Session 1.6 Need for and Legal Implications of RSAs

Conducting Road Safety Audits & Appraisals

Presented by: RTS & AGTT

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5. Legal requirement for RSAs
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United Nations Decade of Action 2011 - 2020

- 1,3 mil people killed annually.
- 20-50 million injured per annum.
- 46% of deaths are vulnerable road users.

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United Nations Decade of Action 2011 - 2020

Top 10 leading causes of death, 2004 and 2030 compared

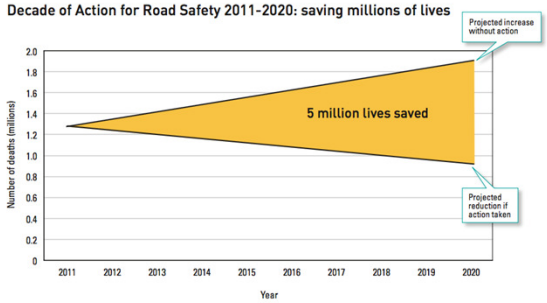
2004

Rank	Disease or Injury
1	Ischaemic heart disease
2	Cerebrovascular disease
3	Lower respiratory infections
4	Chronic obstructive pulmonary disease
5	Diarrhoeal diseases
6	HIV/AIDS
7	Tuberculosis
8	Trachea, bronchus, lung cancers
9	Road traffic injuries
10	Prematurity & low-birth weight

2030

Rank	Disease or Injury
1	Ischaemic heart disease
2	Cerebrovascular disease
3	Chronic obstructive pulmonary disease
4	Lower respiratory infections
5	Road traffic injuries
6	Trachea, bronchus, lung cancers
7	Diabetes mellitus
8	Hypertensive heart disease
9	Stomach cancer
10	HIV/AIDS

Decade of Action for Road Safety 2011-2020: saving millions of lives



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United Nations Decade of Action 2011 - 2020

Pillars of the Global Plan for the Decade of Action for Road Safety 2011–2020

NATIONAL ACTIVITIES

Pillar 1	Pillar 2	Pillar 3	Pillar 4	Pillar 5
Road safey management	Safer roads and mobility	Safer vehicles	Safer road users	Post-crash response

INTERNATIONAL COORDINATION OF ACTIVITIES

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Global Plan Decade of Action for Road Safety 2021- 2030

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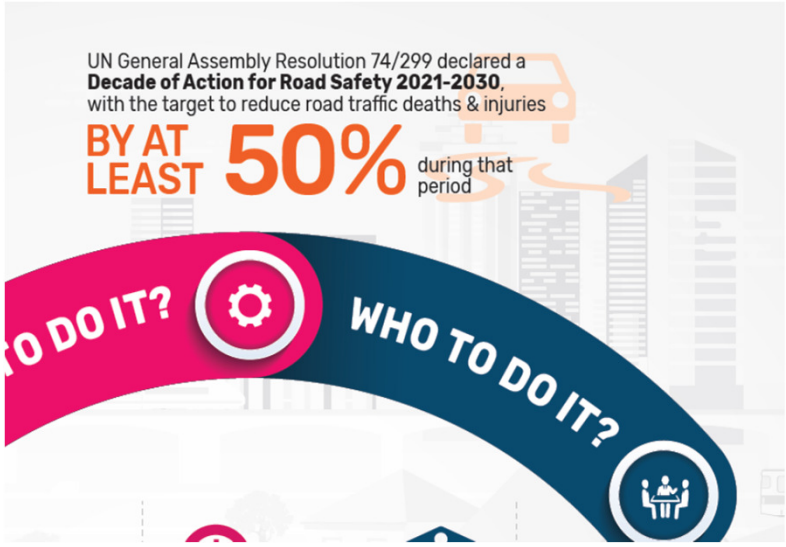
Global Plan Decade of Action for Road Safety 2021 - 2030



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South African Road Safety Strategy 2016-2030

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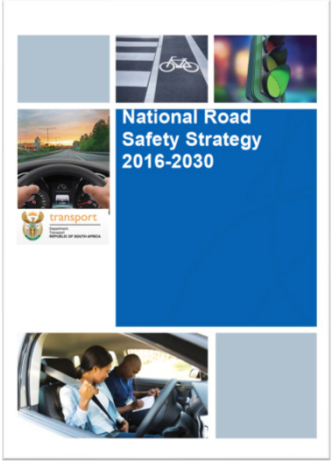
National Road Safety Strategy 2016 - 2030



Strategic Target: Reduce road fatalities with 50% by 2030

Strategic themes

PILLAR 1: Road safety management	PILLAR 2: Safer roads and mobility	PILLAR 3: Safer vehicles	PILLAR 4: Safer road users	PILLAR 5: Post- crash response

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National Road Safety Strategy 2016 - 2030

Strategic Target: Reduce road fatalities with 50% by 2030

Strategic themes

PILLAR 1: Road safety management	PILLAR 2: Safer roads and mobility	PILLAR 3: Safer vehicles	PILLAR 4: Safer road users	PILLAR 5: Post- crash response
Improve coordination and management	Identify and address **high road safety risk** and **hazardous locations**	Increase vehicle safety standards	Improve road user behaviour & involve communities in road safety education and awareness programmes	Improve effectiveness of first responses
Improve road safety data	Provide self- explaining and forgiving road envi-ronment for all road users	Ensure vehicles on the road network are roadworthy	Improve enforcement effectiveness	Simplify access to post-crash care
Eliminate fraud and corruption	Implement **road safety audit programme** on new and upgraded road infrastructure projects		Increase protection for VRU's	
Ensure adequate funding and capacity				
Enhance use of technology to protect road users				

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National Road Safety Strategy 2016 - 2030

Objectives and performance indicators

PILLAR 2: Safer roads and mobility		
Strategic Theme	**Objective**	**Relevant KPIs**
Identify and address **high road safety risk** and **hazardous locations**	Eliminate High Risk Roads and Hazardous Locations	Implementation of Hazardous Location Programmes # of Hazlocs Identified and Prioritised # of Hazlocs Address # of Vehicular Hazlocs # of Pedestrian Hazlocs Implementation of Road Safety Assessment Programmes % of road network Assessed (or Progress on the determination of the 10% Highest Risk Roads) Progress on the identification, prioritisation and addressing 10% highest risk roads.
Provide self- explaining and forgiving road environment for all road users	To improve the standards of road design to ensure that all road users are given adequate protection and information - focus on VRUs. To ensure that road design is forgiving, thus allowing motorists to recover from error, or to survive an impact when a crash is inevitable. To support improved access to public transport in order to reduce number of VRU's on major roads	Review Design Standards to ensure the mainstreaming of the needs of VRUs, especially pedestrians. Review Design Standards to provide a more forgiving and self-explaining road environment.
Implement road **safety audit programme** on new and upgraded road infrastructure projects	To ensure the inherent safety (by the mitigation of high and very high road safety risks) in the provision of new and upgraded road infrastructure. To develop Road Safety Auditor and Road Safety Engineering Capacity. Develop a culture of Road Safety among those responsible for the delivery of road infrastructure.	Implement Road Safety Audit Programme on new and upgrade road infrastructure projects To ensure the inherent safety (by the mitigation of high and very high road safety risk) in the provision of new and upgraded road infrastructure To develop Road Safety Auditor and Road Safety Engineering Capacity. Develop a culture of Road Safety among those responsible for the delivery of road infrastructure

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National Road Safety Strategy 2016 - 2030

Objectives and performance indicators

PILLAR 2: Safer roads and mobility

Strategic Theme	Objective	Relevant KPIs
Identify and address high road safety risk and hazardous loc	Eliminate High Risk Roads and Hazardous Locations	Implementation of Hazardous Location Programmes # of Hazlocs Identified and Prioritised # of Hazlocs Address lar Hazlocs rian Hazlocs Implementation of Road Safety Programmes etwork Assessed (or Progress on the on of the 10% Highest Risk Roads) the identification, prioritisation and 10% highest risk roads.
Pr an er us		ign Standards to ensure the mainstreaming s of VRUs, especially pedestrians. ign Standards to provide a more forgiving
In au new infrastructure projects	infrastructure. To develop Road Safety Auditor and Road Safety Engineering Capacity. Develop a culture of Road Safety among those responsible for the delivery of road infrastructure.	and very high road safety risk) in the provision of new and upgraded road infrastructure To develop Road Safety Auditor and Road Safety Engineering Capacity. Develop a culture of Road Safety among those responsible for the delivery of road infrastructure

- Implementation of Hazardous Location Programmes
- # of Hazlocs Identified and Prioritised
- # of Hazlocs Address
- # of Vehicular Hazlocs
- # of Pedestrian Hazlocs Implementation of Road Safety Assessment Programmes
- % of road network Assessed (or Progress on the determination of the 10% Highest Risk Roads)
- Progress on the identification, prioritisation and addressing 10% highest risk roads.

Requirement for:
1. Road safety engineering assessments.
2. Road safety appraisals

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National Road Safety Strategy 2016 - 2030

Objectives and performance indicators

PILLAR 2: Safer roads and mobility

St		vant KPIs
		nentation of Hazardous Location Programmes z z h d n a i ss sing 10% highest risk roads.
		Design Standards to ensure the mainstreaming needs of VRUs, especially pedestrians. Design Standards to provide a more forgiving f-explaining road environment.
	order to reduce number of VRU's on major roads	
Implement road safety audit programme on new and upgraded road infrastructure projects	To ensure the inherent safety (by the mitigation of high and very high road safety risks) in the provision of new and upgraded road infrastructure. To develop Road Safety Auditor and Road Safety Engineering Capacity. Develop a culture of Road Safety among those responsible for the delivery of road infrastructure.	Implement Road Safety Audit Programme on new and upgrade road infrastructure projects To ensure the inherent safety (by the mitigation of high and very high road safety risk) in the provision of new and upgraded road infrastructure To develop Road Safety Auditor and Road Safety Engineering Capacity. Develop a culture of Road Safety among those responsible for the delivery of road infrastructure

- Implement Road Safety Audit Programme on new and upgrade road infrastructure projects.
- To ensure the inherent safety (by the mitigation of high and very high road safety risk) in the provision of new and upgraded road infrastructure.
- To develop Road Safety Auditor and Road Safety Engineering Capacity.
- Develop a culture of Road Safety among those responsible for the delivery of road infrastructure

Requirement for:
1. Road safety audits.
2. Road safety training
3. Culture of road safety

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National Road Safety Strategy 2016 - 2030

Actions for safer roads and mobility

PILLAR 2: Safer roads and mobility			
Strategic Theme	**Intervention**	**Time Frame**	**Responsibility**
Identify and address **high road safety risk** and **hazardous locations**	Implementation of Hazardous Location Programme	Short	SANRAL / Provinces / Local Authorities
	Develop Road Safety Assessment Capacity within Road Authorities	Short	SANRAL / Provinces / Local Authorities
	Implementation of Road Safety Assessment Programme	After above	DOT
Provide self- explaining and forgiving road environment for all road users	Provide self-explaining and forgiving road environment for all road users.	Short	SANRAL
	Employ adequately experienced and qualified staff to support upskilling and training of staff	Short	Local authorities
	Ensure application of road signage and road markings standards are effectively applied.	Short	Local authorities
	Develop and implement a road improvement and maintenance prioritisation model (with focus to rural roads based on information driven strategic data	Medium	SANRAL
Implement road **safety audit programme** on new and upgraded road infrastructure projects	Review Legislation pertaining to Road Safety Audits to make it mandatory for All Road Authorities to have Road Safety Audit Policy and Programmes in place.	Short	NDOT/ SANRAL/ RTMC
	Develop Road Safety Auditor Capacity	Short	NDOT/ SANRAL/ RTMC
	Implement Road Safety Audit Programmes	Short	SANRAL / Provinces / Local Authorities

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National Road Safety Strategy 2016 - 2030

Actions for safer roads and mobility

PILLAR 2: Safer roads and mobility			
Strategic Theme	**Intervention**	**Time Frame**	**Responsibility**
Identify and address **high road safety risk** and **hazardous locations**	Implementation of Hazardous Location Programme	Short	SANRAL / Provinces / Local Authorities
	Develop Road Safety Assessment Capacity within Road Authorities	Short	SANRAL / Provinces / Local Authorities
	Implementation of Road Safety Assessment Programme	After above	DOT
Provide self- explaining and forgiving road environment for all road users	Provide self-explaining and forgiving road environment for all road users.	Short	SANRAL
	Employ adequately experienced and qualified staff to support upskilling and training of staff	Short	Local authorities
		Short	Local authorities
infrastructure projects	Develop Road Safety Auditor Capacity	Short	NDOT/ SANRAL/ RTMC
	Implement Road Safety Audit Programmes	Short	SANRAL / Provinces / Local Authorities

- Implementation of Hazardous Location Programme
- Develop Road Safety Assessment Capacity within Road Authorities
- Implementation of Road Safety Assessment Programme

Requirement for:
Road authorities to implement proposed programmes

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National Road Safety Strategy 2016 - 2030

Actions for safer roads and mobility

PILLAR 2: Safer roads and mobility			
Strategic Theme	**Intervention**	**Time Frame**	**Responsibility**
[illegible]	[illegible]	Short	SANRAL / Provinces /
[illegible]	[illegible]	[illegible]	[illegible]
[illegible]	[illegible]	[illegible]	[illegible]
[illegible]	support upskilling and training of staff	Short	Local authorities
	Ensure application of road signage and road markings standards are effectively applied.	Short	Local authorities
	Develop and implement a road improvement and maintenance prioritisation model (with focus to rural roads based on information driven strategic data	Medium	SANRAL
Implement road **safety audit programme** on new and upgraded road infrastructure projects	Review Legislation pertaining to Road Safety Audits to make it mandatory for All Road Authorities to have Road Safety Audit Policy and Programmes in place.	Short	NDOT/ SANRAL/ RTMC
	Develop Road Safety Auditor Capacity	Short	NDOT/ SANRAL/ RTMC
	Implement Road Safety Audit Programmes	Short	SANRAL / Provinces / Local Authorities

- Review Legislation pertaining to Road Safety Audits to make it mandatory for All Road Authorities to have Road Safety Audit Policy and Programmes in place.
- Develop Road Safety Auditor Capacity
- Implement Road Safety Audit Programmes

Requirement for:
NDOT, RTMC and Road authorities to implement proposed programmes

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ROAD AUTHORITY VIEWS ON RSAS

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Road Traffic Management Corporation

Extract from the SARTSM (2012, p2)

The RTMC is in favour of the mandatory application of the principles of road safety audit on all road projects in South Africa

It is the prerogative of individual road authorities to embrace these principles and include them in the policies of that road authority.

Non-acceptance of these guidelines may expose a road authority to increased risk of culpable liability.

The manual proposes the process which the designated person at the authority should follow to implement appraisals and audits.

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South African National Roads Agency

SANRAL's Road Safety Audit Policy

Road Safety Audits	*New Projects*	*Upgrading Projects*	
		Strengthening (Rehabilitation, Reconstruction, Bridges)	*Improvement (Level of Service, Capacity, Alignment, Bridges)*
Stage 1: Feasibility / Preliminary Design	*Yes*	*Optional*	*Optional*
Stage 2: Preliminary Design / Draft Design	*Yes*	*Yes*	*Yes*
Stage 3: Detail Design	*Yes*	*Yes*	*Yes*
Stage 4: Construction	*Optional*	*Optional*	*Optional*
Stage 5: Pre-opening	*Optional*	*Optional*	*Optional*
Total Number of Audits	*Minimum of 3*	*Minimum of 2*	*Minimum of 2*

All new road and upgrading will be subject to Road Safety Audits

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Road safety regulator – SANS 300-2-2-1:2012

Level Crossing Physical Assessments to be done

- In accordance with SANS 3000-2-2-1:2012
- By the road and rail authorities.
- Every 5 years
- Or on agreement to 10 years for next assessment.
- Unless there are reasons to motivate that the operations are stable for an extended period.

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ISBN 978-0-626-27351-4

SANS 3000-2-2-1:2012
Edition 1
RSR 2-2-1:2012
Edition 1

SOUTH AFRICAN NATIONAL STANDARD

Railway safety management

Part 2-2-1: Technical requirements for engineering and operational standards — Track, civil and electrical infrastructure — Level crossings

WARNING — Can only be read in conjunction with SANS 3000-2-1 and SANS 3000-2-2.

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Road safety regulator – SANS 300-2-2-1:2012

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SANS 3000-2-2-1:2012
Edition 1
RSR 2-2-1:2012
Edition 1

SOUTH AFRICAN NATIONAL STANDARD

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Should also be conducted

- After 2 or more crashes occurred in a calendar year
- After a crash involving a fatality
- Traffic changes significantly or the design vehicles changes
- Train traffic changes or new services are introduced.
- Land use change
- Changes in maximum operating speed
- Road reclassification
- Any impact on line of sight
- When a dormant crossing is reintroduced
- When instructed by the authorities

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THE NEED FOR AND LEGAL IMPLICATIONS OF RSAS

Are RSA's Compulsory?

Road Safety Audits are currently not compulsory, although it is like to be in the foreseeable future

Road Authorities should implement road safety audit progammes as their contribution to achieving the objective of the National Road Safety Strategy of reducing fatalities by 50%

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LEGAL IMPLICATIONS OF DOING/NOT DOING RSAS

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Legal implications of doing/not doing RSAs

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Note:

The views in the following slides are an extract from the SARTSM chapter 7, and does not constitute legal opinion.

If there are any concerns about legal implications, then legal council should be sought in this regard.

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Legal implications of doing/not doing RSAs

THE NEED FOR AND LEGAL IMPLICATIONS OF RSAS

Basic concern:

road authorities might be liable if deficiencies pointed out in an RSA is not addressed.

Opposing view:

the fact that RSAs are conducted to identify and mitigate road safety risks, proves a proactive approach.

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Legal implications of doing/not doing RSAs

Need to consider to basic South African legal principles

Criminal Law

- Offence against public interest - Contravention of common law or a statutory offence.
- State must prove guilt beyond all reasonable doubt.
- Road authorities have statutory duties: the planning, design, construction, operation, management, control, maintenance and rehabilitation of roads.
- Will be liable if it can be proven that an authority has done/failed to do something a reasonable authority would not/have done.
- The aim of the law is to punish the person responsible.

Law of Delict (negligence)

- Infringement against a person's rights
- Damage due to a fault by the wrongdoer, which could be intentional or negligent.
- Action is brought by the person who suffered the loss - must prove delict on balance of probabilities.
- Organs of state or administrators do not have delict immunity.
- Must prove breach of statutory duty. A person must suffer material damage, which would not have been the case if the duty was carried out.
- The aim of the law is to compensate the person who suffered the loss.

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Legal implications of doing/not doing RSAs

For Negligence/Delict to be proven the all of the following must be true:

Conduct	• There must be an action, or an omission (failure to act).
Wrongfulness	• Must be legally unacceptable.
Fault	• If proven wrong, it must be blameworthy (it is possible to be liable, without being at fault).
Causation	• It must have caused damage and it must be reasonable to foresee.
Damage	• There must be some form of loss or harm (e.g. financial or pain and suffering)

Negligence arises where someone acts without taking proper care – they have not acted as a "reasonable person" would have acted.

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Legal implications of doing/not doing RSAs

Options for defense against negligence are:

1. That a reasonable person would not have:
   1. foreseen the harm; or
   2. taken the steps necessary to guard against the harm;

2. That one acted reasonably (i.e. if a reasonable person would not have done it then the defendant (accused) does not need to do it either).

3. A partial defense is to establish that someone else was also at fault (contributory negligence) so as to have one's damages reduced according to the degree of fault of the other person

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Legal implications of doing/not doing RSAs

To minimise risk of litigation, the Client should:

- Conduct (prioritised) road safety audits
- Clear audit policy by legal counsel
- Document audit process (all risks).
- Highlight safety concerns in each stage if relevant.
- Auditors choose language in a report carefully.
  - "must"
  - "shall"
- Commission competent road safety auditors proven experienced.
- Retain records of a road safety audit.
- Clients must prepare an audit response report.

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END OF LECTURE

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