



Government Gazette Staatskoerant

REPUBLIC OF SOUTH AFRICA
REPUBLIEK VAN SUID AFRIKA

Vol. 708

28

June
Junie

2024

No. 50880

PART 1 OF 2

N.B. The Government Printing Works will not be held responsible for the quality of "Hard Copies" or "Electronic Files" submitted for publication purposes

ISSN 1682-5845



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DEPARTMENT OF TRANSPORT

NO. 5009

28 June 2024

**RAILWAY SAFETY REGULATOR GENERAL NOTICE**

REF: 12\6\2-2024/2025

PUBLICATION OF THE FRAMEWORK FOR TRAINING SERVICE PROVIDERS AND LICENSING OF SAFETY-CRITICAL GRADES FOR PUBLIC COMMENTS BY ALL INTERESTED AND AFFECTED RAILWAY STAKEHOLDERS

I, Mmuso Selaledi, Acting Chief Executive Officer of the Railway Safety Regulator (RSR), in terms of the Railway Safety Policy, March 2022, hereby publish the Framework for Training Service Providers and Licensing of Safety-Critical Grades for Public Comments.

All interested and affected Stakeholders are hereby invited to submit their written comments within 60 days from the Publication of this Draft Interface Agreements Management Standard in the Government Gazette, for Comments.

Once published for compliance, all Interfacing Railway Operators would be required to comply by implementing the requirements which are specified in the Standard, which aim to contribute to improved Safe Railway Operations

All written comments are to be addressed to:

Ms. M A Makwela, E-Mail: matselanyanem@rsr.org.za, Tel: 087 284 6596, **OR**

Mr. R Ntshingila, E-Mail: reginald.ntshingila@rsr.org.za, Tel: 087 284 6628.

Signed at Waterfall on this 18 June 2024

Yours faithfully

Digitally signed by
Mmuso Selaledi
Date: 2024.06.18
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Mr. Mmuso Selaledi

ACTING CHIEF EXECUTIVE OFFICER
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FRAMEWORK FOR TRAINING SERVICE PROVIDERS AND LICENSING OF SAFETY-CRITICAL GRADES



Date: 7 February 2024



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ABBREVIATIONS

CEO	Chief Executive Officer of the Railway Safety Regulator
HFM Standard	Human Factors Management Standard (SANS 3000-4: 2011)
NRSR Act/ <i>The Act</i>	National Railway Safety Regulator Act 16 of 2002 as amended
OSH Act	Occupational Health and Safety Act 85 of 1993
SCG	Safety Critical Grade
SMS	Safety Management System
Railway Policy	National Rail Policy
<i>The Bill</i>	Railway Safety Bill (B7-2021)
RSR	Railway Safety Regulator
SADC	Southern African Development Community
SANS	South African National Standards
TETA	Transport Education and Training Authority
QCTO	Quality Council for Trades & Occupations



NORMATIVE REFERENCES

The requirements set out in the Safety Critical Grades Framework for accreditation of training service providers and licensing of Safety Critical Grades shall be implemented in conjunction with other relevant national legislation including, but not limited to the following:

1. National Rail Policy
2. National Railway Safety Regulator Act 16 of 2002 as amended
3. Railway Safety Bill [B7-2021]
4. National Qualification Framework Act, no 67 of 2008
5. Skills Development Act no 97 of 1988
6. SANS 3000 series of standards
7. SANS 10405 - Transportation of dangerous goods by rail
8. RSR series of Regulator Standards
9. RSR National Information Management System
10. Occupational Health and Safety Act 85 of 1993
11. Basic Conditions of Employment Act 75 of 1997
12. Promotion of Administrative Justice Act 3 of 2000
13. Promotion of Access to Information Act 2 of 2013
14. Protection of Personal Information Act 4 of 2013
15. Transport Appeal Tribunal Act 39 of 1998
16. Transport Appeal Tribunal Amendment Bill [B8-2020]



1. INTRODUCTION/ BACKGROUND

Safety critical grades and functions are defined as “*functions and/or activities directly related to the authorization and control of rolling stock movements, and to the execution of the movement of rolling stock*” (SANS 3000-1: 2016 pp11). In the Railway Industry of South Africa, this includes, but is not limited to: train drivers, train control officers, yard officials and marshals or any other similar grades in a Railway Operator. Examples of direct supervision of persons undertaking these functions and activities would include section managers, yard superintendents/ supervisors, and train control coordinators who directly supervise train control officers.

By virtue of the role that they play in railway operations, the performance of safety critical persons is thus inextricably linked with the safety of railway operations. Given the safety-sensitive nature of the work that safety critical grades persons do, ensuring that they are fit to perform safety critical work is crucial. In this regard, fitness encompasses an array of requirements including technical and practical competence, in which training and development is an integral part.

The National Qualification Framework Act, no 67 of 2008, and the Skills Development Act no 97 of 1988 provides overall guidance on matters related to the management of training, accreditation of training institutions, skills development and overall competence of workers, including those in safety critical grades. Railway industry-specific requirements for training and certification of safety critical grades for the Railway Industry are stipulated in Clause 6 of SANS 3000-4:2011, Human Factors Management (HFM) Standard which provides for the management of persons undertaking safety related work. The requirements stipulated in this standard highlight that training should be accredited, and in compliance of the National qualification Framework.

The HFM standard further stipulates that the employee undergoing theoretical and practical training and must be assessed on theoretical knowledge and



practical skills. The HFM standard further stipulates that employees who undertake safety-related work shall be in possession of the following:

- a) a valid certificate of competence,
- b) a qualification, and
- c) a valid license, where relevant.

In line with this requirement, valid certificates of competence are issued to safety critical persons by the QCTO-accredited training institutions/ Operators after completing and successfully meeting QCTO aligned qualifications and training. Additionally, accredited training institutions are listed in a QCTO or TETA databases. However, the issuing of licenses has not yet commenced by the Regulator. Consequently, the management of competence and licensing of safety critical grades is not standardised across the industry. Part of the reason for this can be traced back to a lack of a comprehensive industry framework for the accreditation of training service providers or the licensing of safety critical grades persons in the South African railway industry. To this end, the White paper on the National Rail Policy, and the Bill mandates the Regulator to develop a safety critical grades framework for licensing safety critical grades persons, and registering training institutions that provide safety critical grades training.

This document outlines the safety critical grades framework, which will form the foundation upon which the Safety Critical Grades Policy, Regulations, and Standards will be developed, and will serve as another tool that can assist the railway industry in managing risks linked to safety critical grades competencies across the life cycle phases of railway operators' safety management systems.



2. FRAMEWORK PURPOSE

The purpose of the SCG Framework is to provide guidance on the governance structures and practical considerations that need to be in place to facilitate the practical implementation of the safety critical grades requirements set out in National Rail Policy, the Bill and the *Act*.

3. LEGAL BASIS

The legal basis for the development and implementation of the safety critical grades framework is the Railway Safety Bill (*The Bill*) and the National Railway Regulator Act (Act 16 of 2002 as amended), which provides for, amongst other regulatory requirements, railway safety permits; licensing of railway safety critical grades and safety management systems.

The Act empowers the Railway Safety Regulator (the Regulator) to monitor, promote, and enforce compliance with *The Act* to ensure safety in all aspects of railway operations, including the safe transportation of dangerous goods by rail (Section 7(1)(d) of *The Bill*). The National Rail Policy shares the strategic intent of improving rail safety through ensuring that safety critical grades are licensed. By making provision for the licensing of safety critical grades persons and accrediting/registering training institutions, *The Act* therefore supports and promotes compliance with the National Railway Policy as directed in Section 7(1)(c) of *The Bill*.

With regards to safety critical grades, *The Act* directs the Regulator to oversee a framework for ensuring competence of safety critical grades by:

- Developing guidelines for safe railway and railway operations
- Developing and monitoring the implementation of registration & licensing policies and processes for approval by Board.
- Granting safety critical grades licenses



- Collaborate with relevant institutions on the evaluation and licensing of the relevant safety critical grade positions
- Evaluating and registering appropriate training institutions in order to monitor the licensing of persons employed in safety critical grades
- Regulating and enforcing safety standards in the railway industry, including the registration of safety critical grades (SCG) training providers.
- Ensuring that the railway industry comply with the requirements of the relevant standards and regulations related to SCG licensing.

The Act further indicates that the Regulator must cooperate with its counterparts in the Southern African Development Community (SADC) region to promote the harmonisation of the safe railways or railway operations regulatory framework of the Republic with the objectives and requirements of the SADC (Section 7(1)(h) of The Bill, which would also include safety critical grades related matters.

4. FRAMEWORK SCOPE

The safety critical grades framework is applicable to safety critical grade persons and railway stakeholders who have a role to play in developing, educating, and managing safety critical grades in railway operations and safety management systems. This includes, but is not limited to the following:

- RSR
- Railway operators that employ SCG persons and have been issued a safety permit by the Regulator
- SCG training institutions and assessment centres registered with the RSR
- SCG Trainers (curriculum developers, facilitators, assessors, moderators)



5. FRAMEWORK CONTENT AND REQUIREMENTS

The Bill mandates the Regulator to oversee the management and execution of the prescribed framework for safety critical grade positions. To execute the safety critical grades framework envisaged in *The Bill*, the Regulator must first develop the safety critical grades framework and provide guidance on the accreditation/ registration of training institutions that capacitate SCG persons and licensing of safety critical grades persons. This document therefore sets out the following:

- The governance structure for managing and overseeing SCG persons and related training institutions.
- The roles, responsibilities and high-level functions of the stakeholders involved in SCG related matters.
- The regulatory tools, including regulations, standards, and policies, that are required for managing SCG processes.
- An outline of the SCG related processes and procedures that need to be in place to effectively implement the SCG requirements envisaged in *The Bill*.

5.1 SCG Governance Structure, Roles and Responsibilities

The governance structure that is required to execute the safety critical grades framework is managed/ driven by the Regulator and supported by related organs of state, inter and intra-governmental stakeholders, and multiple railway partners including, but not limited to, railway operators, safety critical grade persons, training institutions and assessment centres. The key role players for the implementation of the safety critical grades framework are listed below and presented in Figure 1.



- A. **National Department of Transport (NDOT)** is a custodian of railway transport industry and the Regulator. With regards to the safety critical grades framework, NDOT is responsible for ensuring that it supports the railway industry by providing enabling safety critical grades legislation that will improve safety in the industry and to empower the Regulator, railway operators, and safety critical grades persons to execute their mandate.

NDOT is also responsible for facilitating regional integration and harmonisation of safety critical grades qualifications and licensing requirements through the Southern African Developmental Community structures and processes.

- B. **Southern African Development Community (SADC)** is the regional organisation representing the interests of various member states in the SADC region (including South Africa) and responsible also for developing and overseeing the implementation of the SADC Qualifications Framework and ensuring effective integration and harmonisation of qualifications across member states. This is especially important to facilitate Interoperability requirements within the region.

- C. **The Railway Safety Regulator (RSR)** is the railway safety oversight and regulatory entity delegated by the NDOT to, among other functions, issue safety permits to railway operators, oversee safe railway operations which includes monitoring the implementation of the operator's safety management systems and the effective management of the safety critical grades framework. The Regulator is also responsible for registering safety critical grades training institutions and issuing of licenses to safety critical grades persons who meet the competency requirements.

The Regulator is furthermore responsible for establishing, maintaining, and managing an up-to-date database of safety critical grades registered



institutions and licensed persons. In addition to overseeing the management of the safety critical grades framework, the Regulator must also participate in curriculum development and ensure harmonisation with SADC in so far as safety critical grades curricula and qualifications are concerned.

- D. **Railway Industry Bodies / Collaboration Entities (e.g. QCTO, TETA, Training Institutions etc.)** are organisation that are specialists in, or are involved in curriculum development, capacity building and competence maintenance of persons. The role of railway industry bodies and collaboration entities such as QCTO and TETA that are already involved in the development of safety critical grades curricula, or make input into this process, is to work with the Regulator to develop curricula for training, evaluation, and licensing of safety critical grades persons.
- E. **Railway Associations** are industry bodies that may be recognised by the Regulator as key role-players in the railway industry – these could include Professional Bodies and Voluntry Associations. The Regulator may collaborate with any railway industry association in respect of any safety critical grades related functions that the Regulator is authorised to perform.
- F. **The Transport Appeals Tribunal** is the final layer in the safety critical grades appeal management process that can be approached by appellants who have exhausted the Regulator appeal processes.
- G. **Registered Safety Critical Grades Training Institutions** are training institutions that provide safety critical grades capacity building programs, and must be accredited by a recognised qualifications authority (e.g. QCTO). Accredited training institutions who meet the requirements set by the Regulator must apply to be registered by the RSR to provide training for SCG persons and issue applicable certificates to qualifying SCG applicants



to be considered for licensing by the RSR. Training institutions may also make input into the curriculum development and review processes.

- H. **Railway Operators** are safety permit holders (issued by RSR) with a safety management system that have railway operations and employ SCG persons who must be licensed. Railway operators also ensure that SCG persons are licensed and maintain their competence while working within the safety management system, evidence of which must be provided to the RSR in the format prescribed by the RSR upon request.
- I. **Safety Critical Grades Persons** are individuals who work in, or wish to work in safety critical functions in the railway industry. SCG persons are required to comply with all relevant legislation that governs safety critical grades and railway operations, and must have a license issued by the RSR to be permitted to perform their SCG functions.





- Liaise, coordinate and cooperate with relevant government departments and its SADC counterparts in SCG matters that may interface with the existing qualifications legislation and frameworks.
- Review the effectiveness of the Regulator in implementing the SCG requirements set out in *The Act*.

5.2.2 Role and Requirements of the Regulator

To effectively oversee and manage SCG persons in the railway industry, the Regulator must:

- A. Develop the SCG framework and establish the governance structure to:
 - a) Implement and monitor the SCG framework.
 - b) Manage and oversee the SCG licensing functions in accordance with the SCG requirements that the Regulator has set.
 - c) Propose and develop SCG regulations and standards.
 - d) Collaborating with relevant institutions on the development of appropriate curricula for the training, evaluation and licensing of the relevant safety critical grade positions;
 - e) Cooperate with international counterparts, particularly within the SADC to promote the harmonisation of the safe railways or railway operations regulatory framework of the Republic of South Africa with the objectives and requirements of the SADC.
- B. Evaluate and register appropriate training institutions, as contemplated in section 35 of the Bill, in order to monitor the licensing of persons employed in safety critical grades;
- C. Grant safety critical grade licenses as contemplated in section 34(2) of the Bill;
- D. Establish, manage, and maintain a database on all matters relevant to the prescribed framework for safety critical grade positions, which includes:
 - a) To establish, and keep updated, a database for documenting and reviewing SCG personnel that have been licensed and SCG training



- institutions that have been registered through the processes and procedures set out through the SCG council/ department, and the SCG training institution registration and licensing bodies
- b) To ensure alignment between SCG database and railway operator safety management system through the RSR safety oversight activities
- E. Monitoring, evaluation & reporting
- a) Monitor RSR internal and industry-wide SCG-related functions and enforce the implementation of SCG requirements as envisaged through *The Act*, the safety critical grades framework and other relevant legislation.
- F. Manage appeals brought forward by SCG persons, SCG training institutions, SCG assessment centres, railway operators and related stakeholders. This must include, but is not limited to, the following:
- a) To establish an appeals process and procedure to manage SCG training institutions and persons whose applications are denied by the registration and licensing bodies;
 - b) To oversee appeals that occur within the delegated authority structures and functions;
 - c) To handle appeals that are escalated from the delegates authorities
 - d) Refer unresolved appeals to an external authority; and
 - e) Review and update the appeals processes and procedures to ensure that fairness and impartiality are maintained and to protect against potential conflicts of interest that may arise.
- G. The Regulator must also monitor the implementation of the safety critical grades policy to ensure compliance with *The Act* and the safety critical grades framework.

5.2.3 Role of the Transport Appeals Tribunal

The Transport Appeals Tribunal is the final layer in the safety critical grades appeal management process that can be approached by appellants who have



exhausted the Regulator appeal processes, including the appeals to the CEO and the Board of the Regulator. The Regulator must ensure that the relevant documents and relationships are established and formalised to facilitate the appellant's ability to access the Transport Appeals Tribunal where required.

5.2.4 Role of the Recognised Railway Associations

Railway Associations are industry bodies or organisations that may be recognised by the Regulator (e.g. Professional Bodies and Voluntary Associations). The Regulator may collaborate with any railway industry association in respect of any safety critical grades related functions that the Regulator is authorised to perform.

5.2.5 Role and Requirements of Training Institutions and Assessment Centres

Training institutions are responsible for training SCG persons on qualifications, and technical and non-technical skills that are aligned to established unit standards and qualifications. Railway operators who provide training to SCG persons can thus also be regarded as training institutions and are thus required to meet the requirements set out in *The Act* and other related legislation. Training institutions and assessment centres must:

- A. Register with the Regulator in order to become recognized as a registered training institution and/or SCG assessment centres.
- B. Provide SCG training for persons who wish to be licensed and documented in the Regulator's SCG database.
- C. Ensure that the SCG training that they provide is a recognised SCG qualification or unit standards in accordance with the NQF Act and based on eligibility criteria/ competence requirements as set out by the Regulator. Safety critical grades training programs should incorporate the following:
 - a) Theoretical training
 - b) Practical Training



- c) Examinations and Assessments
 - d) Simulator Training (where applicable)
 - e) Safety and Emergency Procedures (where applicable)
- D. Ensure that the assessment of SCG persons that have completed the training are assessed according to recognised SCG qualifications or unit standards in accordance with the NQF Act.
- E. Continuously monitor and review the SCG training programs to ensure alignment with the requirements as set by the Regulator and in accordance with the NQF Act.
- F. Ensure that their registration qualifying criteria are maintained during the period of registration.
- G. Renew their registration with the Regulator for a period of no longer than 5 years (and as prescribed by the Regulator).

5.2.6 Railway Industry Body / Collaboration Entities / Tertiary Training Institutions

The RSR shall establish and formalise relationships with relevant parties that are involved in the development of SCG curricula. The RSR shall collaborate with relevant institutions in developing curricula for SCG persons including:

- Training;
- Evaluating (assessing);
- Licensing

5.2.7 Role and Requirements of Railway Operators (Employers of SCG persons)

Railway operators must comply with all relevant legislation for managing SCG personnel that are delegated SCG functions within the safety management system/ railway operations. Operators must ensure that safety critical grades persons that are delegated SCG functions/ tasks have the relevant training, certification and licensing issued by the Regulator, prior to assigning them SCG



functions/ tasks. Operators must further ensure that SCG persons maintain their competency and continue to meet the required standards over time and in line with their safety critical grades license conditions and job-specific competence requirements.

Railway operator safety critical grades competence maintenance programs must be tailored to each SCG job function and requirements and must incorporate the following:

- a) Theoretical (Operator rules, standard operating procedures, applied technology, etc.)
- b) Practical Training (e.g. rolling stock types, route knowledge)
- c) Experiential learning (task observations)
- d) Examinations and Assessments to confirm competence for local conditions
- e) Simulator Training where necessary
- f) Non-technical skills
- g) Health and safety skills (e.g. HFMS, OSH Act, MHSA, etc.)
- h) Fitness for duty (medical, psychological)
- i) Safety and Emergency Procedures

Railway operators must provide evidence to the Regulator on how the SCG persons that have delegated responsibilities within their safety management system are competent and continuously meet the SCG requirements set out by the Regulator and standards per the NQF Act.

An operator who has been accredited and registered as a training institution may offer training services to its own employees, but those employees may not receive any benefits, privileges, or advantages that are not available to participants who are not employees of that training institution.



5.2.8 Role and Requirements of SCG Professionals

Safety critical grades persons must ensure that they continuously meet the licensing requirements set out in The Act, the safety critical grades framework, and other railway and NQF legislation that is relevant to safety critical grades persons. This includes subjecting themselves to any safety critical grades assessments and monitoring that is relevant for licensing purposes.

Safety critical grades persons must ensure that they are licensed by the Regulator before performing any safety critical functions or tasks. Safety critical grades persons must further ensure that they maintain their safety critical grades competencies through training and development, continued education, and by meeting any license conditions prescribed by the Regulator and the railway operator that has delegated them to perform any safety critical grades functions or tasks.



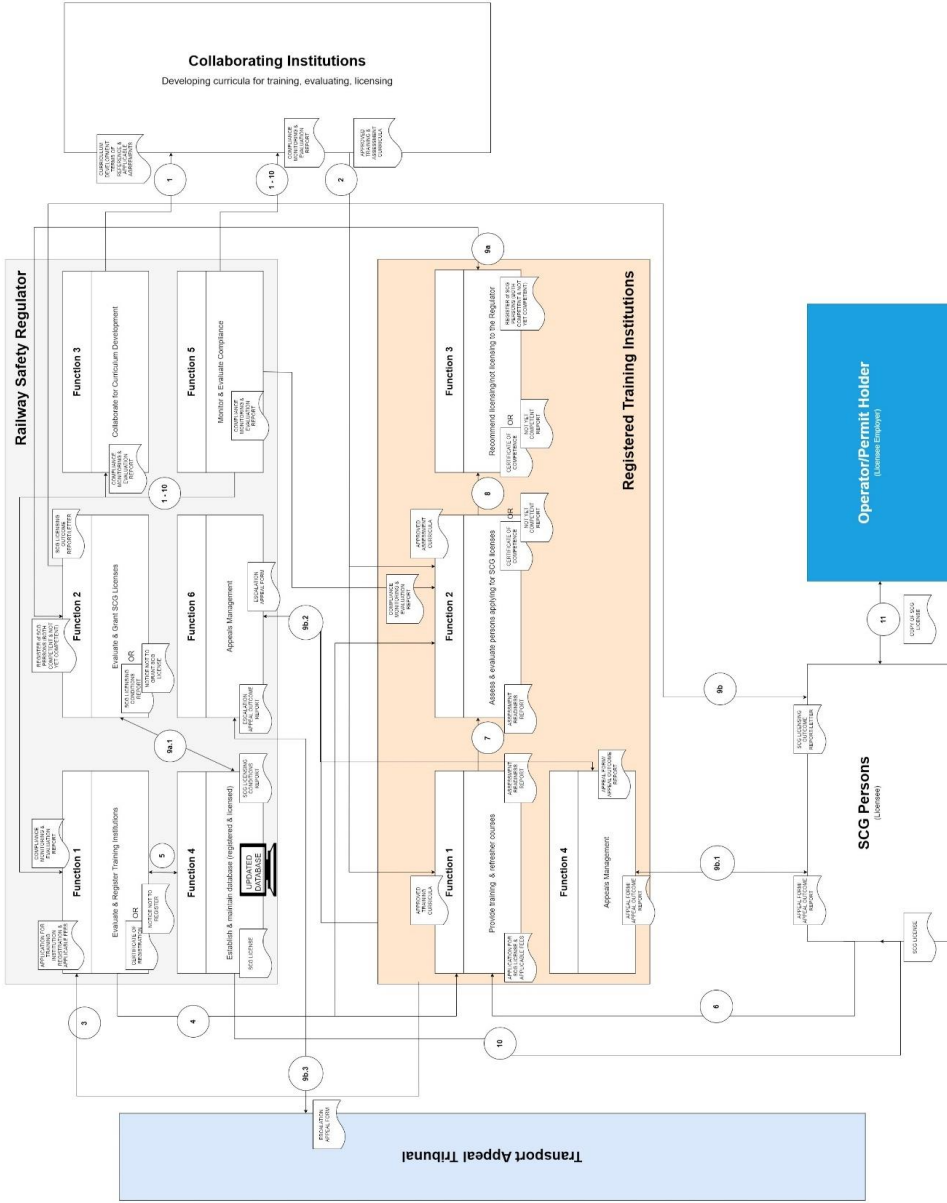


Figure 2: Overview of the safety critical grades framework roles, responsibilities and functions.



6. REGULATIONS AND STANDARDS

The Minister may, by notice in the Gazette, make regulations to provide for the licensing of persons employed in safety critical grade positions, including provisions on:

- a) railway safety standards to be met for obtaining safety critical grade licences.
- b) the posts or job descriptions of persons who must be licensed.
- c) the registration of training institutions.
- d) criteria to be taken into account by the Regulator when considering applications for the registration of a training institution.
- e) information to be supplied in respect of the database contemplated in section 34(1)(c) of The Act.

The Regulator or an operator may also propose railway safety critical grades standards for safe railway operations to the Minister.

The Minister may determine by notice in the Gazette, application fees that must be paid by safety critical training institutions that apply for registration as well as safety critical grades persons that apply for licensing. Applicable registration and license maintenance fees may also be determined by the Minister.

7. POLICY

The Board of the Regulator must develop a safety critical grades policy that provides for processes and procedures for managing SCG training institutions and SCG licensing including but not limited to safety critical grades (also presented graphically in Figure 3):

- A. Applications
- B. Appeals



- C. Audits
- D. Renewals
- E. Surrender and suspension

The safety critical grades policy shall be binding to all stakeholders that are within the scope of the safety critical grades framework as stipulated in The Bill and Section 4 of the Safety critical grades Framework document. The contents of the Policy shall take into account all relevant factors, including

- a. The nature and level of training required for individual safety critical grades.
- b. Qualifications already recognised within the national qualification framework or similar systems applicable to individual safety critical grades.
- c. The nature of assessment and evaluation.
- d. The need for on-going training and re-training.
- e. The availability of potential service providers in a specific geographical area to provide the required services.
- f. The impact on the availability of human resources if requirements are excessive.
- g. The financial implications for employees and employers.
- h. The business processes required for a potential applicant to successfully and sustainably render all services required over the full period of registration.
- i. Reporting requirements by a registered service provider
- j. The circumstances under which a registration may be suspended or revoked.
- k. The regulator's capacity and requirements to monitor and evaluate a registered service provider continuously and effectively.



The CEO of the Regulator must ensure that all strategic documents or policies are prepared and submitted for approval to the board.

The Regulator must publish the safety critical grades policy on its website.

The Regulator must monitor the implementation of the safety critical grades policy to ensure compliance with *The Act* and the safety critical grades framework. The Board of the Regulator must ensure that the safety critical grades framework policy is reviewed at least once every two (2) years.



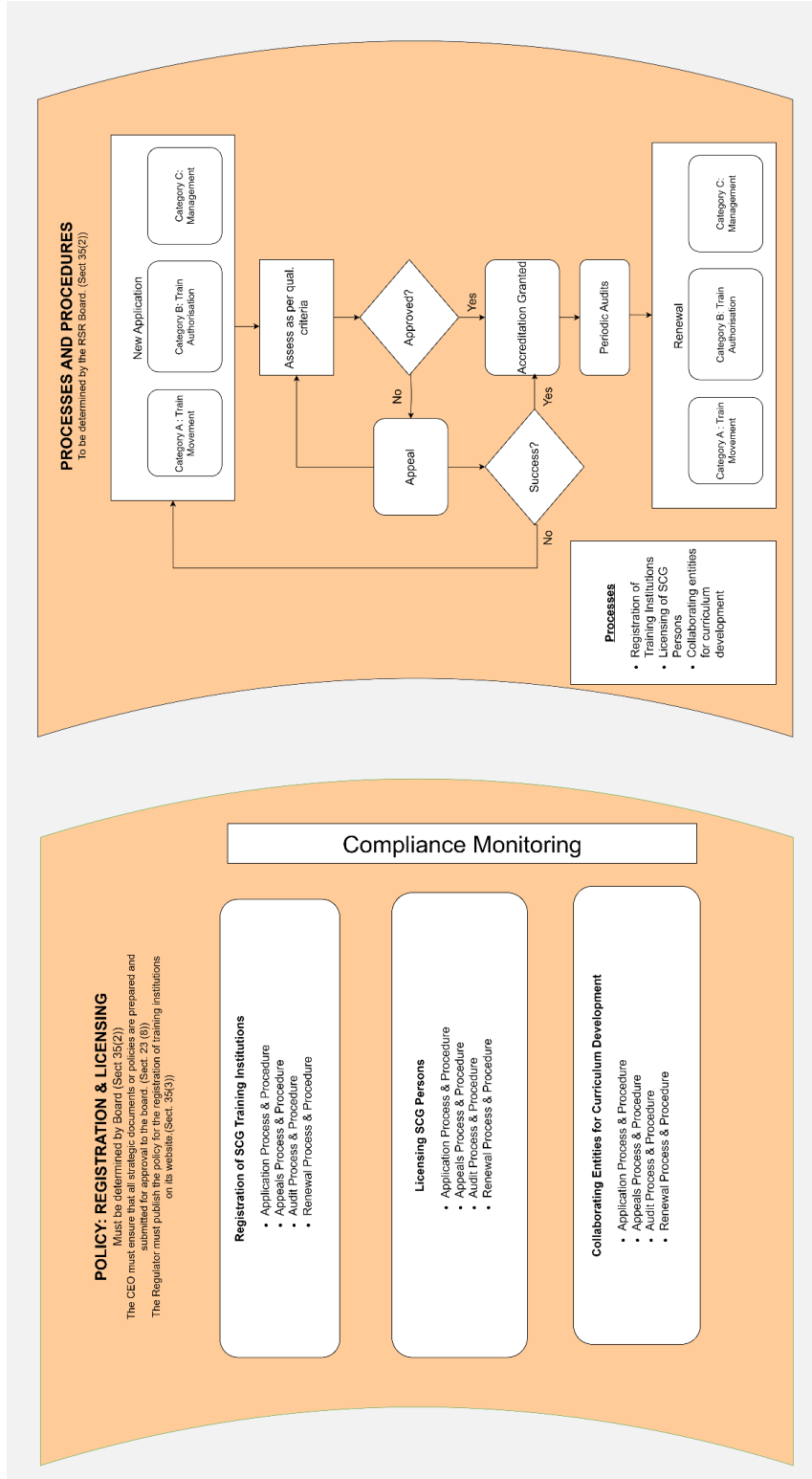


Figure 3: Overview of the safety critical grades framework minimum policy requirements and associated processes and procedures.



8. RECORD KEEPING AND INFORMATION DISSEMINATION

The Regulator must establish, manage, and maintain a database on all matters relevant to the prescribed framework for safety critical grade positions and persons. The database must, as a minimum, include the following:

- a) The names and identity numbers of persons who have been issued with a safety critical grade license by a registered training institution.
- b) The type and period of validity of the safety critical grade license held by such persons.
- c) The frequency of refresher courses or additional training to be undergone by holders of a safety critical grade license.
- d) Any license conditions that must be met by the licensed safety critical grades persons to maintain their competencies.

The database must also include the details of the registered safety critical grades training institutions including, but not limited to, the following:

- a) The company details of training institutions that have been registered by the Regulator.
- b) The type of training programs that the training institution is accredited for and registered against.
- c) The period of validity of the registration held by such safety critical grades training institutions.
- d) Any conditions that must be met and maintained by the registered safety critical grades training institution.



9. FRAMEWORK COMMENCEMENT, REVIEW AND UPDATES

The Regulator must, consistent with section 34 of The Bill, by notice in the Gazette, publish the Framework together with its effective date, and the applicable implementation requirements including transitional arrangements where applicable. The Regulator must ensure that the safety critical grades framework is reviewed at least once every five (5) years.

10. FRAMEWORK DOCUMENT ISSUING

The safety critical grades Framework document issued in good faith by the Regulator and is valid, unless evidence to the contrary proves otherwise. The Regulator may, subject to the Promotion of Administrative Justice Act, 2000 (Act No. 3 of 2000), and the provisions of sections 32 and 33, rectify or withdraw this Framework document if it is issued incorrectly or without authority, but only if such rectification or withdrawal does not or is not likely to unduly prejudice any person or jeopardise the effective discharge of any of the Regulator's functions.

Printed by and obtainable from the Government Printer, Bosman Street, Private Bag X85, Pretoria, 0001
Contact Centre Tel: 012-748 6200. eMail: info.egazette@gpw.gov.za
Publications: Tel: (012) 748 6053, 748 6061, 748 6065