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THE RAILWAYS ACT,
(CAP. 170)

REGULATIONS

(Made under section 95(2)(n))

THE RAILWAYS (OPEN ACCESS) REGULATIONS, 2024

ARRANGEMENT OF REGULATIONS

SCHEDULES

GN. No. 213 (Contd)

THE RAILWAYS ACT,

(CAP. 170)

REGULATIONS

(Made under section 95(2)(n))

THE RAILWAYS (OPEN ACCESS) REGULATIONS, 2024

Citation

1. These Regulations may be cited as the Railways (Open Access) Regulations, 2024.

Application

2. These Regulations shall apply in making provisions for open access by an open access operator.

Interpretation

3. In these Regulations, unless the context requires otherwise-

"access agreement" means the access agreement between the Infrastructure Manager and the operator and includes all annextures, schedules and exhibits;

"access and transit rights" means the right to access the railway network, including the train paths, as requested by the operator;

"access fees" means the fees determined in accordance with the access agreement payable to the Infrastructure Manager by the operator for the access rights, and includes any interest and charges payable in relation to such fees;

Cap. 170 "Act" means the Railways Act;

"*ad hoc* request" means a request for individual train paths made other than in accordance with the timetable for the capacity allocation process;

"charging scheme" means the specific charging rules established in accordance with these Regulations, the Regulator or the Infrastructure Manager as the case

may be;

"charging system" means the system established by the Infrastructure Manager to determine access fees;

"Infrastructure Manager" means a Corporation established under the Act;

"licence" means railway undertaking licence issued by the Regulator;

Cap. 170

"Minister" shall have the meaning as ascribed under the Act;

"network statement" means the statement which provides general rules, guidelines, procedures and criteria for setting and levying of fees for open access;

"open access" has the meaning ascribed to it under the Act;

"operator" means a person issued with a licence to provide rail transport services through open access;

"permit" means railway operating permit issued by the Infrastructure Manager; and

"Regulator" has the meaning ascribed to it under the Act.

PART II
APPLICATION FOR PERMIT AND LICENCE

Application for permit

4.-(1) A person who intends to provide railway transport services through open access shall apply to the Infrastructure Manager for a permit by using Form A prescribed in the First Schedule to these Regulations.

(2) The application under subregulation (1) shall be accompanied with the following:

(a) current audited financial statement;

(b) proof of professional personnel on railway operations;

(c) environmental impact assessment certificate;

(d) capacity request specifying the type and amount of capacity required on the railway network;

(e) designed parameters of the rolling stock to be used in the undertaking;

(f) a business plan;
(g) insurance cover;
(h) a safety management system;
(i) maintenance plan and operational manuals;
(j) a copy of certificate of incorporation or registration of a company; and
(k) train driver certification procedures and training modules.

(3) The Infrastructure Manager shall, within ninety days from the date of receipt of the application, assess the application and grant permit.

(4) The Infrastructure Manager may, upon assessment of the application, reject an application and shall inform the applicant in writing the reasons for such rejection.

(5) An applicant whose application is rejected, may within fourteen days of receipt of rejection notification, rectify the anomalies and resubmit the application.

(6) An applicant who fails to resubmitted an application within the time prescribed under subregulation (5) shall be required to submit a new application.

Permit fees

5. An applicant shall pay to the Infrastructure Manager the application fees as prescribed in the Second Schedule which may be revised by the Infrastructure Manager in accordance with the Act.

Application for licence

6.-(1) A person who intends to provide railway transport services shall apply to the Regulator by using Form B as prescribed in the First Schedule to these Regulations.

(2) An application under subregulation (1) shall be accompanied with the following:

(a) applicant's memorandum and articles of association;
(b) report which shall include a description of

the scope of services, sought to be rendered;

(c) safety plan;

(d) environmental impact assessment certificate;

(e) proposed tariff;

(f) organisational chart including total number of staff, railway experience and breakdown of units of the organisation;

(g) financial capability of running railway business;

(h) agreement with the Infrastructure Manager to access the railway;

(i) train driver manual;

(j) standard operational procedures at depot and workshop

(k) maintenance manual;

(l) conditions of carriage;

(m) passenger's responsibilities and prohibition;

(n) delay and cancellation refund;

(o) complaints management;

(p) arrangements for protection of disabled and disadvantaged persons on trains;

(q) certified copy of permit issued by Infrastructure Manager; and

(r) proof of payment of licence application fee to the Regulator.

(3) The Regulator shall, within twenty one days from the date of receipt of application for licence, assess the application and grant licence.

(4) The Regulator may upon assessment reject an application for licence and shall inform the applicant in writing reasons for such rejection.

(5) An applicant whose application is rejected, may within fourteen days of receipt of rejection notification, rectify the anomalies and resubmit the application.

(6) An applicant who fails to re-submit the application within the prescribed time under subregulation (5) shall be required to submit a new application.

Licence fees

7. The operator shall pay to the Regulator licence fees prescribed in the Second Schedule of these Regulations.

Validity of licence

8.-(1) A railway undertaking licence shall, unless otherwise revoked or suspended in accordance with these Regulations, be valid for a period of fifteen years from the date of its issuance.

(2) An operator's licence may be renewed upon compliance of the requirements under these Regulations.

PART III
ACCESS TO RAILWAY INFRASTRUCTURE AND SERVICES

Access and transit rights

9. An operator is entitled to equitable conditions of access and transit rights for the purpose of any type of railway undertaking.

Access to terminals and ports

10.-(1) An operator is, for the purposes of railway undertaking, entitled to track access and supply of services in terminals and ports linked to the railway network which serve or potentially serve more than one final customer.

(2) The Infrastructure Manager shall ensure that the entitlements conferred under these Regulations are honored, and that access to and the supply of services is granted in a transparent and non-discriminatory manner.

Access to services

11.-(1) An operator is entitled to services comprising of-

(a) minimum access package prescribed in the Third Schedule; and

(b) track access to service facilities and supply of services prescribed in the Third Schedule.

(2) Where the Infrastructure Manager to whom a request has been made to the supply of service referred to in paragraph 2 of the Third Schedule does not supply such service, the Infrastructure Manager shall use all reasonable endeavors to facilitate the supply of that service.

(3) Where the Infrastructure Manager offers to supply additional services in accordance with these Regulations in response to a request from the applicant, he shall supply the service depending on access availability of the service.

(4) An applicant may request the supply of services described in paragraph 2 of the Third Schedule or ancillary services from an Infrastructure Manager:

Provided that, the Infrastructure Manager shall not be obliged to accept the request.

(5) Without prejudice to the generality of this regulation, the operator who has been denied entitlement conferred under these Regulation may appeal to the Regulator.

PART IV
INFRASTRUCTURE MANAGEMENT AND OPERATIONS

Management independence

12. An operator shall maintain the status of an independent operator in his management.

Business plan

13.-(1) The Infrastructure Manager shall draw up a business plan which is designed for the purpose of ensuring-

(a) optimal and efficient use of the infrastructure, and includes development of the infrastructure; and

(b) financial viability.

(2) The business plan shall include details of

investment and financial programs, and provide the means by which the objectives set out shall be achieved.

(3) An operator shall draw up a business plan which includes their investment and financing programs and which is designed for the purpose of ensuring-

(a) financial viability; and

(b) other technical, commercial and financial management objectives.

(4) The business plan shall provide the means to achieve the objectives set out in subregulation (3).

(5) The Infrastructure Manager and an operator shall each submit their business plan and a report annually to the Regulator which shall state compliance with the requirement of these Regulations.

Network statement

14.-(1) The Infrastructure Manager shall, within one month after the coming into operation of these Regulations, consult all interested parties and develop a network statement.

(2) The network statement shall contain the following information:

(a) a section setting out the nature of the railway infrastructure which is available to applicants and the conditions of access to it;

(b) details as to where further information may be obtained about the nature of the track access to and supply of services in any of the terminals, ports and service facilities to which access may be obtained in accordance with these Regulations;

(c) a description of the charging principles and tariffs, including details of the charging methodology;

(d) details of charges for the supply of services;

(e) a description of the principles and criteria for the allocation of infrastructure capacity, setting

out the general capacity characteristics of the infrastructure available and the restrictions on its use, including likely capacity requirements for maintenance; and

(f) the procedures and deadlines in the capacity allocation process and specific criteria employed in that process which includes-

(i) procedures according to which applicants can request infrastructure capacity from the Infrastructure Manager;

(ii) information to be provided by applicants;

(iii) timetable for the application allocation process;

(iv) dispute resolution procedure established by the Infrastructure Manager in resolving disputes related to allocation of railway infrastructure capacity;

(v) details of any section of railway infrastructure which has been designated for use by specified types of railway services;

(vi) procedures to be followed for congested infrastructure and any priority criteria for the allocation of congested infrastructure set in accordance with these Regulations;

(vii) findings of any capacity enhancement plan completed in accordance with these Regulations;

(viii) details of restrictions on the use of infrastructure;

(ix) threshold quota to be applied by the Infrastructure Manager in requiring a

train path to be surrendered;

(x) conditions relating to previous levels of utilisation of capacity to be taken into account by the Infrastructure Manager in determining priorities; and

(xi) measures taken by the Infrastructure Manager to ensure fair treatment of network operators and in responding to *ad hoc* requests for infrastructure capacity.

(3) An operator shall provide the Infrastructure Manager with information as necessary to enable Infrastructure Manager to-

(a) include details on the nature of track access, supply of services terminals and facilities to which access may be obtained; and

(b) keep the network statement up to date and modify it as necessary.

(4) If the Infrastructure Manager is not satisfied with the information submitted by the operator, he shall require the operator to resubmit adequate information.

(5) The Infrastructure Manager shall in every financial year, prepare the network statement not less than four months before the deadline for applications for infrastructure capacity as described in the timetable for the application and allocation process.

PART V
INFRASTRUCTURE CHARGES

Establishing, determining and collecting charges

15.-(1) The Infrastructure Manager shall-

(a) propose the fees to be charged for use of the infrastructure in accordance with the charging framework, the specific charging rules, the principles and exceptions set out in the Fourth Schedule; and

(b) collect those fees.

(2) The Regulator shall determine the charging scheme and the specific charging rules governing the determination of the fees to be charged.

(3) An applicant shall pay fees as charged by the Infrastructure Manager for use of the railway infrastructure.

(4) The Infrastructure Manager shall supply information about track access charges to the Regulator where required.

(5) The Infrastructure Manager shall respect the commercial confidentiality of information provided to it by applicants regarding operation capacity.

Performance scheme

16.-(1) The Infrastructure Manager shall establish a performance scheme as part of the charging system to encourage operators to provide their services sustainably and enable the Infrastructure Manager to minimise disruption with the objective of improving the performance of the railway network.

(2) The performance scheme may include-

(a) penalties for actions which disrupts the operation of the railway network;

(b) compensation for business which suffer from disruption; and

(c) bonuses that reward better than planned performance.

(3) The basic principles of the performance scheme shall apply in a non-discriminatory manner throughout the network to which that scheme relates.

Charges for unutilised capacity

17. The Infrastructure Manager may levy an appropriate charge for capacity that is requested but not used, by imposing this charge Infrastructure Manager shall provide incentives for efficient use of capacity.

PART VI
ALLOCATION OF INFRASTRUCTURE CAPACITY

Capacity allocation request

18.-(1) An operator may apply to the Infrastructure Manager for the allocation of infrastructure capacity.

(2) The Infrastructure Manager shall be responsible for the establishment of specific capacity allocation rules and for the process of allocating infrastructure capacity.

(3) The Infrastructure Manager shall handle the capacity allocation request within fourteen working days after the submission of the request.

(4) The Infrastructure Manager shall not allocate capacity in the form of specific train paths for any period in excess of one working timetable period.

(5) A contract, either in the form of an agreement or any other type of contract, setting out the rights and obligations of the parties, infrastructure access shall not be utilised before conclusion between the Infrastructure Manager and any applicant to whom infrastructure capacity is allocated.

(6) The Infrastructure Manager shall take into account the reservation made by an operator in reserving infrastructure capacity for the purpose of scheduled track maintenance.

Working timetable

19.-(1) The Infrastructure Manager shall prepare a working timetable once in every calendar year.

(2) The Infrastructure Manager shall consult interested parties about the draft working timetable and allow the interested parties to submit their comments within a period of at least one month.

(3) The working timetable referred to under subregulation (1) may be reviewed from time to time as required or where the Infrastructure Manager deems it necessary.

Non-transferability

20.-(1) An applicant who has been granted capacity by the Infrastructure Manager shall not trade that capacity with another applicant or transfer it to another operator, whether or not that capacity is in the form of-

(a) an agreement made in accordance with these Regulations; or

(b) specific infrastructure capacity in the form of train path.

(2) A person who contravenes the provisions of subregulation (1) shall not be allowed to apply for capacity allocation for the period of one year from the date of proof of an act.

Non-discriminatory allocation

21. The Infrastructure Manager shall ensure that infrastructure capacity is allocated in a fair and non-discriminatory basis and the contracts entered are transparent and in accordance with the requirements of these Regulations.

Scheduling and coordination

22.-(1) The Infrastructure Manager shall attend all requests for infrastructure capacity and take into account of all constraints on applicants, including the economic effect on their business.

(2) The Infrastructure Manager may give priority to specific services within the scheduling and co-ordination process in accordance with these Regulations.

(3) Where there is a conflict between different requests for infrastructure capacity, the Infrastructure Manager shall, in consultation with the respective applicants, and through co-ordination of the requests, propose alternative infrastructure capacity from that requested in order to resolve the conflict.

(4) The Infrastructure Manager shall facilitate the establishment and operation of an internal dispute resolution system to resolve allocation of infrastructure capacity disputes.

(5) The Infrastructure Manager shall take appropriate measures to deal with any concerns about capacity allocation process raised by interested parties.

(6) For the purposes of this regulation "interested parties" include-

(a) all applicants for infrastructure capacity as part of the specific allocation process to which the draft working timetable relates; and

(b) stakeholders who have indicated to the Regulator their interest to discuss the draft working timetable.

Access agreement

23.-(1) An applicant who is a party to an access agreement may apply for the allocation of capacity in accordance with the terms of that agreement.

(2) An access agreement shall not preclude the use of the railway infrastructure subject to that by other operators.

(3) An access agreement shall contain terms permitting the amendment or limitation of any condition contained in that access agreement to enable better use of the railway infrastructure.

(4) An access agreement may contain penalties applicable on modification or termination of the agreement by any party.

(5) An access agreement made in accordance with these Regulations shall not exceed a period of five years and may be renewed.

(6) Notwithstanding subregulation 5, an access agreement in excess of five years may be made in exceptional cases in particular where there is large scale and long term investment where such investment is covered by contractual commitment.

Ad hoc requests

24.-(1) An operator may submit *ad hoc* requests for infrastructure capacity in the form of train paths to the

Infrastructure Manager.

(2) The Infrastructure Manager shall respond within five working days from the date of receipt of the request.

(3) The Infrastructure Manager shall ensure that information on reserve capacity of the network is availed to all operators of individual train paths.

(4) The Infrastructure Manager shall ensure availability of reserve capacity to be kept during final working timetable to enable him respond rapidly to foreseeable *ad hoc* requests.

Declaration of specialised infrastructure

25. Infrastructure Manager may designate particular sections of the infrastructure for use by specified types of railway service and, once the infrastructure is so designated, he may give priority to that specified type of railway service in the allocation of infrastructure capacity.

Congested infrastructure

26.-(1) Where it is not possible for the Infrastructure Manager to satisfy requests for capacity after consultation with the applicants, he shall declare that element of the infrastructure on which such requests cannot be granted.

(2) Where in the course of preparation of the working timetable, the Infrastructure Manager considers that an element of the infrastructure is likely to become congested during the period to which that working timetable relates, the Infrastructure Manager shall declare the element of infrastructure to be congested.

(3) Where infrastructure has been declared to be congested under the provisions of this regulation, the Infrastructure Manager shall inform-

(a) existing users of that infrastructure;

(b) new applicants for infrastructure capacity which includes that element of the infrastructure which has been declared to be

congested; and

(c) the Regulator.

(4) Where infrastructure has been declared to be congested, the Infrastructure Manager shall undertake a capacity analysis of the congested infrastructure unless a capacity enhancement plan is in the process of being implemented.

(5) In course of the working timetable period to which the declaration of congested infrastructure relates, but before the completion of the capacity analysis the congestion is resolved, the Infrastructure Manager may revoke the congestion declaration made under this regulation and shall inform the existing users, new applicants and the Regulator that the declaration has been revoked.

Capacity analysis

27.-(1) Where there is congestion, the Infrastructure Manager shall carry out a capacity analysis of the congested infrastructure to identify the reasons for the congestion and the measures to be taken to resolve that congestion.

(2) In conducting the capacity analysis, the Infrastructure Manager shall consider-

(a) characteristics of the congested infrastructure;

(b) operating procedures used on that infrastructure; and

(c) characteristics of the different railway services which have been allocated capacity to operate on that infrastructure.

(3) When determining measures to resolve congestion, the Infrastructure Manager shall consider-

(a) re-routing of services;

(b) re-timing of services;

(c) alterations to the line-speed; and

(d) Infrastructure improvements.

(4) The Infrastructure Manager shall complete the capacity analysis within one month from the date on which the infrastructure is declared to be congested and make the findings of the analysis available to the existing operators, new applicants and the Regulator.

Capacity enhancement plan

28.-(1) The Infrastructure Manager shall prepare a capacity enhancement plan within one month of completing the capacity analysis.

(2) In preparing the capacity enhancement plan, the Infrastructure Manager shall consult stakeholders including existing operators, new applicants and the Regulator.

(3) The capacity enhancement plan may include-

(a) likely future traffic growth;

(b) constraints on infrastructure development;

(c) options for and costs of enhancing the capacity, including the potential effect on access charges;

(d) details of the action to be taken to enhance the capacity of the congested infrastructure basing on cost benefit analysis; and

(e) timetable for the completion of the detailed measures identified in accordance with paragraph (d).

(4) At the end of one month period after completion of capacity analysis, the Infrastructure Manager shall provide the parties consulted under subregulation (2) with a copy of the plan and the timetable for completion of the measures identified to resolve the congestion.

Use of train paths

29.-(1) Where infrastructure has been declared to be congested, the Infrastructure Manager shall require an operator who has, over a period of at least one month, used a train path less often than the threshold quota stipulated in the network statement, to surrender that train path.

(2) The provisions of subregulation (1) shall not apply where in the view of the Infrastructure Manager, the failure to use the train path, resulted from non-economic reasons beyond the control of the operator.

(3) The Infrastructure Manager may in the network statement specify conditions under which previous levels of capacity utilisation will be taken into account in determining the priorities to be used in making decision on the allocation of capacity.

Special measures to be taken in event of disruption

30.-(1) The Infrastructure Manager shall take necessary steps to restore the normal operation of the network in the event of disruption to train movements caused by technical failure or accident.

(2) The Infrastructure Manager shall have in place a contingency plan to address serious train movement disruptions, and such plan shall indicate key stakeholders that are required to be informed in the event of the incident.

(3) Where there is a break down or emergency which leads to temporary closure of a part of the infrastructure, the Infrastructure Manager may withdraw allocated train paths without notice and with immediate effect for such period as is necessary to repair the affected infrastructure.

(4) The Infrastructure Manager may require operators to avail such resources which are appropriate to restore the normal operation of the network.

(5) Where access agreement between an operator and the Infrastructure Manager incorporates conditions as to the special measures to be taken in the event of disruption, the resources required by the Infrastructure Manager under subregulation (4) shall be in accordance with those conditions.

PART VII

REGULATIONS AND APPEALS

Regulatory Authority

31.-(1) The accessibility and management of railway infrastructure shall be overseen by the Regulator.

(2) The Infrastructure Manager shall ensure that charges for the use of railway infrastructure comply with the requirement of these Regulations.

(3) The Infrastructure Manager shall submit for approval network statement, capacity allocation plan, charging scheme and system, structure of infrastructure fees and calculation made to arrive at proposed fees and any other arrangements in connection with the entitlement to access granted.

Submission of complaints to Regulator

32.-(1) Where an operator believes that he has been unfairly treated, discriminated against or is in any other way aggrieved by decisions made by the Infrastructure Manager, he may submit his complaint to the Regulator.

(2) Complaints handling procedures as prescribed by the Regulator shall be used by an operator and interested parties to lodge complaints against the Infrastructure Manager.

(3) Upon receiving the complaint, the Regulator may-

(a) confirm the Infrastructure Manager's decision; or

(b) vary the decision in accordance with the directions issued by Infrastructure Manager.

Competition matters

33. The Regulator shall be responsible to promote fair competition in the railway services and restrict undesirable practices that would render unfair competition in the railway service markets.

Power to obtain information

34. The Regulator shall have the power to obtain

information in connection with its duties and functions from Infrastructure Manager, operators, and other relevant stakeholder.

PART VIII
GENERAL PROVISIONS

Conditions for licence

35. Subject to these Regulations, the operator shall ensure that-

(a) there is no change of activities or control without written consent of the Regulator;

(b) there is proper maintenance of Management Information System to monitor the performance and development of the railway services;

(c) the records extracted from the Management Information System are submitted on monthly basis or at other intervals specified by the Regulator from time to time;

(d) the accounting component of the Management Information System is not inconsistent with applicable laws of the United Republic; and

(e) within six months of each fiscal year submit to the Regulator the balance sheet, statements of operations, equity, cash flow and report of an independent auditor explaining its financial position.

Accident investigation and analysis

36.-(1) In the event of the occurrence of an accident, the investigation and analysis shall be done jointly by the Infrastructure Manager and operator.

(2) Both the Infrastructure Manager and the operator, for the purpose of prevention of the occurrence of accident, shall adopt the conclusion of the accident report.

(3) Where the cause of accident is not established

by the parties or where a consensus is not reached between the operator and Infrastructure Manager on the cause of accident, the Regulator shall investigate the accident and the report shall be final and conclusive.

Liability

37. Where investigation is complete, a person who caused accident shall be liable to pay compensation and the recovery cost shall be done within sixty days from the date of completion of investigation.

Rescue operations

38. In event of an accident involving operator's train, the rescue works to restore the operations shall be undertaken by the Infrastructure Manager in accordance with the contingence plans and shall be among the ancillary charges.

Suspension and revocation of permit

39.-(1) The Infrastructure Manager may order the operator to rectify operational deficiencies, shortfalls or any conditions which in its opinion it has been violated in respect of permit.

(2) The Infrastructure Manager may suspend a permit for a period not exceeding twelve months, under the circumstances where-

(a) the operator ceases operating railway transport services in accordance with permit conditions for a continuous period of four weeks without formal communication;

(b) the operator no longer meets the necessary standards or operational capability;

(c) the operator is in the process of winding up business for failure to honor statutory and other debts; or

(d) the operator repeatedly disobeys lawful permit conditions.

(3) After the lapse of suspension period, the operator shall operate railway transport service subject to

requirements and conditions issued by Infrastructure Manager.

(4) Subject to subregulation (3), where the operator fails to meet any requirement or condition issued by Infrastructure Manager after the lapse of suspension period, the Infrastructure Manager may revoke such permit and give the operator and Regulator notification of such revocation.

Suspension and revocation of licence

40.-(1) The Regulator may order the operator to rectify operational deficiencies, shortfalls or any conditions which has been violated in respect of licence.

(2) Subject to subregulation (1), where the operator fails to rectify anomaly or breach of any conditions, the Regulator shall suspend or revoke the licence after two months' notice under the circumstances where-

(a) the operator fails to commence the licensed activities for a period of six months from the date on which the licence becomes effective;

(b) the operator is found to have given false information in his application for the licence;

(c) the operator fails to comply with any order requiring him to rectify licence condition;

(d) in the case operator's permit has been revoked by the Infrastructure Manager;

(e) another operator takes control of the operations by changing the nature of business or shareholding of the operating company without prior notice to the Regulator; or

(f) the operator has been served with a notice of termination of the agreement by the Infrastructure Manager.

(3) After the lapse of suspension period, the operator shall operate railway transport service subject to requirements and conditions issued by the Regulator.

(4) Where the licence is revoked, the operator shall be required to submit new application after lapse of twelve months from the date of revocation.

Use and retention of licence or permit

41.-(1) A person shall not-

(a) use any licence, certificate, permit or approval or such other document issued or required under these Regulations which has been forged, altered, revoked, or suspended, or to which that person is not entitled;

(b) forge or alter any licence, permit, approval, or any such other document issued or required under these Regulations;

(c) lend any licence, permit or approval or any such other document issued or required under these Regulations to any other person; or

(d) make any false representation for the purpose of procuring for himself or any other person the issue, renewal or variation of the licence, permit or approval or any such other document.

(2) A person shall not purport to issue any licence, permit or approval or any such other document for the purpose of these Regulations unless he is authorised to do so under these Regulations.

Violation report

42.-(1) A person who knows violation of these Regulation shall report it to the Regulator.

(2) The Regulator shall determine the nature and type of any additional investigation or enforcement action that shall be taken.

Inspection of licences or permit

43. The Regulator or any authorised person by the Regulator may, in the execution of his duty, require an operator who holds a licence or permit under these Regulations to present it for inspection.

PART IX
OFFENCES AND PENALTIES

Offences and penalties

44.-(1) A person who contravenes any provision of these Regulations commits an offence and on conviction, shall 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.

(2) In the case of a continuing contravention, each day of the contravention shall constitute a separate offence and be liable to an additional fine of not less than five million shillings for each day the offence continues.

(3) Where it is proved that an act or omission which would otherwise have been a contravention of a provision of these Regulations, orders or notices made thereunder was due to any cause not avoidable by the exercise of reasonable care, the act or omission shall be deemed not to be a contravention of that provision.

FIRST SCHEDULE

(Made under regulation 4(1) and 6(1))

Form A

APPLICATION FOR PERMIT
(Made under regulation 4(1))

Contact Information

Name of Applicant: ……
Position/Title: ……
Address: …….
Telephone Number: ……
Email Address: ……...

Company Information

Company name: …….
Company Registration Number: ……..
Date of establishment: ……..
Taxpayer Identification Number: ……
Business address: …….
Email address: …….
Telephone number: ……..

Railway Operations

Proposed railway operations: ……
Routes to be covered: ……..
Stations to be served: ……..
Frequency of service: ……..
Estimated start date of operations: …….....
Any special considerations or requirements: …….....

Supporting Documents

Attach supporting documents necessary for the permit application (as provided for in Regulation 4(2)
Application Fees ……(to be paid via control number)

DECLARATION

I ……. declare that, the information provided in this application is true, accurate, and complete to the best of my knowledge. I understand that any false statements or omissions may result in the rejection of this application or revocation of the permit.

GN. No. 213 (Contd)

Applicant's Signature: _____ Date: _____

Form B

APPLICATION FOR LICENCE
(Made under regulation 6(1))

Name of Company: …….
Certificate of Incorporation No. ……..…….
Permit Number: ……..……..
Date of Issue: ……
Registered Place of Business: ……...……..
Physical Address: ……..……
Postal Address: ……
Telephone No: ……..……...
E-mail address: ……

Table for Particulars of Shareholding:

Name	Nationality	Address	Percentage

TYPE OF LICENCE APPLIED

SN	Type of Service Provided	Select Appropriately
1	Passenger Services	
2	Commuter Services	
3	Freight Services	

Brief description and scope of services to be carried out:

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…
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…

Particulars of previous Licence (if any) Number: ……. Expiry date ……

General information, including reference on Applicant's financial resources (Attach additional pages if necessary).

……
…
……
…
……
…
……
…

I …… declare that, the information provided in this application is true, accurate, and complete to the best of my knowledge. I understand that any false statements or omissions may result in the rejection of this application or revocation of the licence.

Full name: ……
Designation: ……
Signature: ……
Official Seal: ……..

Date:
…..……
……

SECOND SCHEDULE

(Made under regulation 5 and 7)

APPLICATION FEES

A. FEES FOR PERMIT APPLICATION
(Made under regulation 5)

SERVICE	APPLICATION FEES	PERMIT FEES
LONG DISTANCE PASSENGER SERVICE	US$ 250 (or its equivalent to TZS)	US$ 3,500 (or its equivalent to TZS)
FREIGHT SERVICE	US$ 250 (or its equivalent to TZS)	US$ 5,000 (or its equivalent to TZS)
COMMUTER SERVICE	US$ 250 (or its equivalent to TZS)	US$ 1,500 (or its equivalent to TZS)

B. FEES FOR LICENCE APPLICATION
(Made under regulation 7)

SERVICE	APPLICATION FEES	LICENCE FEES
PASSENGER SERVICE	US$ 100 (or its equivalent to TZS)	US$ 2000 (or its equivalent to TZS)
FREIGHT SERVICE	US$ 100 (or its equivalent to TZS)	US$ 4000 (or its equivalent to TZS)
COMMUTER SERVICE	US$ 100 (or its equivalent to TZS)	US$ 1000 (or its equivalent to TZS)

THIRD SCHEDULE

(Made under regulation 11(1))

SERVICES/RIGHTS OF THE OPERATOR

(Made under regulation 11(1))

1. The minimum access package referred to in regulation 10(1) shall comprise the right to utilise such capacity as granted and in particular-

(a) the right to use such running track points and junctions as are necessary to utilise that capacity;

(b) train control, including signaling, train regulation, dispatching and the communication and provision of information on train movements; and

(c) all other information as are necessary to implement or to operate the service for which capacity has been granted.

2. Track access to services facilities and the supply of services referred to in regulation 10(1) and (4) shall include but not limited to-

(a) where available, the use of electrical supply equipment for traction current;

(b) refueling facilities

(c) passenger stations, including buildings and other facilities;

(d) freight terminals;

(e) marshaling yards;

(f) storage sidings; and

(g) maintenance and other technical facilities.

3. The additional services referred to in regulation 10 (4) may comprise-

(a) electricity;

(b) the supply of fuel, shunting and all other services provided at the access services facilities referred to in paragraph (2); and

(c) tailor-made contracts for-

(i) control of the transport of dangerous goods; and

(ii) assistance in running abnormal trains.

4. The ancillary services referred to in regulation 10(4) may comprise-

(a) access to the telecommunication network;

(b) the provision of supplementary information; and

(c) technical inspection of rolling stock.

FOURTH SCHEDULE

(Made under regulation 15(1)(a))

INFRASTRUCTURE CHARGING
(Made under regulation 15(1)(a))

Principles of access charging

1. -(1) The Infrastructure Manager shall ensure that the application of the charging scheme-

(a) complies with the rules set out in the network statement prepared in accordance with regulation 13; and

(b) is equal for different railway undertakings that perform services of equivalent nature in a similar part of the market.

(2) The calculation of the fee may in particular take into account the mileage, composition of the train and any specific requirements in terms of such factors as speed, axle load and the degree or period of utilisation of the infrastructure.

(3) Except where specific arrangements are made, the Infrastructure Manager shall ensure that the charging system in use is based on the same principles over the whole of his network.

(4) The charges for the minimum access package and track access to service facilities referred to in subparagraphs (1) and (2) of this Schedule shall be set at the cost that is directly incurred as a result of operating the train service.

(5) In setting the charge for the supply of services referred to in paragraph (5), the Infrastructure Manager shall take into account the competitive situation of rail transport.

(6) The infrastructure charge may include a charge to reflect the congestion of capacity of the identifiable segment of the infrastructure during periods of congestion.

(7) The charges referred to in subparagraph (4) may be averaged over a reasonable spread of train services and time, but the relative magnitudes of the infrastructure charges be related to the costs attributable to the services.

Exceptions to the charging principles

2.-(1) In order to obtain full recovery of the costs incurred the Infrastructure Manager, with the approval of the Regulator under the access charges review may levy mark-ups on the basis of efficient, transparent and non-discriminatory principles, whilst guaranteeing optimum competitiveness, in particular in respect of international rail freight.

(2) Notwithstanding the provision of subparagraph (1), Infrastructure Manager shall not exclude the use of infrastructure by market segments which can pay at least the cost that is directly incurred as a result of operating the railway service, plus a rate of return which the market can bear.

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(3) The charging system shall respect the productivity increases achieved by operators.

3.-(1) For completed specific investment projects following the coming into force of these Regulations, the Infrastructure Manager may set charges on the basis of the long-term costs of the project.

(2) A charging arrangement to which subparagraph (1) applies may incorporate agreements on the sharing of the risk associated with new investments.

4.-(1) An Infrastructure Manager average and marginal charges for equivalent uses of his infrastructure must be comparable services in the same market segment subject to the same charges.

(2) The network statement produced by the Infrastructure Manager shall demonstrate that the charging system meets the requirements in paragraph 1 in so far as this can be done without the disclosure of commercially confidential information.

5. If an Infrastructure Manager intends to modify the essential elements of the charging system referred to in paragraph 2 that Infrastructure Manager may make such modifications public at least three months in advance.

Dodoma,
20th March, 2024

MAKAME MNYAA MBARAWA
Minister for Transport