

ANNEXURES

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PASSENGER RAIL AGENCY
OF SOUTH AFRICA

BOARD CHARTER

OF THE BOARD OF CONTROL

OF THE PASSENGER RAIL AGENCY OF SOUTH AFRICA (PRASA)

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PURPOSE

1. The purpose of this Board Charter is to expand on the responsibilities of the Board of Control of the PRASA as set out in section 23 of the Legal Succession Act 9 of 1989 and define the responsibilities of the board as a unitary working group, and those of individual Board Members, covering the areas that are not explicitly dealt with in the Act.
2. The Charter sets out internal board management and corporate governance provisions that the Board has decided to adopt.

TERMS OF REFERENCE OF THE PASSENGER RAIL AGENCY OF SOUTH AFRICA BOARD OF CONTROL**BOARD RESPONSIBILITIES****General**

3. The PRASA Board of Control must ensure that PRASA effectively carries out its mandate as set out in the **Legal Succession Act** and **PFMA** by collectively directing the PRASA's affairs, whilst meeting the appropriate interests of the Executive Authority and relevant stakeholders.
4. The board makes collective decisions about issues that will determine PRASA's credibility and continued ability to adapt to the changes in the regulatory environment.
5. It is a primary responsibility of PRASA Board of Control to ensure that PRASA complies with the obligations imposed by **various laws** and **regulations** that are applicable to PRASA and that management of regulatory compliance is the responsibility of the Board.
6. The board must provide leadership to PRASA, set its direction and pace, and develop its culture and ethos.
7. Board Members have a duty to the PRASA. They have ultimate responsibility for PRASA's performance and are not mandated delegates or servants of any of its stakeholders.
8. The board must decide whether a member that has declared a conflict of interests should remain in a meeting or be recused.
9. The board and all individual Board members must ensure that the principles set out in the Code of Corporate Practices and Conduct (King II Report) as well as the Board Code of Conduct in Annexure A hereto are observed in all the activities of the board.

Strategic Planning and Performance Monitoring

10. To enable PRASA to carry out its mandate, the board must:
 - 10.1 Establish the vision, mission and values of the organisation, guide the development of PRASA's strategy and set the structure of the organisation such that it is able to give effect to its mandate;



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- 10.2 Delegate some of its powers to the executive thus enabling the executive to effectively manage and control the operations of PRASA on a day-to-day basis;
- 10.3 Incorporate in its strategic plan, the strategic direction provided by the Executive Authority and policy changes by Government; and
- 10.4 Oversee PRASA's executive implementation of the strategic plan, particularly in respect of: ensuring procedures and systems are in place to serve as checks and balances on the information received by the board; and performance against annual budgets, operational plans, relevant industry norms and prior year's performance.
- 10.5 Account to the Executive Authority on implementation of the strategic plan.

Risk Management

11. The board is responsible for the total risk identification and management process, including: physical and operational risks; human resource risks; technology risks; business continuity and disaster recovery and compliance risks. The board must therefore:
 - 11.1 Form its own opinion about the effectiveness of the risk management process in PRASA;
 - 11.2 Set policies on PRASA risk strategy with the executive;
 - 11.3 Decide on PRASA's appetite or tolerance for risk in pursuit of PRASA goals and objectives;
 - 11.4 Ensure that the Executive undertakes an ongoing process of identifying risk and measuring impact against assumptions; and
 - 11.5 Establish mechanisms for management to account for designing, implementing, and monitoring the risk management process and integrating risk management into all PRASA activities.

Regulatory Compliance Management

12. The Board is responsible for the regulatory compliance risk, and must ensure that PRASA complies with the obligations imposed by various laws and regulations.

The Board must therefore:

 - Form its own opinion about the effectiveness of the regulatory compliance management process;
 - Set compliance risk policy;
 - Establish mechanisms for management to account for designing, implementing and monitoring the regulatory compliance process and integrating it into all PRASA activities;
 - Ensure that management has a common understanding regarding the co-ordination of the compliance arrangement throughout the organisation;
 - Decide on PRASA's appetite for compliance risk in pursuit of PRASA goals and objectives;
 - Ensure a seamless co-ordination of the compliance arrangement throughout the organisation.

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Stakeholder Management

13. In reporting to stakeholders, the board has the duty to present a balanced and understandable assessment and to address material matters of significant interest and concern to all stakeholders. The board must assess the quality of the information it provides to stakeholders based on principles of openness and substance rather than on form.
14. The Annual Report of PRASA must comply with section 7(1)(j) of the Legal Succession Act and be a comprehensive, objective assessment of PRASA's activities that enables the Executive Authority and relevant stakeholders to obtain a full, fair and accurate account of the PRASA's performance.

RESERVED POWERS

15. The PRASA Board of Control has reserved powers which cannot be delegated to the executive, in respect of the following matters:
 - 15.1 Approval of the Annual Report and Annual Financial Statements of PRASA;
 - 15.2 The appointment of Auditors and approval of audit fee;
 - 15.3 Ratification and approval of the vision, mission and values of PRASA and the approval of the three-year Strategic Plan of PRASA;
 - 15.4 Consideration and approval of PRASA's performance against objectives and budgets;
 - 15.5 Approval of the risk assessment report and risk management plan of PRASA;
 - 15.6 Approval of capital expenditure, acquisitions and disposals in excess of the discretionary power delegated to the chief executive officer;
 - 15.7 Approval of internal accounting controls and significant changes in accounting policy;
 - 15.8 Recommending to the Executive Authority, the appointment and removal of the chief executive officer;
 - 15.9 Approval of the remuneration of non-executive Board Members within the ambit of the laws and regulations that determine the remuneration of Board Members of Public Entities as defined in the PFMA;
 - 15.10 Approval of the roles, duties and discretionary powers of the chairperson and chief executive;
 - 15.11 Personnel policies, particularly in regard to health and safety;
 - 15.12 Approval of any matter that would have a material effect on PRASA's financial position, liabilities, future strategy or reputation;
 - 15.13 Approval of contracts that do not relate to the ordinary business of PRASA;
 - 15.14 Approval of PRASA's Code of Ethics; and
 - 15.15 Approval of delegation of the board's powers and authority to committees of the board subject to the Committees reporting back to the board.

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PERFORMANCE REQUIREMENTS

Board Performance

16. The board must conduct an evaluation of its performance, at least, on an annual basis. Annexure A hereto sets out the principles and tools for the board evaluation.

Performance of Individual Board Members

17. All members of the board, including the Chairperson, must be provided with performance programmes, in writing, identifying the key performance areas, key performance indicators and time frames for the achievement of performance targets expected from the respective Board Members.
18. The performance programmes of respective Board Members must be relevant to and sufficiently detailed to contribute to the realisation of the board's terms of reference. Annexure B hereto provides guidelines for the development of performance programmes.
19. On an annual basis, the chairperson must evaluate the performance of each Board Member through a discussion with each Board Member based on that Board Member's performance programme.
20. Likewise the Board must appoint some members of the board to evaluate the performance of the Chairperson in the manner described in 18 to 20 above, as applicable.
21. The chairperson must report to the board the results of the performance evaluations and provide the board with the opportunity to discuss the actions that the chairperson recommends addressing deficiencies in the performance of individual Board Member and/or improving performance.
22. The members appointed by the Board to evaluate the performance of the Chairperson must report the results of the performance evaluation in the manner described in 22 above.

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ANNEXURE A

CODE OF ETHICS OF THE PASSENGER RAIL AGENCY OF SOUTH AFRICA BOARD OF CONTROL

Purpose

1. The purpose of PRASA code of ethics is to:
 - (a) Develop and articulate behavioural standards and cultivate the moral sensitivity of individuals in PRASA;
 - (b) Prevent ethical malpractice and raise standards of moral behaviour throughout the organisation;
 - (c) Ensure that the debate on ethical matters remains open in PRASA and regular review of the code of ethics is undertaken;
 - (d) Promote organisational integration and co-ordination, and thus rally the Board and staff of the PRASA around the moral values specified in the code and strengthen their commitment to the organisation;
 - (e) Communicate the organisation's commitment to moral responsibility and thus enhance PRASA's reputation amongst internal and external stakeholders; and
 - (f) Give effect to the organisations' commitment through the implementation of mechanisms and measures to promote compliance and impose sanctions for non-compliance.

Form

2. The PRASA code of ethics is both aspirational and directional in form, thus; while articulating the general principles and values that guide conduct, it also provides specific guidance that directs decision-making, particularly in morally complex situations, and renders the code amenable to enforcement.

Implementation of the Code

3. The Code enters into effect from the date of its adoption by the Board of Control and its principles are applicable throughout PRASA.
4. The Code is also applicable to the staff of PRASA, who are required to uphold the standards of ethical conduct set out in this Code and abide by the Code to the extent applicable to employees of PRASA.

Ethical Values and Standards

5. The Board of Control of PRASA is under a legal duty to act in a faithful manner towards and on behalf of the PRASA and as such commits itself to the highest standards of behaviour. To that end, Board Members are expected to:
 - 5.1 Ensure that they devote to PRASA the time necessary to properly carry out their responsibilities and duties to PRASA;

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- 5.2 Exercise both the care and skill any reasonable person would be expected to show in looking after their own affairs as well as having regard to their actual knowledge and experience;
- 5.3 Exercise the utmost good faith, honesty and integrity in all their dealings with or on behalf of PRASA and act independently of any outside fetter or instruction;
- 5.4 Always act in the best interest of PRASA and never for any sectoral interest;
- 5.5 Act with care, always striving to uphold the positive image and credibility of PRASA, while having due regard to the interests of all stakeholders;
- 5.6 Qualify themselves on a continuous basis with sufficient understanding of PRASA's business and the financial, industrial, social and environmental milieu in which PRASA operates, and where necessary, rely on expert advice;
- 5.7 Take all reasonable steps to satisfy themselves that they are in a position to take informed decisions, including steps to secure – in a timely manner – all information necessary to assist in making informed decisions;
- 5.8 Treat any matters relating to PRASA that were learned in their capacity as Board Member, as strictly confidential and not divulge them to anyone without the authority of PRASA; and
- 5.9 Act in compliance with the letter and spirit of the law and in particular, the Public Finance Management Act, Act No 1 of 1999 as amended (the PFMA) and Treasury Regulations issued in terms of the PFMA in regard to financial management in PRASA.
- 5.10 Always avoid a conflict of duties and/or interests and disclose potential conflicts of interest at the earliest possible opportunity.
- 5.11 Attend meetings, review information and board documentation and monitor PRASA activities.

Prescriptions

6. Board Members are prohibited from embarking in any unethical conduct whatsoever and in carrying out their fiduciary duties, Board Members must:
 - 6.1 Observe the duty of loyalty by maintaining confidentiality and acting for proper purpose at all times;
 - 6.2 Carry out their duty of care by acting at all times in good faith, in the best interest of PRASA and with care and skill; and

Sanctions

7. The Board must take disciplinary action against any Board Member whose conduct contravenes this Code, and impose the appropriate sanction and/or remedial actions taking into account all the relevant considerations, including the particular circumstances in which the contravention was conducted, the gravity of the consequences or potential consequences.
8. Criminal conduct will be treated in accordance with the provisions of the PFMA and reported for criminal investigation.

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ANNEXURE B**PASSENGER RAIL AGENCY OF SOUTH AFRICA BOARD OF CONTROL EVALUATION****BACKGROUND**

The Board of Control of the Passenger Rail Agency of South Africa (PRASA) is committed to adhere to and promote the principles set out in the Code of Corporate Practice and Conduct (the King Report on Corporate Governance for South Africa – 2002) as well as in the Protocol on Corporate Governance in the Public Sector to the extent that such principles are applicable to PRASA.

The Board therefore undertakes to use the evaluation tool contained herein to assess its performance. The responsibilities against which the performance of the Board as well as that of individual Board Members is to be assessed are identified in the Board Charter. In addition to the assessment of performance in respect of various areas of responsibility, this tool also enables the Board to review its governance role.

A review of management's expectations of the Board is important for the objectivity and credibility of the Board's self-evaluation process. The PRASA Board's self-evaluation process therefore involves the Board review, articulation and prioritisation of tasks. This process enables the Board to identify the information it requires from management. Thereafter the Board can proceed to benchmark its performance against its own expectations and identify the substantive areas of improvement.

The PRASA Board evaluation tool is based on the evaluation guide provided in the King Report on Corporate Governance for South Africa.

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BOARD PERFORMANCE VIEWED FROM THE PERSPECTIVE OF MANAGEMENT

The Board will ask the chief executive officer (with the input of senior managers and other PRASA staff who have regular contact with the Board) to assess the Board on the basis of the following questions:

RANKING OF SCORES:	TOTAL RANKING:
1. Needs significant improvement	0 to 21- Needs significant improvement
2. Needs improvement	22 to 32 - Needs improvement
3. Consistently good	33 to 43 - Consistently good
4. Outstanding, one of the best in this area	From 44 - Outstanding, one of the best regulatory authorities

		1	2	3	4
1.	Is the division of responsibility between management and the board appropriate and clear?				
2.	Does the board provide wise counsel?				
3.	Does the board provide clear direction?				
4.	Does the board challenge management as appropriate?				
5.	Does the board engender management's trust (and does the board hold information confidential)?				
6.	Does the board focus on the appropriate issues?				
7.	Is the board too "micro" in its supervision?				
8.	Does the board request appropriate, relevant information?				
9.	Are board members prepared for board meetings?				
10.	Are board members knowledgeable about the organization and the issues it faces?				
11.	Is the proper mix of expertise reflected on the board?				

BOARD SELF-EVALUATION FORM

Where necessary, further information relating to a question/questions may be provided in an information page attached to the evaluation tool.

RANKINGS OF SCORES:	TOTAL RANKING:
1- Needs significant improvement	0 to 129 - Needs significant improvement
2 - Needs improvement	130 to 194 - Needs improvement
3 - Consistently good	195 to 339 - Consistently good
4 - Outstanding, one of the best regulatory authorities	From 340 - Outstanding, one of the best regulatory authorities



1	Board Role and Agenda Setting (Monitoring Performance and Strategic Planning)	1	2	3	4
1.1	Has the board defined its role and responsibilities and communicated the scope of its responsibility?				
1.2	In what ways should the board's role be expanded or reduced?				
1.3	Has the board identified, prioritised and scheduled those issues that it believes should be discussed/reviewed by the board on a regular basis?				
1.4	Has the board identified the information (both internal and external) it requires on a regular basis, including information by which to benchmark the strategic plan?				
1.5	Has the board considered/implemented mechanisms designed to identify areas of potential problems in performance before crisis occurs?				
1.6	Has the board developed performance objectives that respond to the organisation's specific needs (including comparisons to other similar organisations)?				
1.7	Is the board effective in monitoring operational and financial performance, the integrity of the processes involved and the organisation's system of internal controls?				
1.8	How does this board compare to other boards on which a Board Member serves?				
2	Size, Composition and Independence of Board	1	2	3	4
2.1	Has the board designed, articulated and recommended to the Minister policies – including eligibility criteria – that ensure appropriate board size and a composition of skills, breadth of experience, demographics, gender, race and other characteristics among its membership to be effective?				
2.2	Is the board sufficiently independent of management?				
2.3	Do Board Members have an opportunity to meet without the chief executive officer on a regular basis?				
2.4	Do board membership criteria ensure that Board Members have sufficient time and independent stature?				
2.5	Does the board seek outside advice when appropriate?				
2.6	How could the composition and organisation of the board, including committee structure be improved?				
3	Board Member Orientation and Development	1	2	3	4
3.1	Has the board defined and communicated its expectations concerning Board Member responsibilities?				
3.2	Are new Board Members provided with adequate information about the organisation and the board?				
3.3	Are Board Members effectively retained?				
3.4	Do Board Members receive proper training in corporate governance matters?				
3.5	Do Board Members receive continuing education on issues facing the organisation?				
3.6	Has a Board Member been specifically appointed to oversee and be responsible for the Safety, Health and Environmental and sustainability issues?				



4.	Board Leadership, Teamwork and Management Relations	1	2	3	4
4.1	How effective is the board's leadership, both at the board and the committee levels?				
4.2	Is board leadership distinct from management leadership?				
4.3	Does the board effectively manage the conduct of board business?				
4.4	Is the board effective as a team?				
4.5	How well does the board work with the chief executive officer and other managers?				
4.6	Do the Board Members and the chief executive officer work to create an open culture that encourages frank discussions?				
5.	Board (and Committee) Meetings	1	2	3	4
5.1	Are board and committee meetings effective?				
5.2	Is the number of scheduled meetings sufficient?				
5.3	Does the agenda-setting process allow for appropriate issues to be raised as necessary?				
5.4	Is the agenda ordered with sufficient time to discuss the most complex and critical issues?				
5.5	Can and do Board Members influence the content of the agenda?				
5.6	Do Board Members receive sufficient information about agenda items in advance?				
5.7	Is the quality, quantity, and timing of information given to Board Members adequate?				
5.8	Is sufficient meeting time devoted to discussion of the performance of PRASA against its pre-determined objectives and review of strategic issues?				
5.9	How could board committees be improved in terms of meeting frequency, duration, content, location, and interests?				
5.10	How well are non-committee members informed about the deliberations of each committee?				
5.11	Could the information prepared for the board be improved in terms of presentation, timeliness, level of detail, content or focus?				
5.12	Are the information needs of the board expected to change over the next few years?				
6.	Board Member and Boards Evaluation, Compensation and Ownership	1	2	3	4
6.1	Are Board Members, committees and the board regularly and effectively evaluated?				
6.2	Is the board ensuring that Board Members are meeting board standards and expectations?				
6.3	Has the board assessed its maximum potential both individually and as a group?				
6.4	Has the board surveyed other Boards who perform better than it does, and assessed how it can learn from them?				
6.5	Has the board considered benchmarks by which to gauge board performance?				
6.6	Does the board have a credible process for reviewing its progress in meeting its goals and for maintaining the necessary resources and corporate support to function effectively?				

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6.7	Is the board committed to continuously improving performance, with well-established procedures for setting performance goals?				
6.8	Is there a process for reducing evaluations to recommendations that are monitored for compliance?				
6.9	Is the free and open exchange of views encouraged?				
6.10	Are Board Members properly compensated?				
6.11	Is Board Member compensation structured so as to align the interests of the Board Members with the long-term interests of the organisation				
7.	Management Evaluation, Compensation and Ownership	1	2	3	4
7.1	Does the board regularly evaluate the performance of the chief executive officer?				
7.2	Does the board regularly evaluate the performance of other senior management?				
7.3	Does the board regularly evaluate the performance of the organisation?				
7.4	Can the board's methods of measuring management performance be improved?				
7.5	Has the board created an appropriately designed remuneration system?				
7.6	Does the board effectively reward performance?				
8.	Succession Planning	1	2	3	4
8.1	Does the board have an organisation-wide succession plan in place?				
8.2	Does the board have a specific succession plan for the chief executive officer?				
8.3	Is the board familiar with other senior managers in the organisation and does it regularly review their strengths as possible successors?				
9.	Ethics	1	2	3	4
9.1	Does the board communicate the proper ethical and legal responsibilities to its members?				
9.2	Does the board ensure ethical behaviour and proper compliance standards throughout the organisation and set the right "tone at the top" by its own behaviour?				
10.	Stakeholders	1	2	3	4
10.1	Does the board ensure appropriate consideration for and treatment of various stakeholders, including the shareowner Transport, employees and communities?				
10.2	Does the Board communicate effectively with the Minister of Transport in the capacity of institutional shareowner and the Department of Transport?				

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Transit Board Self-Assessment Tool

11	Behavioural Assessment Tool (Optional): Please answer the questions in the space provided	
11.1	Goals: Does the Board Know what needs to be accomplished and when? Do members know what the organization is trying to achieve?	
	Goals:	
11.2	Participation: Do Board members have an opportunity to contribute in meetings? Are all members listened to during board meetings?	
	Participation:	
11.3	Feelings: Can board members express their feelings? If they do, do they get empathetic responses?	
	Feelings:	
11.4	Diagnosis of team problems: When process problems arise are the causes addressed, rather than the symptoms?	
	Diagnosis of team problems:	
11.5	Leadership: Does the Board depend too much on a single person? Do members other than the nominal leader feel free to volunteer to meet group needs?	
	Leadership:	
11.6	Decisions: Is consensus sought and tested? Are deviations appreciated? Once made, are decisions fully supported by the board.	
	Decisions	
11.7	Trust: Do Board members trust one another? Can they express negative reactions without fearing reprisals?	
	Trust	
11.8	Creativity: Does the Board seek new and better ways to do things? Are individuals changing and growing?	
	Creativity	

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Goal-Setting Process

12. Please suggest the most important, challenging, and realistic goals that the board should achieve in the next year.	
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