

Ref: RSR/ER/202/MWC917/18/07/19/ASP0938NTS/605

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30 September 2019

The Nominated Manager
Transnet SOC Ltd
Country Estate Drive, Waterfall Business Estate
Jukskei View, 9 Waterfall 5-Ir
Midrand
1662

Dear Ms Modise,

RE: CONTRAVENTION NOTICE: CATEGORY 2(d) OF SCHEDULE A OF THE PENALTY FEE REGULATIONS, 2011 AS AMENDED (THE PENALTY REGULATION) - FAILURE TO INFORM THE REGULATOR OF SIGNIFICANT CHANGES IMPACTING ON THE OPERATOR'S SAFETY MANAGEMENT SYSTEM (BAYHEAD NETWORK DEPOT)

1. This serves as a Contravention Notice in terms of regulation 5(1) of the Penalty Fee Regulations 2011 as amended "the Regulations". The said regulation makes it mandatory for the Railway Safety Regulator (the Regulator) to issue and serve a Contravention Notice on an Operator, who contravenes the provisions of the Act as described in Schedule A of the Regulations, prior to the imposition of a penalty.

HEAD OFFICE (CENTURION): +27 12 848 3000, Lake Buena Vista Building, No.1 Gordon Hood Avenue, Centurion, 0157, SOUTH AFRICA
JOHANNESBURG: +27 12 848 3232, 2nd Floor, Metropolitan Building, Block A, No.8 Hillside Road, Parktown, Johannesburg, 2196, SOUTH AFRICA
CAPE TOWN: +27 87 806 5180, 20th Floor, 9 Riebeeck Street (Lower Burg Street) Atterbury House, Cape Town, 8000, SOUTH AFRICA
DURBAN: +27 31 830 5464, Second floor, 02 Ncondo Place, Ridgeside, Umhlanga Ridge, Durban, SOUTH AFRICA

Dr Nomusa Zethu Qunta (Chairperson), Mr Boy Johannes Nobunga (Deputy Chairperson), Ms Tshepo Kgare (Acting CEO), Mr Christiaan Johan de Vos, Major-General Michael Monashi Motlhalala, Ms Hilda Thamaga Thopola, Major-General Willem Adriaan Venter, Ms Ntombizine Mbiza, Mr Andre Harrison, Mr Tibor Szana, Ms Irene Nthulane, Mr Jan-David de Villiers

2. The purpose of this Contravention Notice is firstly, to inform Transnet Soc (Transnet) of my decision as a Railway Safety Inspector, that Transnet has contravened the National Railway Safety Regulator Act 16 of 2002 as amended (“the Act”) and to inform Transnet that a penalty of up to **R1 000 000 (ONE MILLION RANDS)** in terms of category 2 of Schedule A of the Regulations may be imposed.
3. On the 18 July 2019, during a signals inspection that was conducted by the Railway Safety Regulator Inspectors and Transnet representatives at Bayhead, it was discovered that Transnet had removed some signals from the trackside and simulated their aspects using capacitors on the outgoing panels of the interlocking inside the Bayhead relay room. It was further established that the Operator had failed to inform the Regulator of the above stated significant changes impacting on the Operator’s Safety Management System
4. In terms of sections 5(2) and 3 of the Railway Safety Management System Regulations of 2004, read with section 4 . 2 . 9 . 4 of SANS 3000 -1:2016, the Regulator must be informed of changes 30 days prior to the implementation of such changes and that the affected parties shall make the necessary changes to the SMS. The Regulator was not informed of the significant changes impacting on the operator’s Safety Management System.
5. Further, it is a general condition of a safety permit that no project shall commence without receiving a “No Objection” certificate from the Regulator.
6. Transnet has failed to inform the Regulator of the changes to its SMS and neither did it file the Technical Submission with the Regulator.
7. Transnet is therefore required in terms of Regulation 5(3) of the Regulations and within 21 (twenty-one) days of receipt of this Contravention Notice to:

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- (a) admit the liability for the contravention and proposed penalty;
- (b) admit liability for the contravention but dispute the penalty; or
- (c) dispute both the contravention and the penalty.

8. Further be advised that failure to comply with the provisions of Regulation 5(3) of the Regulations may result in the Regulator proceeding not only with the imposition of the penalty, but the Regulator may also institute criminal proceedings as contemplated in section 45 of the Act.
9. Should TRANSNET admit liability to the intended penalty, a payment of **R1 000 000 (ONE MILLION RANDS)** must be deposited as stated below.
10. The penalty amount must be paid within 30 (thirty) days of date of invoice, into the following RSR bank account:

Account Name : Railway Safety Regulator

Bank Name : ABSA

Bank Account : 40-5937-0197

Branch Code : 632005

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11. In the event that Transnet fails to pay the penalty amount within the stipulated timeframe and in the prescribed manner, the Regulator shall charge interest on the principal debt in accordance with the Prescribed Rate of Interest Act, 1975 (Act No. 55 of 1975).
12. Kindly be advised that in the event you dispute the contravention and penalty; or dispute the proposed penalty, the matter shall be dealt with in terms of Regulation 6A of the Regulations.

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Your co-operation is appreciated.

Kind regards

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Andre Els

Railway Safety Inspector: Eastern Region

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