

The future of the SA rail network

The Transport Forum recently hosted the Rail Round Table, imparting an insightful perspective on the regulatory changes and their impact on South African Railway activities. By Mitchell Brooke



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The cabinet-approved rail policy from March is available on the official website of the Department Transport. Drawing from various presidential speeches and reports on Operation Vulindlela, there is a clear vision for a transformative rail transportation system in the future, encompassing a comprehensive rail network with multiple operators. To achieve this, either a new Railway Bill must be implemented, or the Legal Succession Act that led to the creation of Transnet and PRASA must be amended. Both possibilities are currently under review – leading to the formal implementation of the rail policy.

Interestingly, Transnet and PRASA can allow private sector access to rail lines, void of legislative amendments. And the current Act doesn't prevent this (private ownership of rolling stock is already allowed). Thus, the enactment of new legislation endorsing the new rail policy can proceed even before a new railway act or amendment has been established.

The Economic Regulation of Transport Bill is progressing via legislative procedures, with endorsements from Parliament and seven provinces. The Council of Provinces approval is expected by the end of October, after which the President is likely to ratify

the bill. This law will amalgamate various transport regulations under the Transport Economic Regulator (TER). Initially incorporating the ports regulator, with rail, roads and airline industry regulators set to join over time. The TER inception is projected for the first quarter of 2024.

The second part to this, given the essence of the legislation, requires the Minister to either declare rail as a dominant entity with more than 70% of what's required in a market inquiry, or for the formal market inquiry to start to regulate rail. More than 70% of the network in this country will be owned by Transnet. One of the first regulations, or determinations, that the Minister of Transport can make under this legislation is to declare the rail network as an entity where access is regulated.

A few years ago, the Ministers of Transport and Public Enterprises signed a memorandum of agreement to form the Interim Rail Economic Regulatory Capacity (IRERC). Established as an inter-ministerial task team, the IRERC mission is to prepare for enactment of the Economic Regulation of Transport Bill. Comprising three government officials and three independent board members, the

IRERC provides regular updates to the relevant ministers. Currently, the IRERC doesn't possess any regulatory authority. Thus, if Transnet were to grant network access to any entity today, it would hinge on a commercial agreement. The same applies to PRASA and any designated operator. However, if required, IRERC could provide oversight on these agreements.

The President has stated that by the end of October the physical separation of the rail network and rail operations will take place, even within Transnet. Implementation is set for the start of November 2023. In future, all operators – whether Transnet, freight, rail, or any private operators – will apply for access through the network manager. Access will be granted on an equal basis. It's not about first, second or third parties; there are operators, and there's a rail network. Understanding this adjustment will be critical when engaging in rail transport operations.

In essence, there could be multiple rail operators available to transport citrus to the port by rail, as soon as April 2024.

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