator with data, information, documents, samples or materials required by the Regulator to perform its functions in terms of this Act [for the purposes of information or monitoring systems]."

**Insertion of section 45A in Act 16 of 2002**

19. The following section is hereby inserted after section 45 of the principal Act:

**"Penalties**

45A. "(1) The Minister may make regulations providing that persons who fail to comply with any provision of this Act or regulations or standards made or imposed thereunder, or any condition imposed in terms of section 24, must pay one or more penalties to the Regulator, and may provide that the Regulator may publish details of such non-compliance in the manner prescribed.

(2) The making of such regulations and the imposition of such penalties must be subject to the understanding that the Regulator will strive to improve compliance with this Act so that the penalties will reduce over time.

(3) Penalties imposed in terms of regulations made under subsection (1) may differ between operators according to criteria which the Regulator deems reasonable.

(4) The Regulator may recover penalties imposed in terms of regulations made under subsection (1) by civil action.

(5) Any person aggrieved by a decision of the Regulator to impose such a penalty may appeal against that decision to the Minister or to an official in his or her Department designated by the Minister for that purpose, and the Minister may make regulations on the procedure for lodging and hearing such appeals, the information to be provided by the appellant and Regulator and the fees payable, if any, in connection with such appeals."

**Short title and commencement**

20. (1) This Act is called the National Railway Safety Regulator Amendment Act, 2007, and comes into operation on a date fixed by the President by Proclamation in the *Gazette*.

(2) The President may fix different dates in respect of different provisions of this Act.

**MEMORANDUM ON THE OBJECTS OF THE NATIONAL RAILWAY SAFETY  
REGULATOR AMENDMENT BILL, 2007****1. BACKGROUND**

The National Railway Safety Regulator Act 16 of 2002 ("the Act") was promulgated in 2002 and brought into operation on 20 September 2002. The Act established the Railway Safety Regulator (RSR) as being responsible for overseeing safety in relation to railway infrastructure and operations and to promote railways as an efficient mode of transportation. The objects of the RSR are listed in section 5 as follows:

- To oversee safety in the railway transport industry
- To promote the use of the rail mode through improved safety performance
- To develop regulations required by the Act
- To monitor and ensure compliance with the Act, and
- To give effect to the objects of the Act.

Since implementation of the Act, some shortcomings, loopholes etc. have been identified as needing attention.

Accordingly it has been decided to investigate the possibility of drafting an Amendment Bill to address the problems and bring the Act into line with latest developments.

**2. PURPOSE OF THE BILL**

The Bill seeks to amend the National Railway Safety Regulator Act, 2002 (Act No. 16 of 2002) ("the Act"). The Act established the Railway Safety Regulator (RSR) and provides for promotion of safe railway systems and operations. The Act has been in operation since 20 September 2002, and in the process of implementing it certain amendments to the Act have become necessary.

**3. CLAUSE-BY-CLAUSE EXPLANATION**

Clause 1 will amend certain definitions, as follows:

The definition of "dangerous goods" is amended to remove the specific reference to SABS 0228 to take care of possible future changes to the SABS standards.

The definition of "network" is amended to make it clear that the network includes the land (rail or road reserve) on which the network infrastructure is situated, and that the term includes freight terminals, cargo depots, goods sidings etc., which are accordingly removed from the definition of "station".

The definition of "network operator" is amended to provide more clearly and broadly for the responsibilities of such operators, and to include the authorisation and direction of train movements which previously fell under the responsibilities of the "train operator". The possibility of having more than one operator of a network is also included, to cater for possible future changes in the institutional arrangements

regarding ownership of rail infrastructure.

A new definition of "rail reserve" is inserted, which is necessitated by the amended definition of "network".

The definition of "station" is amended to make it clear that stations only refer to places where passengers enter or leave trains and to include modal exchanges and commercial and retail premises for the purposes of crowd management and security. The part of the network that runs through a station is excluded, to avoid duplication of responsibilities.

The definition of "train operator" is amended to exclude the responsibility to control the movement of rolling stock, which is now with the network operator. The possibility of having more than one operator on a network is also included, which is likely to happen more often in the future.

Clause 1 also amends section 1(7) of the Act to make it clear that a threat to safety will also include behaviour that can develop into an unsafe situation.

Clause 2 amends section 3 of the Act to provide that the Minister may also declare a system with a track gauge of less than 600mm as a railway for purposes of the Act (although this is unlikely in practice), and to provide that the RSR may exempt railways from the operation of the Act, rather than the Minister. It is considered unnecessary to involve the Minister in such decisions. It is also amended to empower the Minister to include monorails, trams and fixed rail or track systems running on pneumatic tyres.

Clause 3 amends section 5 of the Act to make it clear that operators remain responsible for railway safety and that the function of the RSR is to promote rail safety, not to promote utilisation of the rail mode. Increased safety will hopefully lead to an increased use of the rail mode, but the promotion of rail as such is not the responsibility of the RSR.

Clause 4 amends section 6 of the Act, which requires the RSR to conclude co-operation agreements with the entities mentioned in that section, to allow the RSR to enter into appropriate arrangements as well as formal agreements.

Clause 5 amends section 7 of the Act to provide that recognised operator organisations will advise the RSR in general terms, and not act on its behalf in developing standards. Subsection (2)(n) is deleted because it is a duplication of subsection (2)(c).

It should be noted that section 8 of the Act on the appointment of Board members will be amended by the Transport Agencies General Amendment Bill which is being introduced to Parliament.

Clause 6 amends section 9 of the Act to provide that it will no longer be necessary for the Minister of Finance to be involved in determining the terms and conditions of service of the Chief Executive Officer (CEO). Also, those terms and conditions will be determined after consulting the Minister of Transport. The section is also amended to provide that the Board must submit the RSR's annual report to the Minister within five

months after the end of the financial year rather than three. This will bring the Act into line with the Public Finance Management Act, 1999.

Clause 7 amends section 10 of the Act to provide that the (CEO) may appoint staff without having to obtain specific directions from the Board in each case. This will be a more practical arrangement.

Clause 8 amends section 11 of the Act to provide that the CEO may delegate his or her functions to RSR staff members. This appears to have been an omission in the Act.

Clause 9 amends section 17 of the Act to provide that the funds of the RSR will also include the penalties to be provided for in the new clause 45A, and fees to be charged by the RSR for providing training and advice related to its functions in terms of the amended section 17, as well as other fees or income sources that may be prescribed in regulations.

Clause 10 amends section 23 of the Act to provide that the RSR may charge fees, not only for processing safety permit applications, but also for administering those permits. It also provides that such fees may differ according to stated criteria, e.g. the size of the relevant rail operation.

Clause 11 amends section 24 of the Act to make it clear that standard conditions applicable to safety permits do not have to be categorised according to the categories mentioned in section 22(1), but that they may differ according to types of permits as well.

Clause 12 amends section 29 of the Act to make provision that the Minister may make regulations to adopt existing standards as well as providing for the development of new standards.

Clause 13 amends section 30 of the Act to provide that the Minister may also make regulations on new operations that may impact on safe railway operations, and not only constructions. The Minister may also make regulations on minimum qualifications of or training for personnel in relation to safety, and may qualify categories of railway staff.

Clause 14 inserts a new Part 4 in Chapter 5 of the Act on the transportation of dangerous goods by rail to provide more specifically for the role and functions of the Regulator in that regard and the power of the Minister to make regulations, pursuant to an opinion from the State Law Advisers.

Clause 15 amends section 32 of the Act to provide that the CEO may appoint railway safety inspectors rather than the Minister. It is considered unnecessary to burden the Minister with such duties.

Clause 16 amends section 33 of the Act to empower railway safety inspectors also to investigate matters such as the packaging, marking and classification of dangerous goods prior to their loading onto a train.

Clause 17 amends section 38 of the Act to provide that operators must conduct investigations into railway occurrences that take place in connection with their railway operations, and to empower the Regulator to require operators to conduct investigations into such occurrences where appropriate. Section 38 is also amended to empower the Board, in conducting investigations, to summon witnesses to appear before it or to produce documents or objects in their possession or under their control, and to question such persons.

Clause 18 amends section 40 of the Act to empower the RSR to request information from persons for any reason related to its activities, rather than only for the purposes of information and monitoring systems.

Clause 19 inserts a new section 45A into the Act to empower the Minister to make regulations providing that the RSR may impose penalties where operators fail to comply with standards or requirements imposed under the Act, or with permit conditions. Where penalties are imposed, operators will be able to appeal to the Minister or to an official of the Department of Transport designated by him.

Clause 20 provides for the short title and date of commencement of the amended Act.

#### **4. CONSULTATION**

The draft bill will be published for comment in the *Government Gazette*. A workshop to discuss the amendments has been held with a wide range of stakeholders.

#### **5. FINANCIAL IMPLICATIONS**

The Bill is expected to have the following financial implications:

- a) The revenue of the RSR will be increased by being able to charge fees for training and advice, and for charging additional fees for administering permits, and not only for processing permit applications.
- b) The RSR will earn additional revenue from penalties, but the Act will impose a duty on it to reduce such penalties as the level of compliance increases.

#### **5. IMPLICATIONS FOR PROVINCES**

The Minister may include railway systems that are introduced by provinces, including monorail systems, trams and systems running on pneumatic tyres in the ambit of the Act.

#### **6. IMPLICATIONS FOR MUNICIPALITIES**

Similarly, the Minister may include monorail systems, trams and systems running on pneumatic tyres that may be introduced by municipalities in the future in the ambit of the Act.

#### **7. PARLIAMENTARY PROCEDURE**

The Act was originally dealt with in accordance with section 75 of the Constitution as

legislation which does not affect the provinces. However, the abovementioned implications for provinces may cause the State Law Adviser to decide that the Bill must be dealt with under section 76 of the Constitution.