

RAILWAYS (INVESTIGATION OF ACCIDENTS AND INCIDENTS) REGULATION 2024



ARRANGEMENT OF SECTIONS

Section:

RECORD OF AMENDMENT

PART 1 — ESTABLISHMENT

- 1.0 Establishment
- 1.1 Enabling powers
- 1.2 Citation and Commencement
- 1.3 Interpretation
- 1.4 Service of Notices and other documents

PART 2 — APPLICABILITY

- 2.0 Applicability

PART 3 — GENERAL

- 3.0 General
- 3.1 Functions of the Bureau
- 3.2 Objective of the investigation
- 3.3 Independence of the investigations
- 3.4 Training of Rail Safety Investigators
- 3.5 Protection of Evidence, Custody and Removal of the Rolling Stock and Locomotives
- 3.6 Request from other States to keep the Rolling Stock, the Locomotives, its contents and any other evidence undisturbed
- 3.7 Release of the Train Rolling Stock, Locomotive and its content from custody of the Bureau

PART 4 — NOTIFICATION

- 4.1 Reporting of train accidents and incidents
- 4.2 Language of reporting
- 4.3 Forwarding notification of accidents or incidents to other States
- 4.4 Format and content of notification
- 4.5 Notification when the State of Occurrence is unaware of the serious incident
- 4.6 Notification of accidents or serious incidents in the territory of a non-Contracting State or outside the territory of any State
- 4.7 Response to notification received from other States
- 4.8 Appointment of the Bureau's accredited representatives and Advisers to participate in an investigation by another State

PART 5 — INVESTIGATION

- 5.1 Instituting and conducting accidents or incidents in Nigeria to train of a contracting State
- 5.2 Investigating accidents or incidents in a non-Contracting State
- 5.3 Investigating accidents or incidents outside any State
- 5.4 Independence in the conduct of investigation
- 5.5 Delegation of the whole or part of an investigation of accidents or incidents
- 5.6 Assistance to other States to conduct the whole or part of an investigation
- 5.7 Investigation of incident other than serious incident
- 5.8 Appointment of Rail Safety Investigators
- 5.9 Power to appoint technical expert to assist investigator-in-charge
- 5.10 Investigator-in-charge – Access and control
- 5.11 Recorded data- Accidents and incidents
- 5.12 Coordination with Judicial Panel/Tribunal of Inquiry
- 5.13 Informing Railway security authorities
- 5.14 Protection of accident and incident investigation records
- 5.15 Reopening of investigation
- 5.16 Information to the State conducting investigation
- 5.17 When train arrives in a State other than the State of Occurrence
- 5.18 Organizational information
- 5.19 Rights of participation of other States in the investigation
- 5.20 Obligations of accredited representatives and their advisers
- 5.21 Rights and entitlement of States having suffered fatalities or serious injuries to their citizens
- 5.22 Release of established factual information within the first year
- 5.23 Obstruction of investigation

PART 6 — FINAL REPORT

- 6.1 Format of the Final Report
- 6.2 Release of information - Consent
- 6.3 Consultation with stakeholders for substantial comments to draft Final Report
- 6.4 Recipients of Final Report
- 6.5 Release of the Final Report
- 6.6 Issuance of interim statement
- 6.7 Publication of information relating to accidents or incidents
- 6.8 Safety recommendations
- 6.9 Addressees of safety recommendations
- 6.10 Action on safety recommendations
- 6.11 Recording of safety recommendations issued
- 6.12 Monitoring progress on safety recommendations received

PART 7 — ADREP REPORTING

- 7.1 Forwarding Preliminary Report of accidents to intercity passengers train
- 7.2 Forwarding Preliminary Report of accidents to Metro train.
- 7.3 Forwarding Preliminary Report of accidents to Commuter train.
- 7.4 Language
- 7.5 Dispatch of Preliminary Report

7.6 Forwarding Accident Data Report of accidents to intercity passengers train

7.7 Forwarding Incident Data Report of goods train as well as the occurrence at the Level Crossings

PART 8 — ACCIDENT PREVENTION MEASURES

8.1 Safety data collection and processing systems (SDCPS)

8.2 Access to safety data collection and processing systems

8.3 Principles of Exception

8.4 Additional sources of safety recommendations

8.5 Mandatory reporting system

8.6 Voluntary Reporting System

PART 9 — MISCELLANEOUS

9.1 Power to establish Rule-making Handbook, Investigation Policy and Procedures Manual, Order, Directive, Bulletin and Guidance

9.2 Accessibility of the Bureau's Documents and guidance materials.

9.3 Accident Report Review Panel

9.4 Procedures for making and amending Regulation

9.5 Family Assistance Programme

9.6 Contraventions

9.7 Repeals and savings provision

SCHEDULE

Schedule 1 — List of Examples of Serious Incidents

Schedule 2 — References

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RAILWAYS (INVESTIGATION OF ACCIDENTS AND INCIDENTS) REGULATION
2024

[...th Day of, 2024]

PART 1—POWERS, CITATION AND INTERPRETATION

1.1 The Director-General, in exercise of the powers conferred by Section 5 sub-paragraph (b), Section 39 (1) and Section 60 of the Nigerian Safety Investigation Bureau (Establishment) Act, 2022 hereby makes the Regulation prescribing for —

**Powers of the
Director-General
to make this
Regulation**

(a) the manner of exercising and carrying out the Director-General’s powers, duties and functions under the NSIB (Establishment) Act 2022;

(b) the standards that the rail system needs, to achieve compliance with the provisions of the NSIB (Establishment) Act 2022.

1.2 This Regulation shall be cited as the Railways (Investigation of Accidents and Incidents) Regulation 2024 and shall come into force on theth day of, 2024.

Citation

1.3 The following expressions except where the context otherwise requires, shall have the following meaning —

Interpretation

1.3.1 “accident” means an investigable matter involving a transport vehicle where—
(a) a person dies or suffers serious injury as a result of an occurrence associated with the operation of the transport vehicle;
(b) the vehicle is destroyed or seriously damaged as a result of an occurrence associated with the operation of the transport vehicle; or
(c) any property is destroyed or seriously damaged as a result of an occurrence associated with the operation of the transport vehicle.

1.3.14 “Bureau” means the Nigerian Safety Investigation Bureau; the Nigeria’s designated Accident Investigation Authority;

1.3.15 “causes” means actions, omissions, events, conditions or a combination thereof, which led to the accident or incident. The identification of causes does not imply the assignment of fault or the determination of administrative, civil or criminal liability;

1.3.16 “competent authority” means the government entity(ies) empowered to administer the balancing test. In the case of Nigeria, it is the Federal High Court or any other authority or commission established or constituted in accordance with the Laws of the Federation;

1.3.18 “Contributing Factors” means actions, omissions, events, conditions, or a combination thereof, which if eliminated, avoided or absent, would have reduced the probability of the accident or incident occurring, or mitigated the severity of the consequences of the accident or incident. The identification of contributory factors does not imply the assignment of fault or the determination of administrative, civil or criminal liability;

1.3.19 “coordinating agency” means the organization required to ensure that the necessary resources and agencies are brought into the proper relationship in order to provide accurate information and the optimum assistance to the rail accident victims and their families;

1.3.20 “coordinator” means the person appointed by the Director- General of the Bureau in matters relating to Family Assistance to ensure that the necessary resources and agencies are brought into the proper relationship in order to provide accurate information and the optimum assistance to the rail accident victims and their families;

1.3.21 “Train crew” means persons assigned by a Railway Operator to specific duties on a train;

1.3.22 “dangerous goods” means articles or substances which are capable of posing a risk to health, safety, property or the environment.

1.3.23 “Director-General” means the Chief Executive Officer of Nigerian Safety Investigation Bureau appointed pursuant to the NSIB (Establishment) Act 2022;

1.3.24 “draft final report” means a report sent to the relevant State, Authority and other interested parties in the investigation, inviting their significant and substantiated comments on the report;

“evidence” means anything involved in or relating to an accident or incident, whether at the site of the accident or incident or remote from it, including—

- (a) written, electronic, photographic or other records;
- (b) electronic or recording equipment;
- (c) rolling stock, infrastructure, equipment and signalling systems;
- (d) any personal, personnel, medical or other similar record or document; and
- (e) anything else that a safety investigator identifies to—
 - (i) an owner of railway property;
 - (ii) a railway industry body; or
 - (iii) a manufacturer or supplier of equipment, components or services to an owner of railway property or to a railway industry body, as being relevant to the accident or incident;

1.3.25 “family” means persons who are the: spouse, children, parents, brothers, sisters and grandparents of any victim or survivor involved in a rail accident;

Note :— To avoid repetition, the words “family”, “family members”, “families” and “relatives” will be used hereafter when referring to the family members of a rail accident victims.

1.3.26 family assistance” means the provision of services and information to address the concerns and the needs of the rail accident victims and their families. The family assistance envisaged in this document applies to all rail accident victims and their families regardless of the size and circumstances of the accident;

1.3.27 “fatal injury” means an injury resulting in death within thirty days of the date of the accident;

1.3.28 “final report” means the Bureau’s conclusive report on the investigation into a railway accident or incident which includes the pertinent factual information, analysis, conclusions and when appropriate, associated safety recommendations issued by the Director-General;

1.3.29 “incident” means an operational interruption, defect, fault or other irregular circumstance in a transportation vehicle that has or may have influenced or threatened transportation safety and that has not resulted in an accident;

1.3.30 “information” includes a record regardless of form and a copy of a record;

1.3.31 “interim statement” includes the communication issued by the Director-General to the public on each anniversary of the accident or incident for informing those having a direct interest in the investigation regarding the progress of an on-going investigation and any safety issues raised during the investigation;

1.3.32 “investigation” means a process conducted for the purpose of accident prevention which includes the gathering and analysis of information, the drawing of conclusions, including the determination of causes and/or contributing factors and when appropriate, the making of safety recommendations;

1.3.34 “investigator” refer to safety investigator;

1.3.35 “investigator-in-charge” means a person charged, on the basis of his or her qualifications, with the responsibility for the organization, conduct and control of an investigation;

Note.— Nothing in the above definition is intended to preclude the functions of an investigator-in-charge being assigned to a commission or other body.

1.3.36 “judicial proceeding” means a proceeding before a judicial authority involving a determination, including criminal and civil liability;

1.3.4 “level crossing” means any place where a railway crosses on a level a highway or other road or passageway, whether or not there is public access to such land;

1.3.48 “regulation” means Railways (Investigation of Accidents and Incidents) Regulation, made pursuant to the NSIB (Establishment) Act;

1.3.38 “minister” means the Federal Minister supervising the Bureau;

1.3.39 “next of kin” includes the immediate family or other persons closely connected with the victim of a rail accident;

1.3.40 “observer” means a representative of a concerned organization or another State who is authorized by the Director-General to participate in an investigation as an observer;

1.3.42 “operator” means any person, body or undertaking operating or proposing to operate any of the transport vehicles;

1.3.43 “passenger” means all persons, including an employee of a Train Operator aboard a train;

1.3.44

1.3.45. “police officer” means any person who is a member of the Nigeria Police Force;

1.3.46 “preliminary report” means the communication used for the prompt dissemination of data obtained during the early stages of the investigation;

“premises” means an accident site or premises that is necessary to enter in order to get to an accident site;

1.3.47 “providers of family assistance” means entities or persons having a role in providing such assistance to rail accident victims and their families, including government departments and agencies, the train operator(s), the railway station operators, third parties (e.g. non-governmental aid agencies and commercial companies), and family associations;

“report” means any report, safety action statement, safety recommendation, safety bulletin issued by the Bureau;

“rail vehicle” means a vehicle that operates on a railway, including a vehicle that does not have wheels;

1.3.2 “railway” means all branches, extensions, sidings, yards, stations, depots, wharfs, equipment, stores, signals, control systems, railway bridges, tunnels and other property, railway-related structures and facilities, and works connected therewith;

1.3.3 “railway accident” and “railway incident” refer to railway occurrence;

“railway occurrence” means—

- (a) any accident or incident associated with the operation of rolling stock on a railway, and
- (b) any situation or condition that the Bureau has reasonable grounds to believe could, if left unattended, induce an accident or incident described in paragraph (a) above;

Note 1.— The type of train accidents to be investigated is addressed in 5.1.

“Railway property” means Railway’s land and assets, and anything which falls within the definition of “light maintenance depot”, “network”, “rolling stock”, “station” or “track”

1.3.9

1.3.10

1.3.11 “Railway Station” means a defined area on land or water (including any buildings, installations and equipment) intended to be used either wholly or in part for the arrival, departure and movement of trains;

1.3.3

1.3.49 “Safety” means the state in which risks associated with train activities, related to, or in support of the operation of trains, are reduced and controlled to an acceptable level;

1.3.50 “Safety data” means a defined set of facts or set of safety values collected from various railway -related sources, which is used to maintain or improve safety;

1.3.51 “Safety data Collection and Processing System (SDCPS) means the processing and reporting systems, safety databases, schemes for exchange of information, and recorded information including but not limited to:

- (a) data and information pertaining to accident and incident investigations;
- (b) data and information related to safety investigations by State authorities or train service providers;
- (c) mandatory safety reporting systems as indicated in the Nigerian Safety Investigation Bureau (Establishment) Act 2022
- (d) self-disclosure reporting systems, including data capture systems in the vigilance control system, speedographs, On-board CCTV cameras and over speed trip mechanisms installed in the train as well as manual data capture systems.

Note 1.— The term “safety database” may refer to a single or multiple database(s).

Note 2.— SDCPS may include inputs from State, industry and public sources, and may be based on reactive and proactive methods of safety data and safety information collection.

1.3.52 “safety information” means safety data processed, organized or analyzed in a given context so as to make it useful for safety management purposes.

“safety investigator” means a person appointed by the Director-General to carry out investigation under this regulation;

1.3.53 “Safety Recommendation” means a proposal of an accident investigation authority based on information derived from an investigation, made with the intention of preventing accidents or incidents and which in no case has the purpose of creating a presumption of blame or liability for an accident or incident. In addition to safety recommendations arising from accident and incident investigations, safety recommendations may result from diverse sources, including safety studies;

1.3.55

1.3.56 “Serious injury” means— (Please refer to a Medical Doctor, preferably a Railway Doctor)

- (a) a fracture other than to fingers, thumbs or toes;
- (b) amputation;
- (c) dislocation of the shoulder, hip, knee or spine;
- (d) loss of sight, whether temporary or permanent, in one or both eyes;
- (e) a chemical or hot metal burn or any penetrating injury to one or both eyes;
- (f) an injury leading to hypothermia or heat-induced illness;
- (g) an injury requiring resuscitation of the injured person;
- (h) an injury requiring admittance to hospital for more than 24 hours;
- (i) an injury directly leading to loss of consciousness; or

(j) an injury resulting from the absorption of a substance by inhalation, ingestion or through the skin that causes acute illness requiring medical treatment

1.3.57 “State” means a nation or territory considered as an organized community under one government;

1.3.58 “State of Design” includes the state having jurisdiction over the organization responsible for the rolling stock design;

1.3.59 “State of Manufacture” includes the state having jurisdiction over the organization responsible for the final assembly of the train rolling stock; Locomotives, Coaches or Wagons;

1.3.60 “State of Occurrence” includes the state in the territory of which an accident or incident occurs;

1.3.61 “State of the Operator” includes the state in which the Operator’s principal place of business is located or, if there is no such place of business, the Operator’s permanent residence;

1.3.62 “State of Registry” includes the state on whose register the train is entered;

1.3.64

1.3.64 “Statement” means the official account, record and statement of evidence and fact given by a person to an investigator of the Bureau;

1.3.65 “Survivor” means a victim who is not fatally injured as a result of the rail accident;

“Train” means a locomotive with or without vehicles attached, a railcar set, an inspection car with or without trailers or any self-propelled unit that cannot be easily and quickly removed from the track;

“Train Driver or Train Pilot” means the driver or pilot designated by the operator, or in the case of train operation, the owner as being in command and charged with the safe running of the train;

1.3.29 “Train Locomotive Recorder” means any type of recorder, such as vigilance control system, speedographs, On-board CCTV cameras and over speed trip mechanisms installed in the train for the purpose of complementing accident/incident investigation ;

1.3.66 “Transportation occurrence” means an aviation, railway, marine or road occurrence;

1.3.67 “Transport Safety Matter” means the occurrences as listed in the NSIB (Establishment Act);

1.3.68 “Vehicle” means any form of transportation that transports people, something or cargo, which includes aircraft, railed and tracked vehicles, motor vehicles, ships, buses, vans, lorries, trucks, trailers, etc.;

1.3.69 “Victim” means an occupant of the train, or any person outside the train, who is unintentionally directly involved in the train accident. Victims may include the crew, revenue passengers, non-revenue passengers and third parties;

1.3.70 “Witness” means a person required to attest to matters of facts, for this purpose, all statements taken from persons in the cause of accident investigation processes before the Director-General or any of his designated personnel thereof which an affirmation may be required.

1.4 Service of Notices and Other Documents

1.4.1 Any notice, document, consent, approval or other communications required or authorized by any provision of this Regulation to be served on or given to any person shall be in writing and shall be served or given —

(a) by delivering it to that person;

(b) by leaving it at his usual or last-known residence or place of business, whether in Nigeria or elsewhere;

(c) by sending it to that person by registered or recorded delivery mail, at that address; any Notice sent by mail shall be deemed to have been duly served five (5) working days after the date of posting; or

(d) by sending it to that person at that address by telex, email, airmail, facsimile transmission or other electronic means in a form generating a record copy to the party being served at the relevant address; in which event, the document shall be regarded as served when it is received.

1.4.2 In any case, any delivery made in accordance with the provisions of paragraphs 1.4.1 (b)-(d) shall be deemed served after seven (7) days of the date of dispatch.

PART 2 — APPLICABILITY

2.1 This Regulation shall apply to any railway occurrence which occurs on railway property in so far as it is or may be relevant to the operation of the railway.

2.2 Accidents and incidents excluded from the application of Part I Sub-section 2(3) of the Nigerian Safety Investigation Bureau (Establishment) Act 2022 and this Regulation include

- (a) an accident or incident that occurs within an industrial curtilage unless the accident or incident—
 - (i) involves a train being used within an industrial curtilage for the purpose of carrying passengers for reward; or
 - (ii) occurs on a track that—
 - 1) is not used for any purpose connected with the industrial activity within that curtilage other than to facilitate the entry to or exit from that curtilage; or
 - 2) is directly controlled or operated by the person who controls or operates the railway outside the industrial curtilage to which the track within the curtilage is connected;

- (b) an accident or incident that occurs on a railway which is operated by a cable haulage system and has a track of a length not exceeding 1 km shall not be treated as an accident or incident for the purposes of Part I Sub-section 2(3) of the NSIB (Establishment) Act 2022;
- (c) subject to paragraph (d), an accident or incident that occurs on a railway, no part of which crosses a carriageway (whether or not at the same level), shall not be treated as an accident or incident for the purposes of Part I Sub-section 2(3) of the NSIB (Establishment) Act 2022;
- (d) Paragraph (c) shall not apply to an accident or incident occurring on a railway operated by a cable haulage system that is not excluded under paragraph (b);
- (e) In this Regulation, *industrial curtilage*- means a curtilage of a harbour, freight terminal, mine, quarry of factory.

PART 3—GENERAL

Functions of the Bureau

3.1 The functions of the Bureau in relation to Railways transportation shall include, but not limited to —

- (a) determination and classification of railway occurrences for the purpose of investigation
- (b) the conduct of investigation into any accident or incident arising out of or in the course of running train and either occurring in Nigeria or occurring elsewhere as applicable to a train registered in Nigeria or operated by Nigerian Operator; (refer to list in section 3 of part 1 of NSIB act)
- (c) the gathering, recording and analysis of all relevant information on rail safety data, in particular, for accident or incident prevention purposes, in so far as those functions do not affect its independence and entail no responsibility in regulatory, administrative or standard matters;
- (d) visitation of the scene of the accident or incident;
- (e) preservation of the evidence;
- (f) examination of the wreckage and statements taken from witnesses;
- (g) if appropriate, the issuance of safety recommendations;
- (h) if possible, the determination of the causes and/or contributory factor(s);
- (i) the compilation, completion and publication of the Final Report;
- (j) periodic review of global accidents, incidents, trends and advice;
- (k) the conduct of safety studies in accident or incident scenarios, arising from observed trends and other safety related issues.

Objective of the investigation

3.2 The sole objective of the investigation of an accident or incident under this Regulation shall be the prevention of accidents and incidents. It is not the purpose of such an investigation to apportion blame or liability.

Independence of the investigation

3.3 The Bureau shall—

- (a) have independence in the conduct of the investigation and unrestricted authority over its conduct consistent with the provisions of the Nigerian Safety Investigation Bureau (Establishment) Act.
- (b) be independent from any other entities that could interfere with the conduct or objectivity of an investigation.

Training of safety investigators

3.4 The Director-General shall provide to the safety investigators various levels and categories of training, including advances in technologies for train operations, engineering and other relevant rail services in order to ensure safety investigators acquire and maintain up-to-date knowledge, appropriate skills and required competence to conduct investigations.

3.5 Any Rail Operator that acquires new rolling stock type coming into Nigerian shall conduct familiarization training for, at least one (1) safety investigator of the Bureau.

3.6 The safety investigator in pursuance of subsection 3.5 above shall be required to undertake and attend certification courses on such new equipment to acquire system knowledge of the rolling stock for accident prevention purposes.

Protection and safe custody of evidence of train involved in an accident or incident

3.7 The Director-General shall take all reasonable measures to protect the evidence and to maintain safe custody of the rail stock involved in an accident or incident and its contents for such a period as may be necessary for the purposes of an investigation. Protection of evidence shall include the preservation, by photographic or other means of any evidence which might be removed, effaced, lost or destroyed. Safe custody shall include protection against further damage, access by unauthorized persons, pilfering and deterioration. Recovery and handling of On-board Computers (OBC) and its recordings shall be assigned to qualified personnel.

3.8 No person other than the Director-General, the investigator- in charge or an authorized person shall —

- (a) have access to the train involved in an accident or incident, the contents thereof, or the site of the accident or serious incident; and
- (b) move or interfere with the train, its contents or the site of the accident or incident except under the authority of the Director - General or the investigator-in-charge.

3.9 Notwithstanding subsection 3.7 above —

- (a) The train involved in an accident or serious incident may be removed or interfered with to such extent as may be necessary for all or any of the following purposes —
 - (i) extricating persons or animals;
 - (ii) removing any mail, valuables or dangerous goods carried by the train for the purpose of preservation;
 - (iii) preventing destruction by fire or other cause;
 - (iv) preventing any danger or obstruction to the public, train movement or other transport; or
- (b) if a train is wrecked in water, the train or any content thereof may be removed to such extent as may be necessary for bringing the train or its contents to a place of safety.

3.10 Where the Director-General or investigator-in-charge has authorized any person to remove any goods or passenger baggage from the train or to release any goods or passenger baggage from the custody of the Director-General or investigator-in-charge, the person may —

- (a) remove the goods or passenger baggage or any other property from the train in the presence of a Police Officer not below the rank of an Assistant Superintendent of Police (ASP);
- (b) release the goods or passenger baggage from the custody of the Director-General or investigator-in-charge, subject to clearance by or with the consent of the Nigeria Custom Service, if the train has come from a place outside Nigeria.

3.11 Where the Director-General or investigator-in-charge or an authorized person is of the opinion that the train involved in the accident or incident is likely to be in danger or obstruction to the public, train movement or other transport, he shall order the Owner, Operator or Hirer of such train to remove the train to such place as the Director-General or investigator-in-charge shall indicate.

Release of the train involved in an accident or incident from custody of the Bureau

3.12 Subject to Sub- section 3.7, the Director-General shall release custody of the train, its contents or any part(s) thereof as soon as they are no longer required in the investigation, to any authorized person or persons duly designated by the State of Registry or the State of the Operator, as applicable. For this purpose, the Director-General shall facilitate access to the train, its contents or any part thereof lying in an area within which it finds it impracticable to grant such access, otherwise, it shall itself effect removal to a point where access can be given.

3.13 In this Section, the expression “authorized person” means —

- (a) any person authorized by the Director-General either generally or specially to have access to any train involved in an accident or serious incident;
- (b) a Police Officer, not below the rank of Assistant Superintendent of Police (ASP);
- (c) an officer of Customs and Excise, not below the rank of Assistant Comptroller;

(d) the Operator, Owner or Hirer of the train.

PART 4— NOTIFICATION TO THE BUREAU OF RAILWAY OCCURRENCE

4.1 Subject to Section 4.4, a railway industry body whose property or staff have been involved in an accident or incident of a type listed in Schedule 1 on a railway or on railway property shall notify the Bureau of its occurrence immediately it learns of the occurrence and by the quickest means available.

4.2 Subject to Section 4.4, a railway industry body whose property or staff have been involved in an accident or incident of a type listed in Schedule 2 on a railway or railway property shall notify the Bureau of its occurrence as soon as is reasonably practicable and in any event within three working days of its occurrence.

4.3 Where staff or property of a railway industry body have in any month been involved in an accident or incident of a type listed in Schedule 3 on a railway or railway property, the body shall notify the Bureau of every such occurrence during that month no later than 10 days after the end of the month and in accordance with Section 4.7.

4.4 The duty in Sections 4.1 and 4.2 to notify the Bureau of an accident or incident involving the death or serious injury of a person in circumstances described in Schedules 1 or 2, respectively, shall not arise where the railway industry body reasonably believes that—

- (a) the death or serious injury of that person was a result of natural causes, assault, suicide or attempted suicide;
- (b) the accident or incident—
 - (i) caused the death of or serious injury to a member of staff; and
 - (ii) did not involve the movement of rolling stock; or
- (c) the accident or incident caused the death or serious injury of a person who at the time of the accident or incident was on railway property involved in the accident or incident without lawful authority.

4.5 A notification given under Section 4.1 or 4.2 shall contain as much of the following information relating to the accident or incident as the railway industry body is reasonably able to provide at the time of the notification—

- (a) the geographical position of the accident or incident and the nearest point of access to that position;
- (b) the date and time of the accident or incident;
- (c) the point of departure and intended destination of any rolling stock involved in the accident or incident;
- (d) brief details of the accident or incident and the sequence of events leading to it;
- (e) in the case of an accident, an estimate of the number of people seriously or fatally injured;
- (f) an estimate of the number of passengers on board any rolling stock involved at the time of the accident or incident;
- (g) the extent of damage caused to any railway, railway property or the environment by the accident or incident;
- (h) the weather conditions at the time of the accident or incident;

- (i) the type, and an estimate of the quantity, of any dangerous goods on board the rolling stock involved at the time of the accident or incident;
- (j) the number of crew on board the rolling stock involved at the time of the accident or incident;
- (k) the name of the railway industry body whose property is involved in the accident or incident;
- (l) the names and roles of staff with responsibility for the movement of rolling stock involved in the accident or incident;
- (m) the vehicle numbers and type of any rolling stock involved;
- (n) details of any emergency service attending the site of the accident or incident; and
- (o) contact details of the person in command or control of the accident or incident site.

4.6 The railway industry body that notifies the Bureau in accordance with Section 4.1 or 4.2 shall provide—

- (a) as soon as reasonably practicable after the notification, such of the information referred to in Section 4.5 that it has not supplied with it; and
- (b) within such time as the Bureau specifies, such further information about the accident or incident as the Bureau may reasonably require.

4.7 A notification referred to in Section 4.3 shall contain a list of every occurrence during the month in question and shall specify the date, time and place of each occurrence.

4.8 Where the railway industry body does not know the extent of a person's injuries, it shall regard that person as having suffered a serious injury if—

- (a) the person has been removed from the site of the accident or incident to a hospital; and
- (b) the railway industry body suspects that the person has sustained a serious injury.

4.9 In this regulation “staff” means a person engaged in work for the railway industry body where such work was connected with the operation of the railway or railway property involved in the accident or incident at the time of its occurrence.

4.10 A railway industry body that fails to notify the Bureau of an accident or incident in accordance with Sections 4.1, 4.2 and 4.5 to 4.7 shall be guilty of an offence.

PART 5 — CONDUCT OF INVESTIGATIONS OF RAILWAY OCCURRENCE

5.1 The Bureau shall conduct every investigation of a railway occurrence in a manner that will not undermine its independence from—

- (a) an infrastructure manager;
- (b) a railway undertaking;
- (c) a charging body;
- (d) an allocation body;
- (e) a notified body; or
- (f) any other party whose interests might conflict with the tasks of the Bureau.

5.2 The Bureau shall not investigate railway occurrences other than accidents or incidents if such investigation could undermine its independence from any of the parties referred to in Section 5.1.

5.3 The Bureau shall make the necessary arrangements to commence an investigation—

- (a) where the railway occurrence is an accident; or
- (b) where the railway occurrence is an incident which, under slightly different conditions, might have led to an accident and the Bureau has determined that it will conduct an investigation, within seven days of being notified of the incident.

5.4 In making a determination under Sub-section 5.3(b) the Bureau shall take into account—

- (a) the seriousness of the railway occurrence;
- (b) whether it forms part of a series of occurrences;
- (c) its impact on railway safety;
- (d) requests from railway industry bodies, or other States;
- (e) the extent to which an investigation will improve the safety of railways and prevent accidents and incidents; and
- (f) any other matter that the Director-General considers to be reasonable in the circumstances.

5.5 The Bureau may undertake a preliminary examination of the circumstances surrounding a railway occurrence to determine—

- (a) whether it is an accident; or
- (b) where it is not an accident, whether an investigation is to be conducted.

5.6 Where a railway occurrence of a type described in Section 5.3 occurs on or close to a border installation between Nigeria and another State, the Bureau —

- (a) shall use its best endeavours to agree with the investigating body of the other State which accident investigating body will conduct the investigation;
- (b) shall permit the investigating body of the other State to participate in an investigation of such railway occurrence conducted by the Bureau;
- (c) shall share the results of the investigation of such railway occurrence by the Bureau with the investigating body of the other State; and
- (d) may agree to carry out the investigation of the railway occurrence in co-operation with the investigating body of the other State.

5.7 Where a railway occurrence of a type described in Section 5.3 involves a railway undertaking established and licensed in another State, the Bureau shall invite the investigating body in the other State to participate in an investigation of that accident or incident.

5.8 During the course of its investigation, the Bureau shall—

- (a) keep the persons referred to in Sub-section 6.11(b) informed of its progress; and
- (b) so far as is reasonably practicable, take account of opinions relating to the investigation expressed by such persons.

5.9 The Director-General shall determine the extent of, and the procedure to be followed in carrying out, an investigation conducted by the Bureau or by a person appointed pursuant to Section 5.13 or 5.14.

5.10 The Bureau shall conclude its examination at the site of an accident or incident in the shortest possible time in order to enable the infrastructure that is closed as a result of the accident or incident to be restored and opened to railway services as soon as possible.

5.11 The Director-General may discontinue an investigation conducted by the Bureau at any time and shall publish his reasons for doing so.

5.12 The Bureau may undertake an investigation into the circumstances of a railway occurrence where it has previously determined that no investigation will be conducted.

Persons conducting, participating in or assisting with an investigation conducted by the Bureau

Appointment of safety investigators of the Bureau

5.13 (a) The Director-General, shall for the purpose of carrying out investigation into railway occurrence to which this regulation applies, appoint one or more personnel of the Bureau as safety investigators to conduct the investigation, one of whom shall be designated as an investigator-in-charge of the investigation;

(b) The persons appointed under Sub-section 5.13(a) shall be deemed to perform his investigative duties under the authority of the Director-General and shall have cognate technical knowledge, qualification and practical experience in accident reconstruction, safety engineering, transportation safety, or transportation regulation, and other relevant disciplines required for the performance of their functions under this regulation;

(c) The Director-General shall cause an investigator appointed under subsection 5.13(a) to carry out an investigation into a railway occurrence in any of the instances provided under this regulation;

Appointment of a person other than an investigator to perform or participate in an investigation

5.14 **6(1)** (a) The Director-General may appoint a person who is not a safety investigator to conduct or participate in an investigation by the Bureau;

6(2) (b) The person appointed under Sub-section 5.14(a) may exercise such powers of a safety investigator as are necessary to enable him to perform his functions under the terms of his appointment.

5.15 **(6.3)** In relation to an investigation of a railway occurrence that the Bureau is conducting, the Director-General may—

(a) request assistance from the Nigeria Police, the Judicial Authority, the Coroner, any public body or any other person acting under a power conferred on him by law, or from an accident investigating body of another State; or

(b) request assistance (including assistance with the retrieval, delivery, storage, disposal or destruction of evidence) from a person other than a person mentioned in sub-section 5.15(a), at such times and in such manner as the Director-General may reasonably determine.

5.16 **6(4)** Where the Director-General reasonably requests assistance from a person referred to in sub-section 5.15(b), that person shall provide the assistance.

5.17 6(5) Subject to Section 5.18 the Bureau may pay reasonable compensation to a person who assists the Director-General pursuant to Section 5.15.

5.18 6(6) Where a person who assists the Director-General pursuant to section 5.15 is—

- (a) an owner of railway property, a railway industry body, or a manufacturer or supplier of equipment, components or services to an owner of railway property or to a railway industry body, whose property or staff have been involved in the accident or incident being investigated; and
- (b) under a statutory duty or other legally enforceable requirement to investigate the causes of the accident or incident, including any duty or other legally enforceable requirement arising by virtue of his being authorized to control infrastructure or operate trains or stations,

in determining whether or not to pay compensation, the Director-General shall take account of whether the assistance concerned any matter to which the duty or other legally enforceable requirement to investigate referred to in sub-section 5.15(b) relates.

5.19 6(7) A person who fails to assist a safety investigator when required to do so in accordance with Section 5.15 shall be guilty of an offence.

Issuance of credentials to investigators

5.20 The Director-General/CEO shall issue appropriate credentials to the Bureau's investigator-in-charge, safety investigators and any person (s) so authorized to participate in an investigation. The credentials shall include —

- (a) reference to empowering legislation;
- (b) method to control currency of credentials; and
- (c) photograph of the holder.

Access and control over the site of a railway occurrence

5.21 7(1) Subject to Section 5.22, no person other than an investigator or a person appointed under Section 5.14 shall—

- (a) have access and control over the site of a railway occurrence of a type described in Schedule 1, including the rolling stock, infrastructure or traffic control and signaling systems involved in such accident or incident; or
- (b) remove from or interfere with, or cause to be removed from or interfered with, anything at the site of an accident or incident of a type described in Schedule 1, without the consent of an investigator-in-charge until such time as the Bureau has concluded its examination or removal of evidence at the site or determined that it will not conduct an investigation.

5.22 7(2) A person may have access to, or remove anything described in Section 5.21, only in so far as may be necessary for the purpose of—

- (a) saving life or preventing further injury or suffering;
- (b) preventing further damage or destruction;
- (c) preventing danger, including from dangerous goods;
- (d) protecting the site; or
- (e) exercising a power conferred on that person by law, including a Police Officer, a Coroner or a Prosecutor.

5.23 **7(3)** Subject to Section 5.29 where a Police Officer or any other person intends to enter a site referred to in Section 5.21 in exercise of a power conferred on him by law —

- (a) he shall, where practicable, notify the investigator-in-charge of his intention to do so, together with details of any action he proposes to take while on the site; and
- (b) where it is not practicable to notify the investigator-in-charge in accordance with sub-section 5.23(a), he shall inform the investigator-in-charge as soon as practicable after he has entered the site and provide details of any action he has taken while on the site.

5.24 **7(4)** In determining whether it is practicable to notify an investigator-in-charge under Sub-section 5.23(a), a person intending to enter a site referred to in Section 5.19 shall have regard to whether the delay that would occur by giving such notification would, or would be likely to, affect adversely the result sought to be obtained from the exercise of his power.

5.25 **7(5)** Where an investigator-in-charge receives notification under sub-section 5.23(a) of action proposed by a person referred to in Section 5.23 and a question arises as to the desirability of the proposed action to be taken, the investigator-in-charge shall refer the question without delay to the Director-General or any safety investigator of the Bureau acting on behalf of the Director-General for determination pursuant to Section 27 of the Nigerian Safety Investigation Bureau (Establishment) Act 2022.

5.26 **7(6)** A person who fails to comply with the requirements of Section 5.21 shall be guilty of an offence.

Preservation of evidence

5.27 **8(1)** For the purpose of carrying out an investigation into an accident or incident in the most efficient way and within the shortest time, an investigator may, where appropriate in cooperation with the authorities responsible for the judicial inquiry, require a person to supply a list of all evidence relating to the accident or incident which is in that person's possession or control.

5.28 **8(2)** Subject to Section 5.29 and Section 8.3, a Police Officer or any other person acting in exercise of a power conferred by law, who is investigating an accident or incident shall—

- (a) preserve any evidence obtained in the course of the investigation into an accident or incident;
- (b) where practicable, notify the investigator-in-charge of the intention to collect, examine or analyze evidence, or interview a witness, for the investigation;
- (c) where it is not practicable to notify the investigator-in-charge in accordance with Sub-section 5.28(b), the investigator-in-charge must be informed as soon as practicable after the action had been taken;
- (d) provide to the Bureau details of the action taken under this Section; and
- (e) upon request by the Bureau, provide the Bureau with access to or copies of any evidence taken or information obtained under this Section.

5.29 **8(3)** Section 5.28 shall apply until such time as the Bureau has concluded its investigation, no longer requires the evidence referred to in Section 5.28 or has determined that it will not conduct an investigation.

5.30 **8(4)** In determining whether it is practicable to notify an investigator under Sub-section 5.28(b), a person intending to collect, examine or analyze evidence or interview a witness for investigation pursuant to Sub-section 5.28(b) shall have regard to whether the delay that would occur by giving such notification would, or would be likely to, adversely affect the result sought to be obtained from the exercise of the power conferred by law.

5.31 **8(5)** Where an investigator-in-charge receives notification under Sub-section 5.28(b) of action proposed by a person referred to in Section 5.28 and a question arises as to the desirability of the proposed action, the investigator-in-charge shall refer the question without delay to the Director-General or a safety investigator acting on behalf of the Director-General for determination pursuant to section 27 of the NSIB (Establishment) Act 2022.

5.32 **8(6)** An owner of railway property, a railway industry body, or a manufacturer or supplier of equipment, components or services to an owner of railway property or to a railway industry body, shall preserve all evidence over which he has control and—

- (a) which is, or which he reasonably considers may be, relevant to an investigation of an accident or incident of a type described in Schedule 1 by the Bureau; or
- (b) that the Bureau directs him to preserve, until the Bureau has concluded its investigation, no longer requires the evidence or has determined that it will not conduct an investigation.

5.33 **8(7)** A person who contravenes Section 5.32 shall be guilty of an offence.

Use of evidence

5.34 **9(1)** Except in so far as Section 5.35 or 5.36 applies, an owner of railway property, a railway industry body, or a manufacturer or supplier of equipment, components or services to an owner of railway property or to a railway industry body, shall not move or use any evidence that is, or may become, relevant to an investigation by the Bureau except where it is necessary to do so for the purpose of—

- (a) saving life or preventing further injury or suffering;
- (b) preventing further damage or destruction;
- (c) preventing danger, including from dangerous goods; or
- (d) protecting the site, until the Bureau has concluded its investigation, no longer requires the evidence or has determined that it will not conduct an investigation.

5.35 **9(2)** An owner of railway property, a railway industry body, or a manufacturer or supplier of equipment, components or services to an owner of railway property or a railway industry body, may—

- (a) with the consent of the Bureau, move or use evidence relating to an accident or incident of a type described in Schedule 1; and
- (b) unless the Bureau gives notice to the contrary, move or use evidence relevant to an accident or incident of a type described in Schedule 2 or 3 provided that there is no practicable alternative to the movement or use of that evidence and such movement or use is essential for the safe operation of the railway.

5.36 **9(3)** An owner of railway property, a railway industry body, or a manufacturer or supplier of equipment, components or services to an owner of railway property or a railway industry body who moves or uses evidence pursuant to Section 5.35 shall make and retain a record of

the condition, position and location of the evidence before it was moved or used and shall supply that record on demand to the Bureau.

5.37 9(4) Subject to Section 5.36, in the course of an investigation into an accident or incident, an investigator or a person appointed under Section 5.14 may, for the purpose of examining or analyzing an article, dismantle or alter the composition of it, whether or not such dismantling or altering has the effect of destroying it.

5.38 9(5) Where an investigator or a person appointed under Section 5.14 decides to dismantle or alter the composition of an article under Section 5.37, and the investigator or person appointed under Section 5.14 has reason to believe that a Police Officer, a Coroner, a Prosecutor, or any other person exercising a power conferred by law, would be entitled to analyze or examine that article for the purpose of the investigation into that accident or incident, the investigator or person appointed under Section 5.14 shall—

- (a) before commencing such dismantling or alteration, give notice to those persons of his intention to do so;
- (b) permit those persons to be present during such examination or analysis;
- (c) consider any reasonable representations those persons may make as to the impact such dismantling or alteration may have on their own investigation; and
- (d) provide those persons with access to all records and reports relating to the examination or analysis.

5.39 9(6) Where an investigator or a person appointed under Section 5.14 considers that it would not be detrimental to an investigation he may—

- (a) inform a person of his intention to analyze or examine an article; or
- (b) permit a person to be present during the analysis or examination.

5.40 9(7) A person other than a person referred to in Section 5.38 whom the Bureau allows to be present during an analysis or examination shall not disclose to anyone except a Police Officer, a Coroner, or any other person acting under a power conferred by law, any information obtained in connection with that analysis or examination without the consent of the Director-General.

5.41 9(8) The Bureau may retain any evidence that it no longer requires for the purposes of the investigation for which it was obtained if that evidence may be required for the purposes of another investigation being conducted by the Bureau.

5.42 9(9) The Bureau shall release to a Police Officer, a Coroner, or any other person acting under a power conferred by law, any evidence that it no longer requires, where—

- (a) the Bureau has reason to believe that person would be entitled to collect that evidence for the purpose of an investigation; and
- (b) that evidence—
 - (i) is not prohibited from being disclosed by Section 5.51 or any other enactment; or
 - (ii) is not evidence to which Section 5.51 applies.

5.43 9(10) The Bureau shall release to its owner evidence that it no longer requires for the purposes of the investigation for which it was obtained or which it is not retaining under Section 5.41 and which the Bureau is not required to release to a person referred to in Section 5.42 provided that before it does so the Bureau shall consult with any person known to it to be

leading an investigation under statutory powers of law into the accident or incident in respect of which the evidence was obtained by the Bureau.

5.44 **9(11)** Where evidence is released to the owner pursuant to Section 5.43, the owner shall be responsible for the storage, destruction or disposal of it from the date of its release.

5.45 **9(12)** Before releasing evidence under Sections 5.42 or 5.43, the Bureau shall give seven days' notice of its intention to do so to the intended recipient of such evidence.

5.46 **9(13)** An owner of railway property, a railway industry body, or a manufacturer or supplier of equipment, components or services to an owner of railway property or to a railway industry body, that moves or uses evidence relating to an accident or incident other than for a purpose specified in Section 5.34 shall be guilty of an offence unless the movement or use of the evidence by that body is in compliance with Section 5.35.

5.47 **9(14)** An owner of railway property, a railway industry body, or a manufacturer or supplier of equipment, components or services to an owner of railway property or to a railway industry body, that—

- (a) moves or uses evidence that is relevant to an accident or incident of a type described in Schedule 1 or 4 without the consent of the Bureau under Sub-section 5.35(a); or
- (b) moves or uses evidence that is relevant to an accident or incident of a type described in Schedule 2 or 3 where the Bureau has given notice to the contrary under Sub-section 5.35(b);

shall be guilty of an offence unless that movement or use of such evidence is for a purpose specified in Section 5.34.

5.48 **9(15)** An owner of railway property, a railway industry body, or a manufacturer or supplier of equipment, components or services to an owner of railway property or a railway industry body, that fails to make and retain a record as required by Section 5.36 shall be guilty of an offence.

5.49 **9(16)** A person who discloses information that he obtains during an analysis or examination in contravention of Section 5.40 shall be guilty of an offence.

Disclosure of evidence

5.50 **10(1)** Except as provided in Sections 5.51 and 5.52 the Bureau—

- (a) may publish or make available for inspection any evidence or information it may acquire during the course of an investigation where such disclosure would not obstruct it in its objective contained in Section 1 of the Nigerian Safety Investigation Bureau (Establishment) Act 2022; and
- (b) shall provide to a Police Officer, or a Coroner, or any other person exercising a power conferred by law to investigate an accident or incident, access to and copies of any evidence obtained by the Bureau in the course of an investigation of that accident or incident, but only where the recipient would be entitled by law, to collect that evidence for the purpose of the investigation.

5.51 **10(2)** Except by order of a relevant court and subject to Section 5.56, the Bureau shall not disclose to anyone—

- (a) a statement or declaration provided to the Bureau or any recording or other note or record relating to such statement or declaration unless the person who has provided such statement, declaration, recording note or record consents to its disclosure;
- (b) the name, address or other information relating to a person—
 - (i) who has provided to the Bureau a statement or declaration or other note or record relating to such statement or declaration; or
 - (ii) who has indicated to a safety investigator or person appointed under Section 5.14 that he intends to provide a statement or declaration or other note or record to the Bureau, unless that person consents to such disclosure; or
- (c) a medical record relating to a person involved in the accident or incident.

5.52 **10(3)** Except by order of a relevant court and subject to Section 5.56, the Bureau shall not be required to disclose to anyone—

- (a) personal information relating to a person involved in the accident or incident or with the investigation of that accident or incident (other than personal information protected by Section 5.51);
- (b) the opinion of a Safety investigator or a person appointed under Section 5.14 which is unsubstantiated by evidence;
- (c) the notes made by a Safety investigator or person appointed under Section 5.14, whether written or held electronically;
- (d) any trade secret or other information, the release of which, in the opinion of the Director-General would, or would be likely to, prejudice the commercial interests of the person holding it; or
- (e) working documents of the Bureau.

5.53 **10(4)** Except by order of a relevant court, a person who assists the Bureau under Section 5.14, Sub-sections 5.15(b) or 7.2(b) shall not disclose to anyone any of the evidence or information described in Sections 5.51 or 5.52 which the Bureau is precluded from disclosing save by order of a relevant court. This Section shall similarly apply to evidence or information provided to such a person if it is such that, if provided to the Bureau, would be subject to Sections 5.51 or 5.52.

5.54 **10(5)** No Order may be made under Sections 5.51, 5.52, or 5.53 unless the court is satisfied that disclosure is in the public interest, having regard in particular to any adverse impact such disclosure may have on the investigation by the Bureau to which the evidence or information relates, upon any future investigation and upon public safety.

5.55 **10(6)** Section 5.51(a) and (b) shall not be construed as placing a duty on the Bureau to seek consent to disclose from a person referred to in those sub-sections or compelling the Bureau to disclose where the Bureau has not sought consent at the time of the making of the statement.

5.56 **10(7)** Nothing in Sections 5.51 or 5.52 shall preclude the Bureau from—

- (a) publishing the opinion of a person in a report of the accident or incident in so far as it is relevant to the conclusions in the report;
- (b) publishing in a report of the accident or incident information based on matters contained in a statement, declaration, recording or other note referred to in Section 5.51(a) or in a medical record referred to in Section 5.51(c);
- (c) providing a person who makes a statement or declaration with a copy of such statement or declaration;

- (d) sharing the results of the investigation of an accident or incident with an investigating body in another State;
- (e) disclosing or discussing information based on a matter contained in a statement, declaration, recording, or other note it has obtained during the course of an investigation with a person providing assistance, evidence or information to the Bureau; or
- (f) disclosing the name or address of a person to a person providing assistance, evidence or information to the Bureau but only in so far as is necessary for the purpose of obtaining evidence or information in furtherance of the Bureau's investigation.

5.57 **10(8)** A person who assists the Bureau under Section 5.14, 5.15(b) or 7.2(b) shall not disclose to anyone other than a Policer Officer, a Coroner or any other person exercising a power conferred by law, evidence or any other information, to which Section 5.53 does not apply, that he acquires about an investigation through the giving of such assistance without the consent of the Director-General or a safety investigator acting on behalf of the Director-General.

5.58 **10(9)** A person who discloses evidence or information in contravention of Section 5.51, 5.53 or 5.57 shall be guilty of an offence.

5.59 **10(10)** In this regulation "relevant court" means—

- (a) the Federal High Court; or
- (b) any other authority, Tribunal or Commission established by law.

PART 6 —REPORTS OF INVESTIGATION OF RAILWAY OCCURRENCE

Preliminary Report

6.1 **11(1)** Subject to the requirements in the following Sections, the Bureau may at any time provide a report (including a preliminary report), advice, interim statement, recommendations or information relating to an accident or incident to such persons, and in such form and in such manner, as the Director-General considers appropriate in the circumstances, taking account of—

- (a) the nature and seriousness of the accident or incident;
- (b) the speed at which the report, advice, recommendations or information needs to be given or acted upon;
- (c) the stage which the investigation has reached; and
- (d) the relevance or importance of the examination or investigation findings.

6.2. The Preliminary Report shall be in such a form as may be determined by the Director-General and be so published within 30 days of the date of the accident or incident to be investigated. When matters directly affecting safety are involved, the Director-General shall provide a copy of the report to every person referred to in Section 6.12.

Final Report

6.3 **6.2 11(2)** Upon the conclusion of an investigation conducted by the Bureau into an accident, the Bureau shall publish a final report—

- (a) in the shortest time possible and normally not later than twelve months after the date of the occurrence; and
- (b) shall include in it such of the information described in Schedule 4 as is relevant to the

railway accident or incident.

6.4 **6.3 11(3)** Upon the conclusion of an investigation conducted by the Bureau, other than one to which Section 6.3 applies, the Bureau shall publish a report—

- (a) in the shortest time possible and normally not later than six months after the date of the occurrence; and
- (b) shall include in it such of the information described in Schedule 4 as is relevant to the railway accident or incident.

6.5 **6.4 11(4)** A report published under this regulation may relate to more than one railway accident or incident.

6.6 **6.5 11(5)** In relation to a report referred to in Section 6.3, the Bureau shall provide a copy of the report to every person referred to in Section 6.12.

Safety recommendations

6.7 **6.6 12.—(1)** The Bureau shall address a recommendation contained in a report prepared under Section 6.3 or 6.4—

- (a) to the Railway Regulatory Authority; and
- (b) to such other State, public body or authority as it considers it appropriate to do so by reason of the character of the recommendation.

6.8 **6.7 12(2)** A public body or authority to whom a recommendation is addressed under Section 6.7 shall, in relation to that recommendation—

- (a) ensure that the recommendation is duly taken into consideration and where appropriate acted upon;
- (b) report to the Bureau without undue delay or within such other period, not exceeding three months, as may be agreed with the Director-General —
 - (i) giving full details of any measure taken to implement the recommendation;
 - (ii) giving full details of any proposed measure to implement the recommendation and the proposed timetable for securing that implementation; or
 - (iii) giving a full explanation as to why the recommendation is not to be the subject of measures to be taken to implement it; and
- (c) give notice to the Bureau if at any time the information provided to the Bureau pursuant to Sub-section 6.8(b) is rendered inaccurate.

6.9 **6.8 12(3)** The requirement to report under Sub-section 6.8(b) or to give notice under Sub-section 6.8 (c) shall only apply to the extent that it is reasonably practicable for the public body or authority that is required to report to have the specified information or for it to become aware that the information has been rendered inaccurate.

6.10 **6.9 12(5)** A person who fails to comply with a requirement imposed on him by the Bureau in accordance with section 6.8 shall be guilty of an offence.

Consultation

6.11 **6.10 13.—(1)** Before publishing a final report under Sections 6.3 or 6.4, the Bureau shall serve a notice in writing on every person referred to in Section 6.12 of its intention to publish

the final report, supply a copy of the draft report or the relevant part of the draft report to each person and invite each person to make significant comments in response to its contents and forward it to the Bureau.

6.12 **6.11 13(2)** The persons referred to in Section 6.11 are—

- (a) any person whose reputation the Bureau considers may be adversely affected by a report, or, if that person is deceased, such person as appears to the Director-General, at the time he proposes to serve notice pursuant to Section 6.11, as best able to represent the interest and reputation of the deceased in the matter; and
- (b) any of the following persons whom the Bureau considers to be relevant—
 - (i) the owner of railway property;
 - (ii) a railway industry body, or a manufacturer or supplier of equipment, components or services to an owner of railway property or a railway industry body;
 - (iii) the railway regulatory authority;
 - (iv) victims and their relatives;
 - (v) owners of damaged property;
 - (vi) the emergency services involved;
 - (vii) representatives of staff and users of the railways; and
 - (viii) a person falling within the descriptions in sub-sections 6.12(b)(i) to (vii) in other States.

6.13 **6.12 13(3)** A person upon whom notice is served under Section 6.11 may make representations in response to the report within thirty days from service of the notice or within such longer period as may be determined by the Director-General.

6.14 **6.13 13(4)** The Bureau shall consider any comments it receives under Section 6.13 and may amend the draft report in consequence of any such comment.

6.15 **6.14 13(5)** A person to whom a draft report or part of a report has been supplied under Section 6.11 shall not disclose its contents without the permission of the Bureau.

6.16 **6.15 13(6)** A person who discloses the contents of a draft report in contravention of Section 6.15 shall be guilty of an offence.

Interim Statement

6.17 If the final report under Section 6.3 or 6.4 cannot be made publicly available within twelve months, the Bureau shall make an interim statement publicly available on each anniversary of the occurrence, detailing the progress of the investigation and any safety issues raised.

Annual report of the Director-General

6.18 **6.16 14.—(1)** Pursuant to Section 22 of the Nigerian Safety Investigation Bureau (Establishment) Act 2022, the Director-General shall, on or before 30th September each year, publish a report on the activities of the Bureau in respect of the previous calendar year.

6.19 **6.17 14(2)** Every report under section 6.18 shall contain in respect of the period to which it relates—

- (a) a summary of the investigations being conducted and concluded by the Bureau;

- (b) a list of the recommendations issued; and
- (c) details of the measures that have been reported to the Bureau as having been taken in response to its recommendations.

6.20 **6.18 14(3)** A report may contain such other information relating to the activities and objective of the Bureau specified in section 1 of the Nigerian Safety Investigation Bureau (Establishment) Act 2022 as the Director-General may determine.

PART 7 — ACCIDENT PREVENTION MEASURES

Safety data collection and processing systems (SDCPS)

7.1 The Bureau may establish and maintain a safety data collection and processing systems (SDCPS) to capture, store, aggregate and enable the analysis of safety data and safety information to facilitate the effective analysis of information on actual or potential safety deficiencies and to determine any preventive actions required in order to achieve an acceptable level of safety performance.

7.2 Unless the principle of exception applies, safety data, safety information and related sources contained in the SDCPS referenced in section 7.1 above shall not be —

- (a) used for disciplinary, civil, administrative and criminal proceedings against employees, operational personnel or organizations;
- (b) disclosed to the public; or
- (c) used for any purposes other than maintaining or improving safety.

7.3 The safety data and safety information contained in the database referenced in section 7.1 above shall be de-identified, summarized or aggregated prior to its use or disclosure in judicial or administrative proceedings.

7.4 The Principles of Exception to the protection of safety data, safety information and related sources shall be granted when the competent authority —

- (a) determines that there are facts and circumstances reasonably indicating that the occurrence may have been caused by an act or omission considered, in accordance with national laws to conduct constituting gross negligence, willful misconduct or criminal activity;
- (b) after reviewing the safety data or safety information, determines that its release is necessary for the proper administration of justice, and that the benefits of its release outweigh the adverse domestic and international impact such release is likely to have on the future collection and availability of safety data and safety information; or
- (c) after reviewing the safety data or safety information, determines that its release is necessary for maintaining or improving safety, and that the benefits of its release outweigh the adverse domestic and international impact such release is likely to have on the future collection and availability of safety data and safety information.

Voluntary Reporting System

7.5 Any person having knowledge of any safety-related event, other than an accident or incident, may make a voluntary report to the Bureau and provide any information that the person believes is relevant.

7.6 Where a voluntary report is made to the Bureau, no person shall release the identity of the person making the report or any information that could reasonably be expected to reveal that person's identity, unless the person making the report authorizes, in writing, its release.

7.7 A report made to the Bureau under a voluntary reporting system shall not be used against the person who made the report in any disciplinary, civil, administrative and criminal proceedings.

7.8 The protection provided in Sections 7.6 and 7.7 above regarding the identity of the person making the voluntary report shall not apply to situations involving unlawful acts, gross negligence or willful infractions by that person, or unless an appropriate authority determines in accordance with national legislation, the value of its disclosure or use in any particular instance, outweighs the adverse impact such action may have on rail transport safety.

Safety studies

7.9 **7.1 15.—(1)** The Bureau may conduct studies into, monitor and analyze any matter it considers may be relevant to the effective investigation of accidents or incidents including—
(a) the responses of those persons to whom the recommendations of the Bureau are addressed;
(b) technological and other developments; and
(c) statistics and trends relating to the railway industry including those relating to accidents and incidents.

7.10 **7.2 15(2)** In order to assist the Bureau in carrying out the activities described in Section 7.9, the Director-General may request assistance or information from—
(a) the railway industry body, the Nigeria Police, the Railway Regulatory Authority, a Judicial Authority, a Coroner, any public body or any other person exercising a power conferred by law, an accident investigating body of another State; or
(b) any other person, at times and in a manner the Director-General may reasonably determine.

7.11 **7.3 15(3)** The Director-General may pay reasonable compensation to a person who assists the Bureau pursuant to Section 7.10.

7.12 In addition to safety recommendations arising from accident and incident investigations, safety recommendations may result from diverse sources, including safety studies. If safety recommendations are addressed to an organization in another State, they shall also be transmitted to that State's Railway accident investigation authority.

7.13 ~~7.4~~ 15(4) The Director-General may arrange for the publication, in such form and in such manner as he considers appropriate, of such information and advice as is relevant to the objectives of the Bureau referred to in section 1 of the Nigerian Safety Investigation Bureau (Establishment) Act 2022.

7.14 ~~7.5~~ 15(5) The Bureau shall use its best endeavours to conduct an active exchange of information and views with the investigation bodies established in other States for the purpose of —

- (a) developing standardized investigation methods;
- (b) drawing up standardized principles for the follow-up of safety recommendations;
- or
- (c) adapting to the development of technical and scientific progress.

PART 8 — MISCELLANEOUS

8.1 The Director-General shall —

(a) make and amend the Rule making Handbook to provide guidance on the processes for making and amending the Nigerian Safety Investigation Bureau (Establishment) Act 2022, the Regulation, the Investigation Orders, Directives, Bulletins.

(b) make and amend an Investigation Policy and Procedures Manual (iPPM) to implement the provisions and future amendments of this Regulation, as well as technical standards detailing the Bureau's accident investigation duties, including organization and planning, investigation, and reporting;

(c) make and amend Investigation Order —

(i) in the event of an urgent need to amend this Regulation due to an amendment to relevant railway rules or Documents and where it is impracticable to amend this Regulation after the applicability date of the relevant rules following the procedures laid down in Section 9.4 below and the Bureau's Rulemaking Handbook ; or

(ii) due to emerging safety exigencies.

(d) issue Investigation Directive to require a mandatory action or compliance with any matter of operational safety that is not covered in this Regulation.

(e) provide guidance or safety information to the industry or require compliance with specific part of this Regulation.

8.2 The Director-General shall make available the Bureau's establishing Act, Regulation, Rulemaking Handbook, Investigation Policy and Procedures Manual, Directives, Orders and other Guidance Materials to the public by means of uploading such on The Bureau's internet website.

8.3 Procedures for making and amending Regulation

8.3(1) This Regulation shall be amended in a timely manner to ensure it conforms to the Nigerian Safety Investigation Bureau (Establishment) Act and any amendments thereto inline with the Rulemaking Handbook of the Bureau.

8.3(2) There shall be established a Regulation Committee, which shall be a standing committee within the Bureau appointed by the Director-General.

8.3(3) The Regulation Committee shall be responsible for —

(a) Monitoring amendments to the Standards and Recommended Practices contained in the Nigerian Safety Investigation Bureau (Establishment) Act 2022;

(b) Incorporating the amendments into this Regulation;

(c) Considering proposals for amendment to this Regulation made by stakeholders and other members of the public by way of meetings prior to adoption and incorporation;

(d) Proposing on its motion, amendments to the Regulation;

8.3(4) The Committee shall send Notices of Proposed Amendments (NPA) to Operators and other stakeholders and request their comments thereto within a period of 30 days.

8.3(5) Upon receipt of comments, the Committee may consider and incorporate same into the Regulation.

8.3(6) The Committee shall keep a record of such comments and its deliberations thereon.

8.3(7) Submission of Proposal —

(a) Any interested person may submit to the Regulation Committee, a proposal on the introduction, amendment or withdrawal of a Regulation;

(b) The proposal shall be in writing and shall —

(i) state the name and address of the proposer;

(ii) state the contents of the Regulation and amendment proposed or specify the Regulation which the proposer wishes to be withdrawn;

(iii) explain the interests of the proposer; and

(iv) contain any information, views or arguments supporting the proposal.

8.3(8) All amendments to this Regulation shall be signed and published by the Director-General of the Bureau.

9.4 Family Assistance Programme

9.4(1) The Bureau shall be the coordinating agency for the integration of Federal Government resources and the resources of other organizations to support efforts of local and State governments and liaising with the train Operator(s) involved to meet the needs of rail disaster victims and their families.

9.4(2) As soon as practicable after being informed of a train accident within Nigeria resulting in a major loss of life, the Director-General of the Bureau shall appoint and publicize the name, phone number and email address of the Family Assistance Coordinator, who shall be an employee of the Bureau and shall be responsible for acting as a point of contact for the families of passengers involved in the train accident and a liaison between the train Operator(s) and the families.

9.4(3) It shall be the responsibility of the Family Assistance Coordinator to request, as soon as practicable, from the train Operator involved in the accident a list, which is based on the best available information at the time of the request, of the names of the passengers that were aboard the train involved in the accident.

9.4(4) The Family Assistance Coordinator shall initiate notification of the following agencies and organizations to activate their plans for addressing the needs of families of passengers involved in the train accident and shall coordinate with the Train Operator an appropriate response based on the magnitude of the accident —

- (a) Nigerian Railway Corporation (NRC)
- (b) The affected Railway Operator
- (c) National Emergency Management Agency (NEMA)
- (d) Ministry of Transportation
- (e) Federal Ministry of Health
- (f) Ministry of Foreign Affairs
- (g) Ministry of Defence
- (h) Nigeria Police Force
- (i) Nigerian Security and Civil Defence Corps (NSCDC)
- (j) Federal Road Safety Commission (FRSC)
- (k) Nigerian Red Cross
- (l) Nigerian Red Crescent
- (m) Religious Disaster Relief Organizations
- (n) Other Relevant State Agencies.

9.4(5) The Family Assistance Coordinator shall not release to any person information on a passenger manifest obtained under paragraph 9.5.3, except to the family of the passenger to the extent that the Family Assistance Coordinator considers appropriate.

9.4(6) In the course of its investigation of an accident, the Director- General shall, to the maximum extent practicable and to the discretion of the Bureau's investigator-in-charge (IIC), ensure that the families of passengers involved in the accident are —

- (a) briefed about the accident, its causes, and any other findings from the investigation; and
- (b) allowed to visit to the accident site, if such a visit will not impede the investigation and is believed safe for family members.

9.4(7) The Train Operator(s) involved shall have fundamental responsibility to victims and their families affected by the accident and shall be primarily responsible to —

(a) activate and publicize the means for family members to inquire if a passenger's name is on the manifest;

(b) notify family members of victims using contact information provided by the passengers prior to public release of names of passengers;

(c) ensure effective interaction with emotionally distraught persons and their ability to provide basic information concerning the next steps in the assistance process for the family members, including transportation, lodging, meals, security, communications and incidental expenses.

9.4(8) All personnel involved in providing services to assist victims and their family members must be trained in crisis response and must demonstrate compassion, technical expertise, and professionalism. Personal information provided by family members and victims through discussions, interviews, counseling, or any other form of information exchange shall remain confidential and shall not be used for future litigation purposes.

9.4(9)—(a) The Director-General of the Bureau, in cooperation with the Nigerian Railway Corporation (NRC), the affected Railway Operator, National Emergency Management Agency (NEMA), Federal Ministry of Health, Ministry of Foreign Affairs, Ministry of Transportation, Ministry of Defence, Nigeria Police Force, Federal Road Safety Commission (FRSC), Nigerian Red Cross, Nigerian Red Crescent, Religious Disaster Relief Organizations, Other relevant State Agencies, shall establish a task force consisting of representatives of such entities and families, representatives of the train service employees, and representatives of such other entities as the Director- General considers appropriate.

(b) The task force established pursuant to paragraph (a) of this subsection, shall develop —

(i) guidelines to assist Train Operators in responding to train accidents;

(ii) recommendations on methods to ensure that attorneys and representatives of media organizations do not intrude on the privacy of families of passengers involved in a train accident;

(iii) recommendations on methods to ensure that the families of passengers involved in a train accident who are not citizens of Nigeria receive appropriate assistance;

(iv) recommendations on methods to ensure that State mental health licensing laws do not act to prevent out-of-state mental health workers from working at the site of a train accident or other related sites;

(v) recommendations on the extent to which military experts and facilities can be used to aid in the identification of the remains of passengers involved in a train accident; and

(vi) recommendations on methods to improve the timeliness of the notification provided by Train Operators to the families of passengers involved in a train accident, including: —

(1) an analysis of the steps that Train Operators would have to take to ensure that an accurate list of passengers on board the train would be available within one (1) hour of the accident and an analysis of such steps to ensure that such list would be available within three (3) hours of the accident;

(2) an analysis of the added costs to Train Operators and travel agents that would result if Train Operators were required to take the steps described in subparagraph (i);

(3) an analysis of any inconvenience to passengers, including train delays, that would result if Train Operators were required to take the steps described in subparagraph (i); and

(4) an analysis of the implications for personal privacy that would result if Train Operators were required to take the steps described in subparagraph (i).

Note :— Nothing in this section may be construed as limiting the actions that a Train Operator may take, or the obligations that a train service may have, in providing assistance to the families of passengers involved in a train accident.

PART 9 OFFENCES

9.1 **16.—(1)** A person guilty of an offence under Sections 4.10, 5.19, 5.23, 5.26, 5.28, 5.32, 5.33, 5.46 to 5.49, 5.58, 6.10 or 6.16 shall be liable—

(a) on summary conviction to imprisonment for a term not exceeding six months, or to a fine not exceeding ₦200,000 or both; and

(b) on conviction on indictment, to imprisonment for a term not exceeding six months, or a fine not exceeding ₦200,000, or both.

9.3 17. Nothing in Sections 5.23 or 5.28 shall apply to —

(a) the Coroner or the Prosecutor acting under the authority of the Attorney General, or

(b) a Police Officer acting in accordance with directions given by the Inspector-General of Police under the subsisting Nigeria Police Act in pursuance of lawful instructions received by him from the appropriate Prosecutor under Attorney General.

From NSIB (Est.) Act 2022

PART XI — OFFENCES AND PENALTIES

52.—(1) A person shall not obstruct the investigation of any transportation occurrence by the Bureau.

(2) Any person who contravenes the provision of subsection (1) commits an offence and is liable on conviction —

(a) in the case of an individual, to a fine not more than N500,000 or imprisonment for a term not more than six months or both ; and

(b) in the case of a body corporate, a fine not more than N1,000,000 and shall during the subsistence of the offence, be liable to an additional fine for each day the offence continues —

(i) in the case of a corporation, N100,000, and

(ii) in the case of a person acting in the capacity of an officer or representative of the organisation, where the offence was committed, N50,000 only.

53. Where an offence under this Act has been committed by a body corporate, and is proven to have been committed with the consent or connivance of, or attributable to any neglect on the part of any Director, Manager, Secretary or other similar officer of the body corporate or any person purporting to act in any of those capacities, the —

(a) person is liable on conviction to a fine not more than N500,000 or imprisonment for a term not more than six months ; and

(b) body corporate is liable on conviction to a fine not more than N5,000,000.

SCHEDULE 1 **Section 4.1**

Types of accidents and incidents which must be notified to the Nigerian Safety Investigation Bureau immediately and by the quickest means available

1. An accident resulting in the death of a person or the serious injury to persons.
2. An accident on a level crossing involving rolling stock, resulting in the death of a person or serious injury to a person.
3. A collision between rolling stock on a running line which causes damage or blocks a running line that was open to railway traffic at the time of the collision.
4. A derailment of rolling stock on a running line that was open to railway traffic at the time of the derailment, or which blocks a running line that was open to railway traffic at the time of the derailment.
5. A collision of rolling stock with an arrestor mechanism other than in a siding, that causes damage to the rolling stock.
6. An accident involving the release or combustion of dangerous goods being carried on rolling stock that necessitates the evacuation of the area.
7. An accident or incident that is likely to result in suspension of a railway service for a period in excess of 6 hours.
8. An accident that causes extensive damage to rolling stock, the infrastructure or the environment.
9. An accident or incident which occurred other than during train operation which might have led to a death, serious injury or extensive damage to rolling stock, the infrastructure or the environment.
10. Any unintended division of a train.

SCHEDULE 2 **Section 4.2**

Types of accidents and incidents which must be notified to the Nigerian Safety Investigation Bureau as soon as reasonably practicable and in any event within three working days of occurrence:

1. A collision of rolling stock with an object on or adjacent to a running line which under slightly different conditions might have caused a derailment, except—
 - (a) if it is notifiable under Section 4.1;
 - (b) if the object was an animal; or
 - (c) where the obstruction was caused by an obvious act of vandalism.
2. An accident resulting in the serious injury of one person only except if it is notifiable under Section 4.1.
3. An obstruction of, or damage to, track caused by a road vehicle encroaching onto a running line.
- 4.
5. The failure of rolling stock on the track caused by—
 - (a) the failure of an axle;
 - (b) the failure of a wheel or tyre, including a tyre loose on its wheel; or
 - (c) a fire or severe electrical arcing or fusing, whether or not extinguished by a fire-fighting service.
6. The failure of a cable or the fastening thereof of the winding plant or other equipment involved in working a railway operated by a cable haulage system.
7. Rolling stock passing a railway signal displaying a stop aspect, unless either the driver had been given authority to pass the signal or the signal did not display in sufficient time to enable the driver to stop safely at the signal.

SCHEDULE 3 **Section 4.3**

Types of accidents and incidents which must be notified to the Nigerian Safety Investigation Bureau no later than ten days after the end of the month in which the accident or incident occurred:

1. The failure of equipment at a level crossing which reduces the level of safety on the railway.
2. The failure of a rail, including a track rail, on a running line whether by a complete fracture through its cross section, or by the buckling or detachment of a piece of rail and which necessitates an immediate closure of that running line or speed reduction on that running line.
3. The failure of a structure on railway property, including a tunnel, bridge, viaduct, culvert, railway cutting, embankment, station, signal or fixed electrical equipment other than during train operations which may have led to an accident or which otherwise reduces the level of railway safety.
4. A failure in the signaling system which reduces the level of railway safety.

SCHEDULE 4 **Section 6.3**

Principal content of an accident and incident investigation report

Synopsis

1. The summary shall contain a short description of the occurrence, when and where it took place and its consequences. It shall state the direct causes as well as contributing factors and underlying causes established by the investigation. The main recommendations shall be quoted and information shall be given on the addressees.

Immediate facts of the occurrence

2.— (1) The occurrence—

- ✓ date, exact time and location of the occurrence;
- ✓ description of the events and the accident site including the efforts of the rescue and emergency services;
- ✓ the decision to establish an investigation, the composition of the team of investigators and the conduct of the investigation.

(2) The background to the occurrence—

- ✓ staff and contractors involved and other parties and witnesses; the trains and their composition including the registration numbers of the items of rolling stock
- ✓ involved;
- ✓ the description of the infrastructure and signaling system - track types, switches, interlocking,
- ✓ signals, train protection;
- ✓ means of communication;
- ✓ works carried out at or in the vicinity of the site;
- ✓ trigger of the railway emergency plan and its chain of events;
- ✓ trigger of the emergency plan of the public rescue services, the police and the medical services and its chain of events.

(3) Fatalities, injuries and material damage—

- ✓ passengers and third parties, staff, including contractors;
- ✓ cargo, luggage and other property;
- ✓ rolling stock, infrastructure and the environment.

(4) External circumstances—

weather conditions and geographical references.

Record of investigations and inquiries

3.— (1) Summary of testimonies (subject to the protection of identity of the persons)—

- ✓ railway staff, including contractors;
- ✓ other witnesses.

(2) The safety management system—

- ✓ the framework organization and how orders are given and carried out;
- ✓ requirements on staff and how they are enforced;

- ✓ routines for internal checks and audits and their results;
 - ✓ interface between different actors involved with the infrastructure.
- (3) Rules and regulations—
- ✓ relevant Community and national rules and regulations;
 - ✓ other rules such as operating rules, local instructions, staff requirements, maintenance prescriptions and applicable standards.
- (4) Functioning of rolling stock and technical installations—
- ✓ signaling and control command system, including registration from automatic data recorders;
 - ✓ infrastructure;
 - ✓ communications equipment;
 - ✓ rolling stock, including registration from automatic data recorders.
- (5) Documentation on the operating system—
- ✓ measures taken by staff for traffic control and signaling;
 - ✓ exchange of verbal messages in connection with the occurrence, including documentation from recordings;
 - ✓ measures taken to protect and safeguard the site of the occurrence.
- (6) Man-machine-organization interface—
- ✓ working time applied to the staff involved;
 - ✓ medical and personal circumstances with influence on the occurrence, including existence of physical or psychological stress;
 - ✓ design of equipment with impact on man-machine interface.
- (7) Previous occurrences of a similar character.

Analysis and conclusions

4.—(1) Final account of the event chain—
establishing the conclusions on the occurrence, based on the facts established in Section 3.

(2) Discussion—
analysis of the facts established in Section 3 with the aim of drawing conclusions as to the causes of the occurrence and the performance of the rescue services.

(3) Conclusions—

- ✓ direct and immediate causes of the occurrence including contributory factors relating to actions taken by persons involved or the condition of rolling stock or technical installations;
- ✓ underlying causes relating to skills, procedures and maintenance;
- ✓ root causes relating to the regulatory framework conditions and application of the safety management system.

(4) Additional observations—
deficiencies and shortcomings established during the investigation, but without relevance to the conclusions on causes.

(5) Measures that have been taken—

Record of measures already taken or adopted as a consequence of the occurrence.

(6) Recommendations.

References:

1. Nigerian Railway Corporation - General Rules, Chapter VII (Accidents)
2. Nigerian Railway Corporation – Working Instruction, Chapter 6 (Accidents and Enquiries)
3. Government Inspector of Railways – Manual of Railway Safety Inspection, Chapter VIII (Accidents and Enquiries)
4. Nigerian Railway Corporation – Manual of Accident