



**SABSA**

South African Bureau of Standards

**Status Update on the Public Protectors Report No. 37 of 2018-19**

*A presentation to the Portfolio Committee on Trade and Industry on Vehicle Homologation – 23 February 2022*

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# Our legislative mandate

**SABS**

The SABS was established by the Standards Act, 1945 (Act 24 of 1945)

The SABS exists as a public entity under the Standards Act, 2008 (Act No.8 of 2008).

The objectives of SABS are as follows:

- Develop, promote and maintain South African National Standards (SANS)
- Promote quality with respect to commodities, products and services
- Render conformity assessment services and matters connected therewith

## International Membership

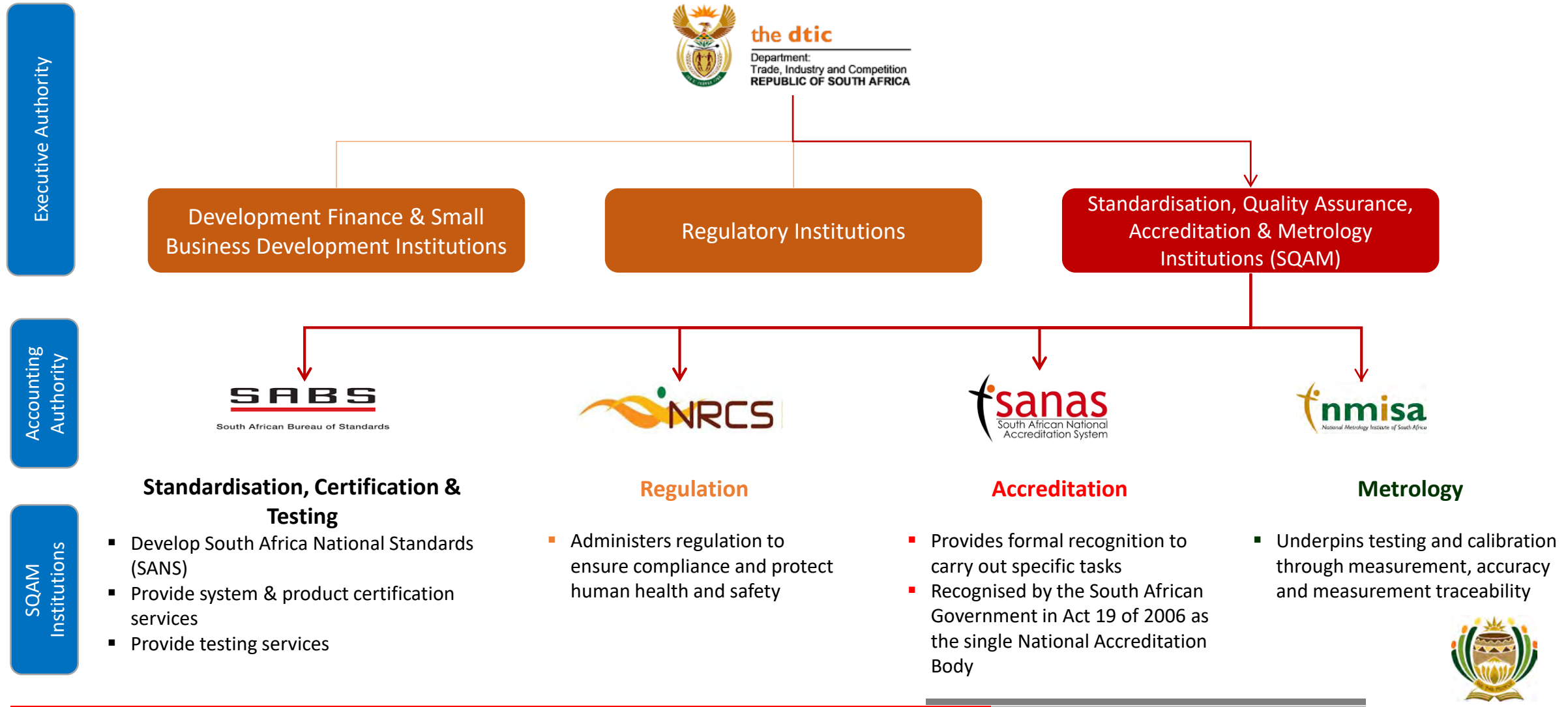


South African National Standards (SANS) are voluntary standards



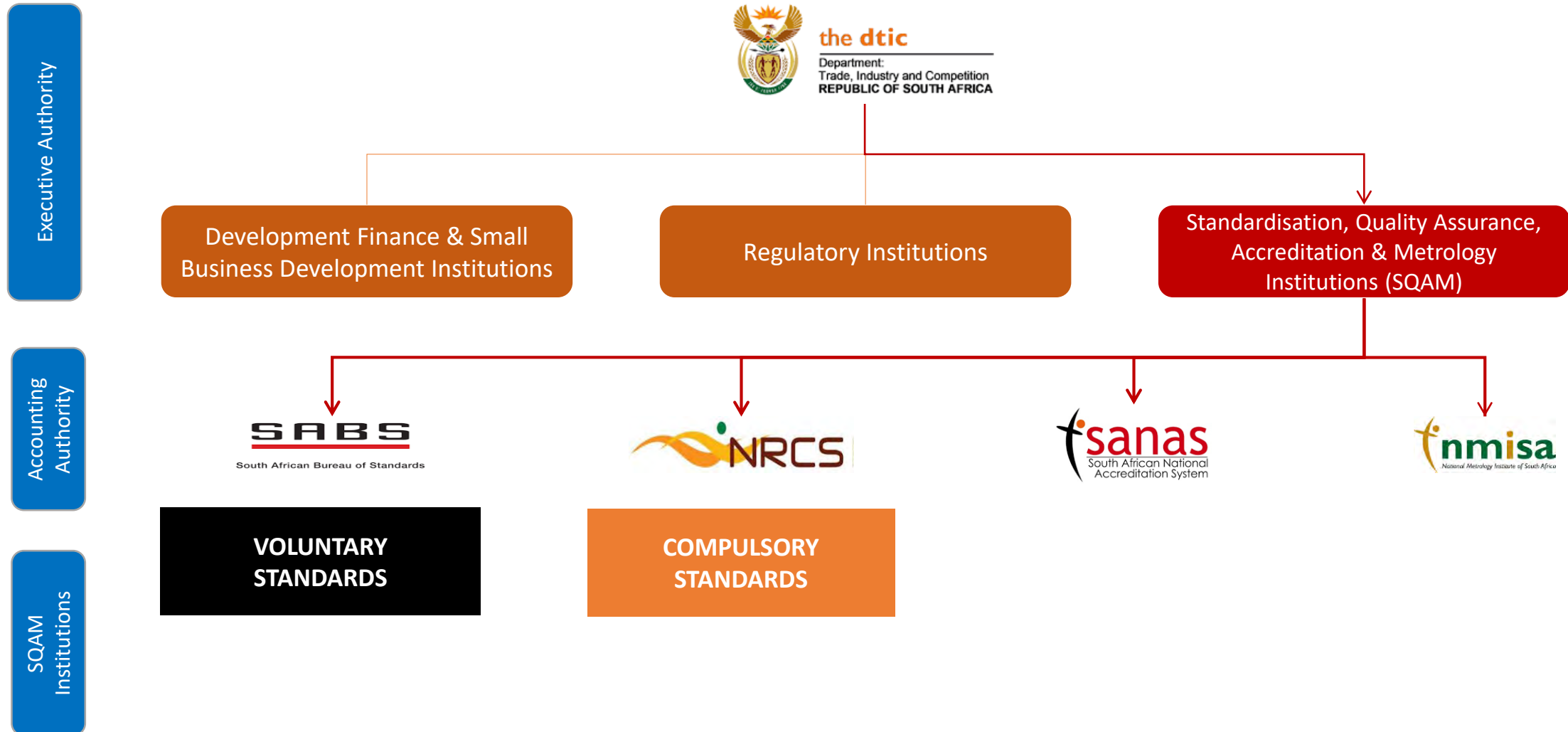
# How SABS works alongside NRCS

**SABS**



# Difference between the SABS & NRCS

# SABS



# SABS



# Status of the Public Protector (PP) Report

SABS

- A SABS **internal legal opinion** established that the PP had made several factual and legal errors in the report, which rendered the report susceptible to review.
- Whilst the Public Protector has made adverse findings against the SABS, the Public Protector has **not directed any remedial action** at the SABS.
- The SABS had to make a choice, whether to challenge the findings of the PP on review, in a costly and protracted court process simply to have the findings against the SABS expunged from the report or to receive the report as is and support **the dtic** in the implementation of the PP's recommendations/remedial action.
- The SABS chose the latter in the **spirit of intergovernmental cooperation**.
- The SABS has since signed an MoU with the NRCS to improve the two entities' collaboration in line with the PP's recommendations.
- It is important to highlight that PP's did not grasp the role of the SABS in this matter in order to place answers to the Committee's questions in context.



# Factual and legal errors in the PP's report

**SABS**

- The Technical Task Team Committee (the Committee) established and led by the DoT agreed that the tests to be performed on the vehicles were: roll over tests; tilt test; type 2 brake test and seat and seat belt anchorage tests. Meaning, the SABS was not at liberty to carry out any other tests beside the ones specifically identified by the Committee. Page 105, par 5.3.1 and 5.3.3 of the Report. However, the PP has found that the SABS did not conduct adequate quality assurance tests.
- This finding ignores the following facts:
  - It is the Regulator responsible for homologation which determines what constitutes adequate tests for its regulatory process.
  - The SABS conducts tests as a service provider and based on instructions from the customer





# Factual and legal errors in the PP's report

**SABS**

**(cont.)**

- Whilst the Public Protector in her conclusions observed that the SABS only performed the roll over test, tilt test, type 2 brake test and seat and seat belt anchorage tests – the Public Protector does not suggest that the SABS carried the said tests contrary to the applicable South African National Standards (SANS). However, the PP found that the tests were conducted “on static vehicles” and the tests did not produce conclusive evidence on the status of these vehicles. The finding does not appreciate the following:
- In carrying out tests, the SABS does so in accordance with the applicable SANS and established Regulations.
- SANS are developed through a process which involves experts and are predetermined for application.





# Factual and legal errors in the PP's report

**SABS**

## Continues

- If the SABS had not conducted “adequate quality assurance tests” it is the Regulator which ought to have identified this point when considering evidence for homologation.
- VC 8023 specifically provides that evidence of compliance with the requirements of VC 8023 will be recognised by the regulator if it is from:
  - a laboratory that is part of an international or regional mutual acceptance scheme;
  - a laboratory that is accredited to ISO /IEC 17025 by SANAS or an ILAC affiliated accreditation body; or
  - a laboratory that has been successfully assessed against the requirements of ISO /IEC 17025 to the satisfaction of the regulator.
- Test reports required for homologation purposes are not limited to those as may be issued by the SABS.
- The SABS provided testing as a service provider, and it is not the entity responsible for regulating compliance with the regulatory requirements on conversion of vehicles.



**Previously the SABS responded to specific questions by the Portfolio Committee and wishes to build on the same premise in this brief.**

## **How does the SABS work alongside the NRCS:**

- The services of the SABS, except for the development, promotion and maintenance of South African National Standards, are commercial in nature and the SABS competes with other commercial entities to render Testing and Certification Services.
- In practice, the NRCS relies on independent third-party conformity assessment service providers, such as the SABS or any other accredited facility to render conformity assessment services. There is no exclusive relationship between the SABS and the NRCS for the purpose of rendering conformity assessment services.



**The role played by the SABS in the retro-fitment process of illegally converted vehicles following the request by the Department of Transport (DoT):**

- The role of the SABS was limited to offering testing services.
- The SABS tested vehicle samples received from SA Taxi Finance. This appears to be the extent of the SABS' involvement in the matter.



**At the time of the tests conducted by SABS regarding these vehicles, what were the minimum requirements for the safety tests and could more or different stringent tests have been requested by the DoT:**

- SABS' testing services are underpinned by official South African National Standards (SANS), Compulsory Specifications and Regulations. Tests are conducted as per the customer's request.
- **NB:** The SABS is not a Regulator. Therefore, it remains the responsibility of the relevant Regulator to ensure that any test report is sufficient or that the tests conducted are sufficient for the approval which is being sought.
- In this case the SABS conducted tests as per the following SANS and Regulations:
  1. SANS 1563:2005 (The strength of large passenger vehicles superstructures (roll-over protection)).
  2. SANS 1430:2007 (Anchorage for restraining devices in motor vehicles).
  3. 28 Degree Tilt Test, Regulation 262, *National Road Traffic Act*, No. 93 of 1996.



## **When did SABS learn that Toyota condemned the conversion of panel vans for use as passenger carriers for use by the Taxi industry:**

- The exact date of when the SABS became aware that Toyota condemned the conversions is not clear. Be that as it may, such condemnation would not have been of any consequence to the SABS for the following reasons:
  - i. The SABS does not possess any legal authority to regulate the conversion of vehicles.
  - ii. The SABS could not exercise any power in relation to the decision to or not to convert vehicles.
- The DoT has submitted, as per the Public Protector's report, that the process of retro fitment did not require authorisation by the original manufacturer as the process of modifying a secondhand vehicle is legal in terms of the National Road Traffic Act, No. 93 of 1996 (NRTA) (Page37, par 5.1.33 and Page42 , par 5.1.49 of the report).
- Without expressing any opinion on the submission by DoT, the view held by DoT explains why the retro fitment of conversions were done without the approval of Toyota.



**List of all vehicle brands, other than Toyota, which SABS, SANA or SATAS were involved in the setting of minimum safety specifications as well as testing of converted vehicles from panel vans to passenger carriers for use in the minibus industry or conversions from panel vans to ambulances:**

- The SABS, as per its mandate, develops, promotes and maintains South African National Standards.
- The SABS does not set safety specifications for specific vehicle brands.



**Can SABS, SANA or SATAS issue minimum safety specifications for vehicle conversions from panel vans to people carriers and conduct tests on these retrofitted vehicles in instances where the manufacturer itself condemns such conversions:**

- The SABS, as per its mandate, develops, promotes and maintains South African National Standards.
- The SABS does not set safety specifications.
- The SABS does not have powers to issue minimum safety specifications for vehicle conversions from panel vans to people carriers.
- In this matter the SABS did not issue any safety specifications for vehicles, it tested the vehicles based on published South African National Standards and extant Regulations.





**If statistics on the road accident fatalities show that, despite the safety tests conducted by SABS, SANA or SATAS, these vehicles are statistically more involved in road fatalities, is there a process for SABS, SANA or SATAS to review and revise their minimum safety requirements and recall converted vehicles for retesting:**

- The SABS does not have powers to issue minimum safety specifications for vehicle conversions from panel vans to people carriers.
- The SABS can develop, promote and maintain South African National Standards.
- Because the SABS is not a Regulator hence it does not have any legal powers to enforce a recall of vehicles.



**Indicate what measures were put in place to mitigate the illegal conversion of goods carrying vehicles into passenger carrying ones, or to ensure that such incidents do not take place at all:**

- This responsibility does not fall within the powers of the SABS. The SABS merely provides testing services to the Regulators when they (the Regulators) in considering approval in line with their mandate.

**Indicate whether SABS have a monitoring mechanism to ensure that this practice does not recur:**

- The retro-fitment of vehicles does not fall within the mandate of the SABS, as such the SABS has no power to regulate this practice.





**Thank you**  
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