Railways Act

Passed 15.10.2020
RT I, 30.10.2020, 1
Entry into force 31.10.2020

Amended by the following acts

Passed 25.11.2020
Published RT I, 10.12.2020, 1
Entry into force 01.01.2021

Chapter 1
General Provisions

§ 1. Scope of regulation and application of Act

(1) This Act regulates:
1) railway safety;
2) the rights and obligations of owners and possessors of railway infrastructure and railway vehicles upon maintenance and use of railway infrastructure and railway vehicles and the requirements for rail transport;
3) the rights and obligations of undertakings engaged in the construction, maintenance and repair of railway vehicles;
4) interoperability of the rail system with the trans-European rail system;
5) exercise of state supervision over railway traffic, maintenance of railway infrastructure and railway vehicles, building of railway civil engineering works and construction, maintenance and repair of railway vehicles;
6) liability for violation of this Act.

(2) This Act applies to the railways with the width of rail tracks of 1520 millimetres, 1524 millimetres and 1435 millimetres.

(3) Narrow-gauge railways with the width of rail tracks of 750 millimetres (hereinafter narrow-gauge railways) are only subject to the requirements provided in §§ 10, 11 and 35 of this Act.

(4) This Act applies to railways which are not connected to public railways only where such railways are used for rail transport.

(5) For the purposes of this Act, cableways, tramways and other civil engineering works similar thereto due to their manner of construction or operation, and other rail tracks the construction of which is different from railways are not deemed to be railways.

(6) The provisions of the Administrative Procedure Act apply to the administrative procedure prescribed in this Act, taking account of the specifications arising from this Act.

§ 2. Terms

In this Act, the following definitions are used:
1) subsystem means a structural or functional part of the trans-European rail system, the division of which is determined in Annex II of Directive (EU) 2016/797 of the European Parliament and of the Council on the interoperability of the rail system within the European Union (OJ L 138, 26.5.2016, p. 44–101);
2) interoperability means the ability of a rail system to ensure the safe and uninterrupted movement of the trains complying with the requirements;
3) interoperability constituent means any tangible or intangible elementary component, group of components, subassembly or complete assembly of equipment incorporated or intended to be incorporated into a subsystem, on which the interoperability depends directly or indirectly;

4) technical specification for interoperability means a specification adopted in accordance with the requirements of Directive (EU) 2016/797 of the European Parliament and of the Council by which a subsystem or part thereof is covered in order to meet the essential requirements specified in clause 9 of this section and ensure the interoperability of the trans-European rail system;

5) timetable means a document prepared by a railway infrastructure manager which determines all the planned movement of trains and other railway vehicles and sets out the railway capacity allocated to railway undertakings as well as time for organising the running repair and maintenance of railway civil engineering works (hereinafter technological possessions);

6) mobile subsystem means the railway vehicles subsystem and the on-board control-command and signalling subsystem;

7) capacity allocation body means a railway infrastructure manager or in the case specified by this Act, the Consumer Protection and Technical Regulatory Authority or an undertaking, other legal person or structural unit of a foreign state the function of which is, according to the legislation of such state, to organise capacity allocation;

8) non-public railways mean railways which are not a part of public railways;

9) essential requirements mean the conditions set out in Annex III of Directive (EU) 2016/797 of the European Parliament and of the Council which must be met by the rail system, the subsystems and the interoperability constituents;

10) international transport of goods means transport where the train crosses the Estonian border, whereas the train may be joined with another train or split into wagons which have different origins and destinations but all the wagons must cross the state border;

11) international transport of passengers means transport where the train crosses the Estonian border and the principal purpose of which is to carry passengers between stations located in different states, whereas the train may be joined with another train or split into carriages which have different origins and destinations but all the carriages must cross the state border;

12) railway means functionally complete civil engineering works permanently attached to a plot of land, the essential parts of which are the track bed and the superstructure consisting of rails, switches, sleepers and ballast and supported by the track bed;

13) IM/RU (infrastructure manager / railway undertaking) means a sole proprietor or company whose area of activity is rail transport or who performs the duties of a railway infrastructure manager;

14) railway infrastructure manager means an IM/RU, whose duties are to manage, operate, maintain and renew railway infrastructure of the public railway network and to participate in the development of railway infrastructure in accordance with the action plan specified in subsection 73 (1) of this Act;

15) development of railway infrastructure means the planning of railway network as well as the financial and investment planning, construction and modernisation of railway infrastructure, i.e. extensive modification of the existing railway infrastructure to improve its overall functionality;

16) maintenance of railway infrastructure means the performance of works to preserve the condition and efficiency of the existing railway infrastructure;

17) railway infrastructure building means a building which is related to railway infrastructure as to its nature and is constructed for the use of the railway for its intended purposes;

18) operation of railway infrastructure means the allocation of capacity, traffic management and setting of user fees for railway infrastructure;

19) railway infrastructure capacity (hereinafter capacity) means the potential to provide, for a certain period of time, a timetable concerning a certain railway infrastructure section;

20) management of railway infrastructure means the construction, repair, maintenance and administration of railway infrastructure and traffic management systems as well as organisation of railway traffic and shunting;

21) essential functions of management of railway infrastructure mean the determination and assessment of availability of train paths, allocation of train paths, decision-making on allocation of train paths and on user fees for railway infrastructure as well as determination and collection of user fees in accordance with the procedure for allocation of capacity and determination of user fees provided in this Act;

22) renewal of railway infrastructure means extensive replacement of the existing infrastructure, which does not change overall functionality of the railway infrastructure;

23) railway ground area means the land under railways and railway infrastructure buildings and civil engineering works, and the land necessary for servicing thereof;

24) railway civil engineering works means railways, bridges, viaducts, trestles, tunnels, retaining walls, culverts, overhead contact lines, protection equipment, communication equipment, lighting installation, energy equipment or utility works, pedestrian crossings or railway level crossings, stations or other safety signalling and telecommunications installation points on the track, waiting or loading platforms, track protection structures or other civil engineering works necessary for using railways for their intended purposes;

25) rail transport means transport of goods or passengers and the provision of traction by rail or the provision of traction only;

26) railway vehicles mean locomotives, carriages, wagons, multiple-unit trains, railbuses, special railway vehicles and any other vehicles built for railway traffic which are suitable for railway traffic, with or without traction;

27) repair of railway vehicles means work performed on the main assemblies and equipment of railway vehicles, or replacement thereof, with the aim of restoring the good working condition of the railway vehicles;

28) maintenance of railway vehicles means the inspection and maintenance of the main assemblies and equipment of railway vehicles after a certain period of time or unit of distance travelled in order to prevent...
technical failures and ensure the good working condition, fire and traffic safety of the railway vehicles during
the time between the repairs of railway vehicles;
29) railway undertaking means an undertaking that has obtained a corresponding operating licence, the
principal business of which is rail transport and which is obliged to ensure traction, as well as a person who
provides traction only;
30) railway network means the railway infrastructure managed by a single railway infrastructure manager or
other owner or possessor of the railway infrastructure;
31) national rules mean the requirements established on the basis of subsections 35 (4) and 112 (5) of this Act;
32) train means a unit of coupled railway vehicles, which is marked with visible signals and consists of a
carriage or wagon and at least one locomotive or railcar; single locomotives, shunting locomotives, work
trains, railcars, railbuses, non-dismountable trolleys and other self-propelled special railway vehicles, means of
transport and special railway vehicles with guide wheels running on open tracks and marked with visible train
signals are also deemed to be a train;
33) train path means a part of capacity needed to operate a train between the point of destination and the point
of origin over a given period of time;
34) service facility means the building specified in subsection 95 (2) of this Act which is fully or partially used
for the provision of the services specified in the same subsection and the services specified in subsections 94 (2)
and (3) of this Act;
35) locomotive means a railway vehicle which is equipped with at least one power source and is used for
haulage or shunting of carriages or wagons and other railway vehicles built for railway traffic;
36) train driver means a person capable and entitled to drive locomotives, shunting locomotives, work
trains, special railway vehicles or passenger or freight trains in an autonomous, responsible and safe manner;
37) trans-European rail system consists of the elements of railway network and railway vehicles listed in

§ 3. Railway infrastructure

(1) Railway infrastructure consists of the following parts connected to a railway by means of construction or
due to their intended purpose:
1) railway ground area;
2) track and track bed, including cuttings, drainage channels, trenches, masonry trenches, culverts, planting for
protecting side slopes and enclosure walls, hedges, fencing and fire protection strips;
3) waiting and loading platforms, including platforms in passenger stations and freight terminals, four-foot
way, walkways and apparatuses for heating points;
4) railway bridges, culverts and other overpasses, tunnels, covered cuttings and other underpasses as well as
retaining walls and structures;
5) superstructure, including rails, grooved rails and check rails, sleepers and longitudinal ties, small fittings for
permanent way, stone chippings ballast and sand ballast, switches, crossings, turntables and traverses;
6) access way on railway ground area for passengers and goods, including access by road and access for foot
passengers on railway ground area;
8) safety, signalling and telecommunications installations on the open track, in stations and in marshalling
yards, plant for generating, transforming and distributing electric current for signalling and telecommunications,
buildings for such installations or plant, and track brakes;
9) lighting installations for traffic and safety purposes;
10) overhead contact line, substations, supply cables between substations and contact wires, catenaries and
supports and third rail with supports;
11) railway infrastructure buildings, including proportions of installations for the collection of transport
charges.

(2) Railway infrastructure shall not include railways situated within depots or maintenance workshops.

§ 4. Public railway

(1) Railway infrastructures are designated for public use and excluded from public use by the minister
responsible for the area on the basis of an application submitted by the IM/RU managing railway infrastructure.

(2) The minister responsible for the area has the right to refuse to designate railway infrastructure for public use
if there are grounds to believe that the applicant is unable to perform its actual and potential financial obligations
upon managing railway infrastructure and the management of railway infrastructure may bring about obligations
to the state based on subsection 73 (5) of this Act and the undertaking cannot prove otherwise.

(3) The railway infrastructure designated for public use (hereinafter public railway) shall be made available
to all the applicants for rail transport without discrimination as regards basic and additional services ensuring
access as well as the fees, time and other conditions of use on the bases of and pursuant to the procedure
provided in this Act.
(4) A railway infrastructure manager who manages a public railway shall organise the use of the railway infrastructure by way of allocation of capacity, allocating capacity to railway undertakings as train paths or as single railway capacities intended for specific purposes on the bases of and pursuant to the procedure prescribed by this Act.

(5) The procedure for designation of railway infrastructures for public use shall be established by a regulation of the minister responsible for the area.

(6) The minister responsible for the area may refuse to satisfy an application submitted by an IM/RU for exclusion of the railway infrastructure managed by the IM/RU from public railways if using the railway infrastructure for rail transport is necessary in public interest.

§ 5. Connection to other railways

(1) Any railway infrastructure manager or other owner or possessor of a railway whose railway joins with a railway in the ownership or possession of another person shall permit connection to its railway infrastructure and guarantee passage of the railway vehicles by its railway to the railway joined thereto.

(2) The conditions of and fees payable for the connection specified in subsection (1) of this section shall be prescribed by an agreement entered into between the owners or possessors of the connected railways. If agreement on the conditions of connection or fees payable therefor cannot be reached, the interested party may have recourse to the courts for adjudication of reasonable conditions and justified fees.

§ 6. Public transport of passengers

(1) An IM/RU carrying out public transport of passengers is obliged to organise transport of passengers to everyone in accordance with the published transport rules and pursuant to the procedure provided by law.

(2) Public transport of passengers means transport of passengers on public railways carried out by a railway undertaking operating on the basis of an operating licence for operating in the area of activity specified in clause 12 (1) 2) of this Act.

§ 7. Rights and obligations of rail passengers


(2) Railway undertakings shall disclose the effective rights and obligations of passengers in the transport rules in accordance with § 110 of this Act.

§ 8. Ensuring of electronic security

In order to ensure the security of network and information systems used for the provision of services, an IM/RU regarded as a service provider for the purposes of clause 3 (1) 2) of the Cybersecurity Act must comply with the requirements provided in and established on the basis of §§ 7 and 8 of the specified Act.

§ 9. Requirements on separate accounting

(1) An IM/RU who manages public railways shall keep separate accounting of the revenue and expenditure relating to basic services ensuring access, additional services ensuring access and access ancillary services. An IM/RUs who manages public railways and is engaged in rail transport shall keep separate accounting of the revenue and expenditure and prepare and publish separate income statements and balance sheets relating to management of railway infrastructure and each type of rail transport. If an IM/RU who manages public railways is also engaged in other areas of activity, the IM/RU shall keep separate accounting of the revenue and expenditure relating to management of railway infrastructure and the other areas of activity.

(2) An IM/RU who is engaged in public transport of passengers under a public service contract and other rail transport shall keep separate accounting of the revenue and expenditure and prepare and publish separate income statements and balance sheets relating to the public transport of passengers provided under a public service contract and other areas of rail transport. An IM/RU who provides services to an IM/RU who is engaged in public transport of passengers under a public service contract and belongs to the same group of companies as the IM/RU shall keep separate accounting of the revenue and expenditure relating to the service provided to the specified undertaking. If an IM/RU who is engaged in public transport of passengers under a public service contract is also engaged in other areas of activity, the IM/RU shall keep separate accounting of the revenue and expenditure relating to public transport of passengers provided under a public service contract and the other areas of activity.

(3) Aid granted by the state or local government for management of railway infrastructure or public transport of passengers shall be used only for the intended purpose. Compliance with this requirement shall be reflected in the accounting of the revenue and expenditure of both areas of activity.
(4) IM/RUs specified in subsections (1) and (2) of this section are required to submit the accounting of revenue and expenditure kept according to the requirements set out in subsections (1)–(3) to the Competition Authority.

(5) In order to inspect separate accounting and the requirements of financial transparency provided in § 78 of this Act, the Competition Authority has the right to demand additionally appropriate accounting data from railway infrastructure managers, service facility operators and, if necessary, railway undertakings and to audit these undertakings if necessary or to initiate external audits in respect of them.

(6) In case of a vertically integrated undertaking specified in subsection 74 (1) of this Act, the right specified in subsection (5) of this section applies to all the legal entities within the undertaking.

(7) The procedure and terms for submission of the accounting of revenue and expenditure of IM/RUs specified in subsections (1) and (2) of this section and the list of accounting data specified in subsection (5) shall be established by a regulation of the minister responsible for the area.

Chapter 2
Narrow-Gauge Railways

§ 10. Requirements for narrow-gauge railways and railway vehicles used thereon

(1) Narrow-gauge railways with the track gauge of 748 to 768 millimetres the safety instructions of which have been approved in accordance with subsection 11 (3) of this Act are allowed to be used for movement of railway vehicles.

(2) Railway vehicles used on narrow-gauge railways must be in good technical condition.

(3) The transport of passengers and the movement of historical or other railway vehicles on narrow-gauge railways must be safe. Upon transport of passengers by a passenger carriage or a platform-type carriage, the seats must be fastened to the carriage floor and the platform-type carriage must have boarders to ensure safety.

(4) The technical requirements for narrow-gauge railways and railway vehicles used thereon shall be established by the minister responsible for the area in the rules for technical use of railways specified in subsection 35 (4) of this Act.

§ 11. Safety instructions for narrow-gauge railways

(1) In order to ensure safety on narrow-gauge railways the railway manager shall draw up safety instructions.

(2) The safety instructions must include:
   1) the list of railway vehicles allowed to move on the railways, the requirements for their technical condition and in case of carriages the purpose of their use;
   2) the traffic speed allowed for movement of railway vehicles;
   3) the frequencies of evaluating the technical condition, maintenance and repair of railways and railway vehicles and the organisation of carrying out such works;
   4) the procedure for the issue of documents granting the right to drive railway vehicles by the railway manager;
   5) the standard format of the document for the right to drive railway vehicles;
   6) description of the principles of safety of movement of railway vehicles;
   7) the requirements for equipping railway vehicles with visible and audible signals and first-aid and firefighting equipment;
   8) description of the principles of ensuring safety of the people transported by the railway vehicles;
   9) the procedure for notification of the emergency response centre and competent authorities of accidents.

(3) The safety instructions shall be submitted to the Consumer Protection and Technical Regulatory Authority for approval. The Consumer Protection and Technical Regulatory Authority shall refuse to approve the safety instructions if the instructions do not comply with the requirements provided in subsection (2) of this section or if the authority has reason to suspect that the instructions do not ensure safety.

Chapter 3

Division 1
§ 12. Operating licence requirement

(1) An undertaking must have an operating licence for operation in the following areas of activity:
1) management of public railway infrastructure;
2) transport of passengers on public railways;
3) transport of goods on public railways;
4) maintenance and repair of railway vehicles used on public railways or railway vehicles used for rail transport;
5) construction of railway vehicles.

(2) An undertaking need not have an operating licence for operation in the area of activity specified in clause (1) 4) of this section if an entity in charge of maintenance certificate conforming to subsection 42 (3) of this Act has been issued thereto.

(3) During the entire term of validity of the operating licence specified in subsection (1) of this section the holder of the licence must have liability insurance in order to compensate, pursuant to this Act and international agreements, for any damages caused due to failure to perform its obligations or inadequate performance thereof.

(4) No operating licence for transport of goods is required if engagement in rail transport is not the principal business of the IM/RU. Rail transport is not the principal business of an IM/RU if the IM/RU is a railway infrastructure manager who is engaged in rail transport only for the purpose of railway infrastructure management.

(5) A foreign railway undertaking need not hold an operating licence for transport of goods or passengers when entering a frontier station if the foreign IM/RU and an IM/RU operating in Estonia have agreed on cross-border rail transport on the basis of an international agreement.

(6) An operating licence issued in another member state of the European Union (hereinafter Member State) is deemed to be effective in the Republic of Estonia.

(7) If the Competition Authority has reason to suspect that a railway undertaking who has received an operating licence from the competent authority of another Member State does not comply with the requirements of this Division, the Competition Authority shall promptly notify the competent authority that has issued the licence thereof.

§ 13. Subject of review of operating licence

(1) An undertaking is issued an operating licence for operation in the areas of activity specified in clauses 12 (1) 1–3) of this Act if it complies with the following requirements:
1) the criminal records database contains no information concerning the sole proprietor, company, members of the management board of the company or other persons entitled to manage the company about the punishments for criminal offences in the first degree, economic criminal offences, criminal official misconduct or the criminal offences specified in §§ 422, 423, 4232 and 425 of the Penal Code;
2) the criminal records database contains no information concerning the sole proprietor, company, members of the management board of the company or other persons entitled to manage the company about the punishments for misdemeanours provided in this Act, the Merchant Shipping Act, the Maritime Safety Act, the Road Transport Act, the Public Transport Act, the Employment Contracts Act or the Occupational Health and Safety Act, with the application of the maximum rate of punishment established for this misdemeanour, or for repeated violation of their requirements;
3) the criminal records database contains no information concerning the sole proprietor, company, members of the management board of the company or other persons entitled to manage the company about the punishments for misdemeanours provided in the Customs Act, with the application of the maximum rate of punishment established for this misdemeanour, or for repeated violation of their requirements; if the applicant for the licence wishes to engage in cross-border activities subject to customs procedures;
4) the sole proprietor, company, members of the management board of the company or other persons entitled to manage the company are not a bankrupt for the purposes of § 8 of the Bankruptcy Act;
5) the sole proprietor, company, members of the management board of the company or other persons entitled to manage the company comply with the requirements relating to good repute specified in Article 19 of Directive 2012/34/EU of the European Parliament and of the Council establishing a single European railway area (OJ L 343, 14.12.2012, p. 32–77);
6) the undertaking of a third country is registered in the commercial register of a state party to the EEA agreement;
7) the sole proprietor, members of the management board of the company or other persons entitled to manage the company who are responsible for the management of public railway infrastructure or transport of goods or transport of passengers on public railways have sufficient professional knowledge and experience to ensure safe operation of the undertaking and reliable organisation and monitoring of its operation;
8) the undertaking is able to perform its actual and potential financial obligations for a period of at least 12 consecutive months, and the undertaking has no major or repeated tax arrears which could call its financial capability into question.
(2) The Competition Authority shall promptly notify the European Union Agency for Railways (hereinafter the Agency for Railways) of issue or amendment of operating licences for operating in the areas of activity specified in subsections 12 (1) 2) and 3) of this Act and of suspension or revocation of the operating licences.

(3) An undertaking is issued an operating licence for operation in the areas of activity specified in clauses 12 (1) 4) and 5) of this Act if the undertaking, in addition to the requirements specified in clauses (1) 1), 2) and 5) of this section, complies with the following requirements:
1) the sole proprietor or members of the management board of the company or other persons entitled to manage the company who are responsible for maintenance or repair of railway vehicles used on public railways or for construction of railway vehicles have sufficient professional knowledge and experience to ensure safe operation of the undertaking and reliable organisation and monitoring of its operation;
2) the management board of the undertaking has approved the descriptions of technological processes regarding maintenance and repair of railway vehicles used on public railways or construction of railway vehicles;
3) the company can use the production facilities and equipment for carrying out the work prescribed in the descriptions of technological processes.

§ 14. Application for and amendment of operating licence

(1) Application for an operating licence for operation in the areas of activity specified in clauses 12 (1) 1)–3) of this Act shall be adjudicated by the Competition Authority.

(2) Application for an operating licence for operation in the areas of activity specified in clauses 12 (1) 4) and 5) of this Act shall be adjudicated by the Consumer Protection and Technical Regulatory Authority.

(3) In addition to the information specified in subsection 19 (2) of the General Part of the Economic Activities Code Act, an application for an operating licence to the Competition Authority shall contain the following documents:
1) if an annual report does not exist or if the annual report submitted has been prepared and approved more than six months prior to submission of the application, a copy of the interim accounts as at the end of the month prior to submission of the application and additionally the information specified in Annex III of Directive 2012/34/EU of the European Parliament and of the Council unless the information is set out separately in the applicant's annual report or interim accounts;
2) a list of the members of the management board and of other persons entitled to manage the company which shall set out the given names and surname of the person, the personal identification code or, in the absence thereof, the date of birth, and residence as well as the documents which confirm the professional knowledge and experience of the person as required under clause 13 (1) 7) of this Act.

(4) In addition to the information specified in subsection 19 (2) of the General Part of the Economic Activities Code Act, an application for an operating licence to the Consumer Protection and Technical Regulatory Authority shall contain the following documents:
1) a list of the members of the management board and of other persons entitled to manage the company which shall set out the given names and surname of the person, the personal identification code or, in the absence thereof, the date of birth, and residence as well as the documents which confirm the professional knowledge and experience of the person as required under clause 13 (3) 1) of this Act;
2) the descriptions of technological processes concerning maintenance, repair or construction of railway vehicles approved by the management board of the undertaking;
3) documents certifying compliance with the requirement provided in clause 13 (3) 3) of this Act.

(5) The provisions of §§ 32 and 33 of the General Part of the Economic Activities Act Code apply to the amendment of operating licences.

(6) The state fees for reviewing of an application for an operating licence and for amendment thereof shall be paid at the rate provided in the State Fees Act.

(7) If the Competition Authority or the Consumer Protection and Technical Regulatory Authority fails to adjudicate an application for an operating licence within the time limit determined by subsection 20 (1) of the General Part of the Economic Activities Act or within the time limit extended under subsection (3), the operating licence shall not be deemed to be tacitly issued to the undertaking upon the expiry of the time limit.

§ 15. Secondary conditions of operating licence

The following secondary conditions shall be set to an operating licence:
1) the operating licence for operation in the area of activity specified in clause 12 (1) 4) of this Act shall set out the permitted type of maintenance or repair, e.g. the maintenance or repair of freight wagons or passenger carriages, automatic brake systems, automatic couplers, wheelsets, rolling bearings of wheelsets, etc.;
2) the operating licence for operation in the area of activity specified in clause 12 (1) 5) of this Act shall set out the permitted type of railway vehicles.
§ 16. Specifications of suspension and revocation of operating licence

(1) In addition to the cases provided in the General Part of the Economic Activities Act, the agency which issues licences may also revoke an operating licence if:

1) the undertaking to whom an operating licence for operation in the area of activity specified in clause 12 (1) 4) or 5) of this Act has been issued has not operated in such area of activity within one year after the issue of the operating licence;

2) the undertaking violates the obligations arising from an international agreement, as a result of which the life or health of persons or property or the environment could be endangered, or international rail transport could be suspended.

(2) The Competition Authority may suspend an operating licence for up to six months or demand again the information proving compliance with the requirements specified in subsection 13 (1) of this Act from the undertaking if the undertaking has not operated in the area of activity specified in the operating licence for six consecutive months or has not commenced the operation authorised by the operating licence within six months after receipt of the licence.

(3) An IM/RU may apply to the Competition Authority for a period of time which is longer than the term specified in subsection (2) of this section for commencement of its operation if due to the specific nature of the services to be rendered thereby the operation cannot be commenced earlier.

(4) In order to ensure provision of services, the Competition Authority may issue a temporary operating licence to an IM/RU whose operating licence has been revoked due to failure to comply with the requirement provided in clause 13 (1) 8) of this Act.

(5) The temporary operating licence specified in subsection (4) of this section shall be issued for a period of up to six months as of the date on which the operating licence is revoked. During such period, the IM/RU is required to continue its operation under the conditions and to the extent set out in the temporary operating licence.

Division 2
Liability Insurance

§ 17. General requirements for liability insurance contract

(1) An undertaking to whom the operating licence, operational safety certificate or entity in charge of maintenance certificate provided in this Act has been issued shall enter into a liability insurance contract before commencing operations in the corresponding area to compensate for damage that may be caused by its operation on the following conditions:

1) the insured event is direct patrimonial damage, or bodily injury, for which the undertaking is liable pursuant to legislation, caused during the insured period to passengers, owners or possessors of railway civil engineering works or railway vehicles or third persons in connection with the management of railway infrastructure, transport of passengers, transport of goods or maintenance, repair or construction of railway vehicles by the undertaking;

2) the minimum amount of insurance coverage for one insured event shall be set in compliance with the provisions of §§ 19–21 of this Act and, in the case of international rail transport, with the provisions of the Convention concerning International Carriage by Rail (COTIF) of 1980 in the wording of the Protocol of 3 June 1999 for the Modification of the Convention, the Agreement on International Railway Freight Communications (SMGS) or the Agreement on International Passenger Traffic by Rail (SMPS) if a higher minimum amount of insurance coverage than the amount provided in this Act is established thereby;

3) the liability insurance contract shall also cover claims to compensate for environmental damage caused by unexpected or unforeseen events in case of which direct patrimonial damage and expenses for removal of pollution are subject to be compensated for and the minimum amount of insurance coverage for compensation for such claims must be ten percent of the sum insured;

4) the liability insurance contract covering two or more activities of an IM/RU shall indicate separately each area of activity specified in subsection 12 (1) of this Act together with the sum insured;

(2) A copy of the liability insurance contract that has been entered into shall be forwarded immediately to the issuer of the operating licence, operational safety certificate or entity in charge of maintenance certificate.

(3) An undertaking must have a liability insurance contract during the entire term of the operating licence, operational safety certificate and entity in charge of maintenance certificate.

§ 18. Excess

(1) Upon the request of the policyholder and with the consent of the insurer, the parties may agree on the application of excess in the liability insurance contract.

(2) Upon the application of excess, the insurer shall compensate for the damage caused to the injured party in full and the policyholder shall pay the amount of excess to the insurer.
(3) The amount of excess shall not exceed 30 percent of the sum insured.

§ 19. Minimum amount of liability insurance coverage for possessors of railways

(1) A possessor of railways must insure its liability at least to the extent specified in subsection (2) of this section, taking account of the density of use of the railways, the nature of the goods carried on the railways, any damage caused on the railways in the previous insurance period and other significant factors.

(2) The minimum amounts of insurance coverage, taking account of the total length of railways, per one-year insurance period are:
   1) total length of railways up to 5000 meters – the amount of insurance coverage is not determined, and is formed upon agreement between the insurer and the possessor of railways;
   2) total length of railways 5001 to 10,000 meters – 191,734 euros;
   3) total length of railways 10,001 to 50,000 meters – 639,116 euros;
   4) total length of railways 50,001 meters or more – 3,195,582 euros.

§ 20. Minimum amount of liability insurance coverage for railway undertakings

(1) The minimum amounts of insurance coverage for railway undertakings per one-year insurance period are:
   1) in case of being engaged in rail transport on public railways – 1,917,349 euros;
   2) in case of being engaged in transport of passengers on non-public railways – the amount of insurance coverage is not determined, and is formed upon agreement between the insurer and the railway undertaking.

(2) The liability insurance contract of a railway undertaking engaged in public transport of passengers must guarantee at least 639,116 euros for compensation for claims of passengers arising from causing of direct patrimonial damage and bodily injury.

(3) The liability insurance contract of an undertaking engaged in rail transport on public railways must also include compensation for direct patrimonial damage to owners of goods or postal items.

§ 21. Minimum amount of liability insurance coverage for undertakings engaged in maintenance, repair or construction of railway vehicles

The minimum amount of insurance coverage per one-year insurance period is:
   1) 639,116 euros for undertakings engaged in the maintenance of railway vehicles used on public railways or used for rail transport or undertakings acting as an entity in charge of maintenance;
   2) 639,116 euros for undertakings engaged in the repair of railway vehicles used on public railways or used for rail transport;
   3) 639,116 euros for undertakings engaged in the construction of railway vehicles.

Division 3


§ 22. Rights granted to undertaking by safety authorisation and operational safety certificate

(1) A railway infrastructure manager may manage public railways if, in addition to the operating licence for operation in the area of activity specified in clause 12 (1) 1) of this Act, it also holds a safety authorisation.

(2) A possessor of non-public railways may manage non-public railways if it holds a corresponding operational safety certificate.

(3) An undertaking may engage in transport of goods on non-public railways if it holds a corresponding operational safety certificate or a single safety certificate in accordance with § 27 of this Act.

(4) An undertaking may engage in transport of passengers on non-public railways if it holds a corresponding operational safety certificate or a single safety certificate in accordance with § 27 of this Act.

(5) A safety authorisation confirms that the safety management system of the railway infrastructure manager as well as the procedures and conditions required for the safe design, maintenance and operation of the railway infrastructure and the traffic management and signalling systems comply with the requirements of this Act and legislation issued on the basis thereof.

(6) An operational safety certificate is issued to an undertaking whose railway infrastructure, organisation of railway traffic or railway vehicles and staff comply with the requirements of this Act and legislation issued on the basis thereof if the undertaking is able to comply with the requirements for railway safety.
(7) The issue, amendment and renewal of the safety authorisation and operational safety certificate shall be decided by the Consumer Protection and Technical Regulatory Authority. The decision as well as the safety authorisation or operational safety certificate, if the decision is positive, shall be forwarded to the applicant immediately in the manner selected in the application.

(8) The safety authorisation and operational safety certificate are valid for five years.

§ 23. Application for issue, amendment and renewal of safety authorisation

(1) To obtain a safety authorisation, a railway infrastructure manager who wishes to manage public railways must submit a corresponding application to the Consumer Protection and Technical Regulatory Authority, enclosing therewith:

1) a list of employees responsible for railway safety or railway traffic which shall set out, for each employee, his or her given name and surname, personal identification code or, in the absence thereof, the date of birth, and the number of the professional certificate issued to the employee;
2) a list of railway civil engineering works which are not included in the railway traffic register;
3) reports on inspection of compliance of railway infrastructure and organisation of railway traffic with the requirements unless these have been submitted in conformity with § 46 of this Act;
4) documentation of the safety management system complying with the requirements of § 40 of this Act;
5) the manner in which the applicant wishes the decision to be sent;
6) information concerning payment of the state fee.

(2) An application for renewal of a safety authorisation must be submitted no later than three months before the expiry of the safety authorisation. The Consumer Protection and Technical Regulatory Authority may, during the time of processing of the application, extend the term of the safety authorisation until the end of the processing.

(3) An application for renewal of a safety authorisation shall be added information regarding payment of the state fee and the information and documents specified in clauses 1)–5) of subsection (1) of this section if the information in these has changed, indicating the changes compared to the information and documents previously submitted.

(4) If a railway infrastructure manager changes railway infrastructure, signalling or energy subsystems or the principles of their operation or maintenance, the railway infrastructure manager shall immediately submit an application to the Consumer Protection and Technical Regulatory Authority for amendment of the safety authorisation together with the information and documents concerning the changes.

(5) If the legal framework concerning railway safety changes, the Consumer Protection and Technical Regulatory Authority has the right to demand additional information from a railway infrastructure manager in connection with the changed requirements and to amend the safety authorisation if necessary.

(6) The state fees for applying for the issue, amendment or renewal of a safety authorisation shall be paid at the rate provided in the State Fees Act, except in the case specified in subsection (5) of this section.

§ 24. Application for issue, amendment and renewal of operational safety certificate

(1) To obtain an operational safety certificate, a possessor of railways who wishes to manage non-public railways must submit a corresponding application to the Consumer Protection and Technical Regulatory Authority, enclosing therewith:

1) a list of employees responsible for railway safety or railway traffic which shall set out, for each employee, his or her given name and surname, personal identification code or, in the absence thereof, the date of birth, and the number of the professional certificate issued to the employee;
2) a list of railway civil engineering works which are not included in the railway traffic register;
3) reports on inspection of compliance of railway infrastructure and organisation of railway traffic with the requirements unless these have been submitted in conformity with § 46 of this Act;
4) the manner in which the applicant wishes the decision to be sent;
5) information concerning payment of the state fee.

(2) To obtain an operational safety certificate, an undertaking who wishes to engage in transport of goods or passengers on non-public railways and who has no single safety certificate in accordance with § 27 of this Act must submit a corresponding application to the Consumer Protection and Technical Regulatory Authority, enclosing therewith:

1) a list of train drivers of the undertaking which shall set out, for each driver, his or her given name and surname, personal identification code or, in the absence thereof, the date of birth, and information concerning the train driver's licence issued to the train driver, including the number of the train driver's licence, the type of locomotive which the train driver has the right to drive, the issuer of the train driver's licence, and the place and date of issue;
2) a list of assistant train drivers of the undertaking which shall set out, for each assistant train driver, his or her given name and surname, personal identification code or, in the absence thereof, the date of birth, and the number of the professional certificate issued to the assistant train driver;
3) the type and subtype, railway traffic registry code, manufacturer and year of manufacture of the railway vehicles which the undertaking intends to use for engagement in transport of goods or passengers;
4) the manner in which the applicant wishes the decision to be sent;
5) information concerning payment of the state fee.

(3) An application for renewal of an operational safety certificate must be submitted no later than three months before the expiry thereof. The Consumer Protection and Technical Regulatory Authority may, during the time of processing of the application, extend the term of the certificate until the end of the processing.

(4) An application for renewal of an operational safety certificate shall be added information regarding payment of the state fee and the information and documents specified in clauses 1)–4) of subsection (1) or (2) of this section, respectively, if the information in these has changed, indicating the changes compared to the information and documents previously submitted.

(5) If the extent of activities of an undertaking or the principles of operation or maintenance of railway infrastructure change, the undertaking shall immediately submit an application for amendment of the operational safety certificate to the Consumer Protection and Technical Regulatory Authority together with the documents concerning the changes.

(6) The state fees for applying for the issue, amendment or renewal of an operational safety certificate shall be paid at the rate provided in the State Fees Act.

§ 25. Issue, amendment and renewal of safety authorisation and operational safety certificate

(1) Prior to the issue, amendment or renewal of a safety authorisation, the Consumer Protection and Technical Regulatory Authority shall verify compliance of the safety management system of the undertaking with the requirements and the truth of the information and documents submitted under subsection 23 (1) of this Act and, in justified cases, has the right to demand that the undertaking order a technical expert assessment of the railway civil engineering works from an expert having the corresponding competence.

(2) Prior to the issue, amendment or renewal of an operational safety certificate to a possessor of railways who wishes to manage non-public railways, the Consumer Protection and Technical Regulatory Authority shall verify the truth of the information and documents submitted under subsection 24 (1) of this Act and, in justified cases, has the right to demand that the undertaking order a technical expert assessment of the railway civil engineering works from an expert having the corresponding competence.

(3) Prior to the issue, amendment or renewal of an operational safety certificate to an undertaking who wishes to engage in transport of goods or passengers on non-public railways, the Consumer Protection and Technical Regulatory Authority shall verify the truth of the information and documents submitted under subsection 24 (2) of this Act and, in justified cases, has the right to demand that the undertaking order a technical expert assessment of the railway vehicles from an expert having the corresponding competence.

(4) The Consumer Protection and Technical Regulatory Authority shall issue, amend or renew a safety authorisation or an operational safety certificate within 30 days after the receipt of an application and documents prepared in accordance with the requirements. The Consumer Protection and Technical Regulatory Authority may, in justified cases, extend the term of processing for the purpose of verifying the truth of the documents submitted under subsections (1)–(3) of this section by up to 30 days, notifying the applicant of the extension of the term of processing. The applicant must submit the additional information within the time limit set by the Consumer Protection and Technical Regulatory Authority.

(5) The Consumer Protection and Technical Regulatory Authority shall notify the Agency for Railways about the issue, amendment and renewal of safety authorisations and about the decision to revoke a safety authorisation in accordance with 26 (4) of this Act immediately, but no later than within two weeks. The notice shall set out:
   1) the name and address of the undertaking;
   2) the date on which the decision is made;
   3) the extent and effective term of the authorisation;
   4) in case of revocation of an authorisation, the reason for the decision.

(6) The Consumer Protection and Technical Regulatory Authority shall notify the Competition Authority immediately about the issue, amendment and renewal of safety authorisations or operational safety certificates and about the refusal or revocation in accordance with § 26 of this Act.

(7) The procedure for application for and issue of safety authorisations and operational safety certificates shall be established by a regulation of the minister responsible for the area.

§ 26. Refusal to issue or renew safety authorisation or operational safety certificate and revocation thereof

(1) The Consumer Protection and Technical Regulatory Authority shall refuse to issue, amend or renew a safety authorisation if:
   1) the safety management system of the undertaking does not comply with the requirements of this Act;
2) the railway infrastructure, organisation of railway traffic or staff of the undertaking do not comply with the established requirements;
3) the undertaking is unable to comply with the requirements of railway safety;
4) the undertaking has submitted incorrect or incomplete information upon processing of the application.

(2) The Consumer Protection and Technical Regulatory Authority shall refuse to issue, amend or renew an operational safety certificate:
1) if the management of railway infrastructure, the railway vehicles or staff of the undertaking do not comply with the established requirements;
2) in the case specified in clause (1) 3) or 4) of this section.

(3) In addition to the circumstances specified in subsection (2) of this section, the Consumer Protection and Technical Regulatory Authority shall refuse to amend or renew an operational safety certificate if the undertaking does not have a liability insurance contract complying with the requirements.

(4) The Consumer Protection and Technical Regulatory Authority has the right to revoke a safety authorisation and operational safety certificate if:
1) the railway infrastructure, organisation of railway traffic, railway vehicles or staff of the undertaking do not comply with the established requirements;
2) the undertaking repeatedly violates the requirements established by this Act.

§ 27. Single safety certificate

(1) In order to engage in transport of goods or transport of passengers on public railways, a railway undertaking must have a valid single safety certificate.

(2) A single safety certificate is issued to a railway undertaking who has a safety management system complying with the requirements of this Act and who is able to operate safely in the intended area of operation.

(3) A single safety certificate shall set out the covered type of operation, the extent of operation and the area of operation. In addition, a single safety certificate shall set out the sidings owned by the railway undertaking if their use is regulated by the safety management system of the railway undertaking.

(4) The type of operation may be transport of passengers, transport of goods or shunting services only, the extent of operation can be measured by the number of passengers or the volume of transport of goods or the estimated size of the appropriate railway undertaking in terms of number of employees working in the railway sector, and the area of operation is a railway network or railway networks within one or more Member States where the railway undertaking intends to operate.

(5) A single safety certificate is valid for five years and it is amended on the basis of an application of the railway undertaking in full or in part each time when the type of operation or the extent of operation changes.


(7) A single safety certificate shall also be valid in a neighbouring country without extension of the area of operation if the railway undertaking operates railway vehicles until a station that is situated close to the border in the neighbouring country which has a railway network and operating rules with similar characteristics if this is agreed on between the Consumer Protection and Technical Regulatory Authority and the safety authority of the appropriate country either on a case-by-case basis or in a mutual agreement.

(8) A railway undertaking of a third country may enter Estonian frontier stations without a single safety certificate provided that the safety level is ensured by the following:
1) a corresponding international agreement exists between Estonia and the neighbouring third country, or
2) a corresponding agreement exists between the third-country undertaking and the railway undertaking or railway infrastructure manager who has a single safety certificate or safety authorisation to operate on that network provided that the safety-related aspects of this agreement are reflected in the safety management system of the railway undertaking or railway infrastructure manager.

(9) A railway undertaking shall notify the Consumer Protection and Technical Regulatory Authority no later than two months before commencement of a new rail transport activity so that the latter could plan supervision.

(10) The holder of a single safety certificate shall notify the Consumer Protection and Technical Regulatory Authority immediately about major changes in the rail transport activity, the types of railway vehicles or the categories of employees.


§ 28. Issuer of single safety certificate and fees

(1) A single safety certificate shall be issued to a railway undertaking whose area of operation is in one or more Members States by the Agency for Railways.

(2) Fees shall be paid upon the issue, renewal or amendment of a single safety certificate by the Agency for Railways in accordance with the conditions provided in Commission Implementing Regulation (EU) 2018/764 on the fees and charges payable to the European Union Agency for Railways and their conditions of payment (OJ L 129, 25.5.2018, p. 68–72).

(3) A single safety certificate may be issued to a railway undertaking whose area of operation is limited to the territory of the Republic of Estonia, at the request of the railway undertaking, by the Consumer Protection and Technical Regulatory Authority.

(4) The state fees for applying to the Consumer Protection and Technical Regulatory Authority for the issue, renewal or amendment of a single safety certificate shall be paid at the rate provided in the State Fees Act.

§ 29. Issue of single safety certificate by Agency for Railways

(1) An undertaking wishing to engage in rail transport on railways must submit, together with the application for a single safety certificate, the documents proving that:

1) the railway undertaking has established its safety management system in conformity with § 40 of this Act and it satisfies the conditions provided in the technical specifications for interoperability, the common safety methods in accordance with Article 6 of Directive (EU) 2016/798 of the European Parliament and of the Council (hereinafter common safety methods) and the common safety targets in accordance with Article 7 of the same Directive (hereinafter common safety targets) and other appropriate legislation in order to control risks and provide safe rail transport on the railway network;

2) the railway undertaking complies with the national rules.

(2) The common safety methods shall describe how the safety levels, the achievement of safety targets and compliance with safety requirements are assessed. The common safety targets shall establish the minimum safety levels to be reached by the rail system as a whole, and where feasible, by different parts of the European Union rail system.

(3) The Agency for Railways shall:

1) assess whether the documents submitted together with the application specified in subsection (1) of this section prove compliance with the requirements specified in clause 1) of the same subsection;

2) forward the documents specified in clause (1) 2) of this section immediately to the Consumer Protection and Technical Regulatory Authority for assessment if the intended area of operation is in Estonia.

(4) As a part of the assessments specified in subsection (3) of this section the Agency for Railways and the Consumer Protection and Technical Regulatory Authority have the right to carry out on-site inspections and audits and to require the submission of appropriate additional information. The organisation of such visits, inspections and audits shall be mutually coordinated between the Agency for Railways and the Consumer Protection and Technical Regulatory Authority.

(5) Within one month after receipt of an application for a single safety certificate, the Agency for Railways shall inform the railway undertaking whether the submitted documents are complete or shall ask for relevant supplementary information, setting a reasonable deadline for the provision thereof. With regard to the completeness, relevance and consistency of the documents, the Agency for Railways may also assess the documents specified in clause (1) 2) of this section itself and shall take fully into account the assessments made in conformity with subsection (3).

(6) The Agency for Railways shall issue a single safety certificate or shall refuse to satisfy the application for a single safety certificate no later than four months after receipt of the required information from the applicant. Even if the Agency for Railways fails to adjudicate the application within the time limit, a single safety certificate shall not be deemed to be issued to the applicant at the expiry of the time limit by default.

(7) If a railway undertaking to whom the Agency for Railways has issued a single safety certificate wishes to extend its area of operation or if it already has a single safety certificate issued in accordance with § 30 of this Act and it wishes to extend its area of operation to another Member State, it shall submit an application and supplement the documentation specified in subsection (1) of this section with the relevant documents concerning the additional area of operation.
The Agency for Railways shall notify competent national safety authorities of the issue, renewal, amendment or revocation of single safety certificates without delay, but no later than in two weeks. The notice shall set out:

1) the name and address of the railway undertaking;
2) the date of issue of the single safety certificate;
3) the type of operation and the extent of operation;
4) the validity and the area of operation of the single safety certificate;
5) in case of revocation of a single safety certificate, the reason for the decision.

§ 30. Issue of single safety certificate by Consumer Protection and Technical Regulatory Authority

(1) In the case specified in subsection 28 (3) of this Act, an applicant shall submit an application to the Consumer Protection and Technical Regulatory Authority together with the documents specified in subsection 29 (1) and information concerning payment of the state fee.

(2) The Consumer Protection and Technical Regulatory Authority shall assess whether the documents submitted together with the application specified in subsection (1) of this section prove compliance with the requirements specified in subsection 29 (1) of this Act.

(3) As a part of the assessment specified in subsection (2) of this section the Consumer Protection and Technical Regulatory Authority has the right to carry out on-site inspections and audits of the railway undertaking.

(4) Within one month after receipt of an application from an applicant, the Consumer Protection and Technical Regulatory Authority shall inform the applicant whether the submitted documentation is complete and, if necessary, shall ask for additional information, setting a reasonable time limit for submitting it.

(5) If a railway undertaking to whom a single safety certificate has been issued by the Consumer Protection and Technical Regulatory Authority wishes to extend the area of operation in Estonia, it shall submit the relevant additional documents required by subsection 29 (1) of this Act concerning the additional area of operation and a corresponding application and if the application is satisfied, the Consumer Protection and Technical Regulatory Authority shall issue a renewed single safety certificate.

(6) The Consumer Protection and Technical Regulatory Authority shall issue or refuse to issue a single safety certificate no later than four months after receipt of all the required information from the applicant. Even if the Consumer Protection and Technical Regulatory Authority fails to adjudicate the application within the time limit, a single safety certificate shall not be deemed to be issued to the applicant at the expiry of the time limit by default.

(7) The Consumer Protection and Technical Regulatory Authority shall forward the information specified in subsection 29 (8) of this Act concerning the issued single safety certificates to the Agency for Railways without delay, but no later than within two weeks.

§ 31. Amendment and renewal of single safety certificate

(1) If a railway undertaking wishes to significantly change the type or the extent of operation, it shall submit an application for amendment of the certificate to the issuer of the single safety certificate.

(2) The documents specified in subsection 29 (1) of this Act reflecting the change in the type or the extent of operation shall be submitted to supplement the application specified in subsection (1) of this section.

(3) An application for renewal of a single safety certificate must be submitted to the issuer of the single safety certificate at least four months before the expiry of the single safety certificate.

(4) The documents specified in subsection 29 (1) of this Act shall be submitted to supplement the application specified in subsection (3) of this section if the information in these have changed, indicating the changes compared to the information previously submitted.

(5) The procedure provided in § 29 or 30 of this Act correspondingly applies to the amendment and renewal of single safety certificates and to the procedure specified in subsection (6) of this section.

(6) If the legal framework concerning safety changes significantly, the issuer of single safety certificates has the right to review a single safety certificate and require the submission of documents reflecting the changed circumstances in order to amend the single safety certificate.

§ 32. Restriction or revocation of single safety certificate

(1) If the Consumer Protection and Technical Regulatory Authority finds that a holder of a single safety certificate issued by the Agency for Railways no longer satisfies the conditions for the issue of the certificate, it shall make a proposition to the Agency for Railways to restrict or revoke the single safety certificate.
(2) If the Consumer Protection and Technical Regulatory Authority finds that a holder of a single safety certificate issued thereby no longer satisfies the conditions for the issue of the certificate, it may restrict or revoke the single safety certificate.

(3) The Consumer Protection and Technical Regulatory Authority shall notify the Agency for Railways of the restriction or revocation of single safety certificates in accordance with subsection (2) of this section without delay.

(4) A holder of a single safety certificate whose certificate is restricted or revoked in accordance with subsection (1) or (2) of this section may file a complaint observing the provisions of subsections 33 (3) and (4) of this Act.

§ 33. Arbitration regarding single safety certificates

(1) When the Agency for Railways disagrees with the result of the assessment carried out by the Consumer Protection and Technical Regulatory Authority in accordance with clause 29 (3) 2) of this Act, the parties shall cooperate to reach an agreement on a mutually acceptable result of the assessment and involve the applicant for the single safety certificate if necessary.

(2) If, in the case specified in subsection (1) of this section, no mutually acceptable agreement is reached within one month after the Agency for Railways has notified of its disagreement, the Agency for Railways shall make a decision on issue of the single safety certificate, unless the Consumer Protection and Technical Regulatory Authority has referred the matter of its disagreement with the assessment of the Agency for Railways for arbitration to the Board of Appeal established under Article 55 of Regulation (EU) 2016/796 of the European Parliament and of the Council.

(3) An applicant for a single safety certificate may, within one month after receipt of the decision on refusal to issue a single safety certificate, request that the Agency for Railways or the Consumer Protection and Technical Regulatory Authority shall decide within two months after receipt of the application whether it refuses to satisfy the request or revokes its decision.

(4) If the Agency for Railways refuses to satisfy the request submitted under subsection (3) of this section, the applicant for a single safety certificate may file an appeal with the Board of Appeal established under Article 55 of Regulation (EU) 2016/796 of the European Parliament and of the Council.

(5) If the Consumer Protection and Technical Regulatory Authority refuses to satisfy the request submitted under subsection (3) of this section, the applicant for a single safety certificate may file an appeal with an administrative court.

§ 34. Cooperation for improving efficiency of proceedings for issue of single safety certificates


Chapter 4
Railway Traffic and Safety

Division 1
Ensuring of Railway Traffic

§ 35. Ensuring of safety

(1) The use of equipment used on the railways, railway vehicles, narrow-gauge railways and railway infrastructure together with the civil engineering works required for its operation as well as the organisation of railway traffic, shunting and rail transport must ensure railway safety.

(2) Railway infrastructure managers and owners or possessors of railway infrastructure are obliged to ensure safe traffic on their railway infrastructure and maintain the working order of the railway infrastructure such that railway safety is ensured.
Railway undertakings and other owners or possessors of railway vehicles are obliged to ensure railway safety in rail transport, and the compliance of the railway vehicles used by them with safety, maintenance and other requirements currently in force.

In order to ensure railway safety specified in subsection (1) of this section and proceeding from the requirements of Article 8 and Annex II of Directive (EU) 2016/798 of the European Parliament and of the Council, the minister responsible for the area shall establish by a regulation the rules for technical use of railways which provide the national technical requirements and operating rules for railway infrastructure, narrow-gauge railways and railway vehicles, railway traffic rules, requirements for railway maintenance, and requirements for rail transport.

A railway infrastructure manager or owner or possessor railways shall establish speed limits to ensure safety. If the established speed limits do not ensure the safety of railway traffic or are unjustified, the Consumer Protection and Technical Regulatory Authority has the right to issue precepts for modification of the speed limits to the railway infrastructure manager or owner or possessor of railways.

It is not permitted to obstruct railway traffic unnecessarily or place objects on a railway which may obstruct railway traffic. Mounting or alighting from a moving train, travelling on a running board of a carriage, on the roof of a train, on the coupling mechanism or in another place not intended for travelling, unauthorised stopping of a train or unauthorised travelling on a freight train are not permitted either.

§ 36. Employees responsible for railway safety and railway traffic control

(1) Employees of a railway infrastructure manager responsible for railway safety and railway traffic control are yardmasters, wagon inspectors, wagon brakers, train dispatchers, shunting dispatchers, station operators, railway traffic operators, signalling area engineers, assemblers, switch operators, track fitters, track masters, shunting foremen and signalmen.

(2) The employees specified in subsection (1) of this section must have the competence corresponding to the work which is certified by the relevant profession within the meaning of the Professions Act which is granted to a person for five years.

(3) Persons who have acquired foreign professional qualifications may also act as the employees specified in subsection (1) of this section if their professional qualifications have been recognised in accordance with the Recognition of Foreign Professional Qualifications Act. The competent authority provided for in subsection 7 (2) of the Recognition of Foreign Professional Qualifications Act is the Consumer Protection and Technical Regulatory Authority.

(4) An owner or possessor of railway civil engineering works, who is not a railway infrastructure manager, shall appoint a competent person who has the profession of a railway engineer, railway track engineer or railway signalling area engineer and who is responsible for railway safety.

(5) An owner or possessor of railway civil engineering works may appoint a competent person responsible for railway safety specified in subsection (4) of this section by an agreement entered into with a railway infrastructure manager, prescribing therein additionally the procedure for ensuring and maintenance of safety of railway civil engineering works and the persons bearing the costs.

§ 37. Health requirements for rail workers

(1) The vision, hearing, psychological fitness and overall state of health of train drivers, assistant train drivers, drivers of special railway vehicles, passenger train attendants, yardmasters, wagon inspectors, wagon brakers, train dispatchers, shunting dispatchers, station operators, railway traffic operators, protection and communication equipment engineers, assemblers, switch operators, track fitters, track masters, freight train guards and signalmen (hereinafter together referred to as rail workers) must comply with the level which enables rail workers to perform their duties safely and which shall be certified by passed medical examination.

(2) The medical examination of rail workers shall be conducted by an occupational health doctor who involves a medical specialist if necessary.

(3) A prior medical examination must be passed not earlier than three months before commencing work as a rail worker.

(4) A routine medical examination must be passed:
1) every five years up to the age of 40;
2) every three years at the age of 41 to 62;
3) annually over the age of 62.

(5) Train drivers and assistant train drivers must pass a medical examination:
1) at least every three years up to the age of 55;
2) annually over the age of 55.
If decided so by the person conducting the medical examination, a particular rail worker, considering the state of health thereof, must undergo a routine medical examination more frequently than provided in subsections (4) and (5) of this section.

An employer shall have a rail worker undergo an additional medical examination if:
1) the employer has reason to believe that the physical or mental state of health of the employee does not enable the employee to perform the duties in a safe manner;
2) the employer suspects that the employee consumes drugs or psychotoxic medicinal products or that the employee shows the signs of alcohol addiction;
3) the employee has been involved in an occupational accident or the employee has been away from work after an accident involving people;
4) the employee has been absent from work for health reasons for more than 30 days;
5) the employee has been suspended from work for safety reasons and wishes to return to work.

The requirements for vision, hearing and psychological fitness of rail workers, the overall health requirements, the investigations required during prior and routine medical examinations and the procedure for conducting such medical examinations shall be established by a regulation of the minister responsible for the area.

§ 38. Monitoring of compliance with safety requirements

(1) The Consumer Protection and Technical Regulatory Authority has the right to issue precepts to IM/RUs and other possessors of railway infrastructure or railway vehicles for compliance with the requirements arising from this Act and set a reasonable term for compliance therewith.

(2) If a railway infrastructure manager fails to comply with a precept issued by the Consumer Protection and Technical Regulatory Authority within the set term, the authority has the right to apply substitutive enforcement regarding the repair and maintenance work of the railway infrastructure pursuant to the procedure provided for in the Substitutive Enforcement and Penalty Payment Act. The Consumer Protection and Technical Regulatory Authority has the right to apply substitutive enforcement without issuing a precept if imminent danger to the life or health of persons or to the environment needs to be eliminated immediately.

(3) In the case of violation of the requirements established in the rules for technical use of railways resulting in imminent danger to railway traffic, the railway infrastructure manager has the right to remove a railway vehicle which does not comply with the requirements established in the rules for technical use of railways from the railway infrastructure, or to immediately take other measures to ensure the safety of railway traffic.

(4) If the use of a railway vehicle in railway traffic results in danger to the life or health of persons or to the environment or if a railway vehicle used in railway traffic has not been registered, the Consumer Protection and Technical Regulatory Authority has the right to issue a precept to the IM/RU or other possessor of railway vehicles for immediate removal of the railway vehicle from railway traffic.

(5) If this is necessary because of danger to the life or health of persons, property or the environment, the Consumer Protection and Technical Regulatory Authority may suspend railway traffic to the extent necessary for avoiding the danger.

(6) Damage caused to railway undertakings or possessors of railway vehicles due to application of subsection (3)–(5) of this section shall not be compensated for.

(7) The Consumer Protection and Technical Regulatory Authority shall publish on its website by 30 September each year and forward to the Agency for Railways an annual report, presenting therein:
1) an overview of the development of railway safety in the previous calendar year;
2) a summary of the safety indicators specified in § 45 of this Act and the development of safety certification and safety authorisation;
3) important changes in the legislation concerning railway safety;
4) the results of supervision of IM/RUs and the number and outcome of inspections and audits related thereto;
5) an overview of any derogations made in accordance with subsection 42 (8) of this Act as regards the certification of entities in charge of maintenance;
6) a summary of the experience of IM/RUs upon the application of the relevant common safety methods.

(8) The Consumer Protection and Technical Regulatory Authority as a safety authority shall co-operate with other safety authorities of the European Union and exchange the positions and experience arising from its work practice with them. The cooperation shall cover at least the procedure related to safety certificates and in case of cross-border railway infrastructure the procedure for issue of safety authorisations as well as facilitation and coordination of international railway traffic.
§ 39. Implementation of measures to assess and reduce risks

(1) An IM/RU shall organise the assessment of risks and implement the measures for reducing the risks prescribed in the common safety measures to ensure safety, cooperating with other IM/RUs if necessary.

(2) If necessary, an IM/RU shall agree, on the basis of an agreement, on the implementation of the measures for reducing the risks specified in subsection (1) of this section by the persons specified in subsection (3) of this section who may impact the safe operation of the rail system. An IM/RU shall ensure that its contractors implement measures to reduce risks through the application of common safety methods on monitoring specified in point (c) of Article 6(1) of Directive (EU) 2016/798 of the European Parliament and of the Council and that this is provided in the contracts which must be disclosed at the request of the Agency for Railways or the Consumer Protection and Technical Regulatory Authority.

(3) Without limiting the liability of IM/RUs specified in subsections (1) and (2) of this section, the entities in charge of maintenance and all other persons who may impact the safe operation of the rail system shall:
   1) implement the necessary measures to reduce risks, where appropriate in cooperation with other actors;
   2) ensure that subsystems, accessories, equipment and services supplied by them comply with the requirements and conditions for use so that they can be safely operated by IM/RUs.

(4) The other persons impacting the safe operation of the rail system specified in subsection (3) of this section are possessors of railway vehicles, maintenance suppliers, service providers as well as the manufacturers, consignors, consignees, loaders, unloaders, fillers, unfillers, carriers and contracting entities specified in points (22)–(30) of Article 3 of Directive (EU) 2016/798 of the European Parliament and of the Council.

(5) Railway undertakings, railway infrastructure managers and the persons specified in subsection (3) of this section who identify or are informed of a risk relating to defects and construction non-conformities or malfunctions of technical equipment, including those of structural subsystems, shall, within the limits of their competence:
   1) take all necessary corrective measures to eliminate the identified risk;
   2) report the risk to other appropriate persons in order to enable them to take any necessary further corrective action to ensure the continuous keeping of the safety level of the trans-European rail system.

(6) If railway undertakings exchange railway vehicles, they shall provide to the other party at least:
   1) all the information relevant to the safe operation of the railway vehicles;
   2) information about the status and maintenance history of the railway vehicles and elements of the maintenance files for the purpose of traceability;
   3) information about traceability of loading operations and consignment notes.

§ 40. Safety management system of IM/RU

(1) An IM/RU operating on public railways shall establish a safety management system in the undertaking and ensure its implementation. A safety management system shall be documented. A safety management system shall show the division of liability within the organisation.

(2) A safety management system must ensure that at least the common safety targets are achieved on railways, the railway infrastructure is in conformity with the safety requirements laid down in the technical specifications for interoperability and that the relevant parts of common safety methods and appropriate national rules are applied.

(3) When establishing and implementing a safety management system, an IM/RU shall take into consideration its type of operation, extent of operation, area of operation and other conditions which ensure the management of all risks related to the IM/RU's operation, taking into consideration, inter alia, the risks related to maintenance, operation, delivery of materials and use of subcontractors, and in the event of lack of appropriate national or international regulations, also the risks arising from the operation of other parties if it is possible and reasonable to take such risks into consideration.

(4) A control and supervision system shall be established within a safety management system to ensure that train driver's licences and certificates of the train drivers employed by an IM/RU are valid, prescribing the taking of measures if there are doubts about the competence of a train driver.

(5) A safety management system shall indicate, in the case of an event affecting railway safety, how cooperation is ensured between a railway infrastructure manager and all the railway companies operating in this railway network and how cooperation is ensured with the rescue service agencies to facilitate their rapid intervention and with any other party who could be involved in such case. For cross-border railway infrastructure, the cooperation between the railway infrastructure managers must facilitate the coordination and preparedness of the rescue service agencies on both sides of the border.

(6) By 31 May each year, an IM/RU shall submit a safety report for the previous calendar year concerning the following to the Consumer Protection and Technical Regulatory Authority:
   1) an overview of achievement and performance of the undertaking's railway safety targets;
   2) development of national safety indicators and common safety indicators if in the opinion of the undertaking it is necessary to present these in the safety report;
3) the results of internal safety audit which also reflects any deficiencies detected during the audit and the measures implemented to eliminate the deficiencies;
4) observations about any weaknesses or irregularities in the functioning of the railway infrastructure or rail transport, of which it is necessary to notify the Consumer Protection and Technical Regulatory Authority in the opinion of the undertaking, including a summary of the risks reported by the relevant persons in conformity with clause 39 (5) 2) of this Act;
5) a report on the application of the relevant common safety measures.

(7) The requirements for safety management systems of IM/RUs and their implementation shall be established by a regulation of the minister responsible for the area.

§ 41. Operating rules of railway infrastructure manager

(1) A railway infrastructure manager shall manage public railways on the basis of the operating rules of the railway infrastructure manager. The operating rules shall establish the conditions for maintenance of railway infrastructure, for organisation of railway traffic and for grant of use of the railway infrastructure to other persons.

(2) In the operating rules, a railway infrastructure manager shall determine the language or languages of communication used on the railway infrastructure.

(3) A railway infrastructure manager shall publish the operating rules and any amendments to these on its website no less than 45 days before their implementation and notify the Consumer Protection and Technical Regulatory Authority and the Competition Authority thereof.

(4) The Consumer Protection and Technical Regulatory Authority may issue a precept to amend the operating rules if the operating rules contradict the legislation.

§ 42. Entity in charge of maintenance

(1) Prior to placing railway vehicles in service in the railway network, a possessor of railway vehicles shall appoint an entity which is in charge of their maintenance and which shall be registered in the railway traffic register specified in § 137 of this Act or in the corresponding register of another Member State.

(2) The entity in charge of maintenance shall ensure that the railway vehicles for which it is in charge of maintenance are in working order. For this, it shall establish a maintenance system corresponding to the requirements of paragraphs 2 and 3 of Article 14 of Directive (EU) 2016/798 of the European Parliament and of the Council.

(3) An entity in charge of maintenance of freight wagons must comply with the requirements of Annex III of Directive (EU) 2016/798 of the European Parliament and of the Council which shall be certified by a corresponding certificate.

(4) To obtain the certificate specified in subsection (3) of this section, an application shall be submitted to the Consumer Protection and Technical Regulatory Authority.


(6) If an entity in charge of maintenance is a railway undertaking or a railway infrastructure manager, the Consumer Protection and Technical Regulatory Authority may, at the request of the undertaking, check the compliance of the entity with the requirements during the proceedings on the safety authorisation in conformity with § 23 of this Act or the proceedings on the single safety certificate in conformity with § 27 and certify that the entity complies with the requirements in the specified documents.

(7) The state fees for submitting the applications specified in subsections (4) and (6) of this section shall be paid at the rate provided in the State Fees Act.

(8) An entity in charge of maintenance of freight wagons need not apply for the certificate specified in subsection (3) of this section if its maintenance system complies with the requirements of Article 14 of Directive (EU) 2016/798 of the European Parliament and of the Council and it maintains:
1) railway vehicles registered in a third country according to the requirements of that country;
2) railway vehicles used in the railway network the track gauge of which is different from that of the main railway network within the European Union and in respect of which fulfilment of the requirements provided
in Article 14(2) of Directive (EU) 2016/798 of the European Parliament and of the Council is ensured by an international agreement with the third country;
3) freight wagons and passenger coaches which are in shared use with undertakings from such third country where the track gauge of the railway network is different from that of the main railway network within the European Union.

§ 43. Railway crossings

(1) Railways may be crossed only on level crossings or pedestrian crossings prescribed and marked for that purpose pursuant to the procedure provided on the basis of the Traffic Act. It is not permitted to be present on railways in other places.

(2) A railway infrastructure manager or other owner or possessor of railway infrastructure is required to ensure the maintenance of level crossings and pedestrian crossings and the installation of traffic control devices, and railway safety to the extent of the immovable in their possession on the bases of and pursuant to the procedure provided in the rules for technical use of railways, except for winter maintenance work, which is the obligation of the owner of the road on the entire area of a railway crossing.

(3) If several railway tracks with axes less than 20 metres apart cross a road at the same level, the entire area where the road and the railways cross is deemed to be a single railway crossing, and its maintenance, installation of traffic control devices and safety of such railway crossing shall be ensured by the railway infrastructure manager who is managing public railways and in the case the railway crossing does not include public railways, performance of such work shall be ensured by the owner or possessor of the railway with the highest traffic intensity.

(4) The person specified in subsection (3) of this section has the right to demand proportionate compensation from the other owners or possessors of railways for the costs incurred upon ensuring the maintenance of the railway crossing, installation of traffic control devices and safety.

§ 44. Substantial restriction and temporary closure of railway traffic

(1) A railway infrastructure manager may, in justified cases, substantially restrict or temporarily close railway traffic on public railways if this is unavoidable and necessary:
1) for the performance of rail maintenance work;
2) for the elimination of imminent danger to the life, health or property of persons or to the environment;
3) for the removal of an extraordinary traffic obstruction;
4) in other justified and unavoidable cases.

(2) Temporary closure of railway traffic means the cancellation of all trains scheduled by the timetable to run in a certain railway section during a certain period of time and substantial restriction of railway traffic means the cancellation of at least one passenger train scheduled by the timetable, or a situation where the scheduled use of more than three-fourths of the train paths cannot be guaranteed during a twenty-four hour period.

(3) A railway infrastructure manager is required to have a substantial restriction or temporary closure of railway traffic approved by the Consumer Protection and Technical Regulatory Authority and to notify in a format which can be reproduced in writing all the railway undertakings carrying out rail transport on this railway who cannot use the train paths allocated to them during the substantial restriction or temporary closure of railway traffic or who can use them to a restricted extent or under conditions different from the conditions agreed to in the contract for the use of railway infrastructure.

(4) A railway infrastructure manager must promptly notify the Consumer Protection and Technical Regulatory Authority of any unforeseeable substantial restriction or temporary closure of railway traffic and its reasons.

(5) If railway traffic endangers the life, health or property of persons or the environment, the Consumer Protection and Technical Regulatory Authority has the right to issue a precept to a railway infrastructure manager or other possessors of railway infrastructure for substantial restriction or temporary closure of railway traffic.

(6) In the case of a railway traffic disturbance which is caused by a technical failure or accident, the railway infrastructure manager shall take all measures to restore the situation to normal. To that end, it shall draw up a contingency plan listing also the bodies to be informed in the event of railway traffic disturbances specified in the first sentence of this subsection.

(7) If the disturbance specified in subsection (6) of this section may affect cross-border railway traffic, the railway infrastructure manager shall share the appropriate information with other railway infrastructure managers, whose railway network and railway traffic may be affected by such disturbance. Railway infrastructure managers shall cooperate to restore the cross-border railway traffic to normal.

(8) The procedure for notification of substantial restriction and temporary closure of railway traffic, the list of documents and information to be submitted and the procedure for approval shall be established by a regulation of the minister responsible for the area.
§ 45. Safety indicators

(1) Safety indicators mean the data on the basis of which the development of railway safety is assessed and which the Consumer Protection and Technical Regulatory Authority submits annually to the Agency for Railways.

(2) Railway infrastructure managers or other possessors of railway infrastructure and railway undertakings or other possessors of railway vehicles shall submit the information required for compiling the safety indicators for the previous calendar year together with the safety report specified in subsection 40 (6) of this Act to the Consumer Protection and Technical Regulatory Authority.

(3) The list of safety indicators and the procedure for notifying the Consumer Protection and Technical Regulatory Authority and the Agency for Railways of the safety indicators shall be established by a regulation of the minister responsible for the area.

§ 46. Report on inspection of compliance with requirements

(1) Railway infrastructure managers and possessors of railway infrastructure are required to submit, for each calendar year, a report on inspection of compliance of railway infrastructure and organisation of railway traffic with the requirements to the Consumer Protection and Technical Regulatory Authority.

(2) An IM/RU of a Member State or a third country shall submit the report specified in subsection (1) of this section only concerning the operation carried out in Estonia.

(3) The Consumer Protection and Technical Regulatory Authority has the right to verify, at any time, the correctness of the information presented in the reports specified in subsections (1) and (2) of this section, and the compliance of railway infrastructure and organisation of railway traffic with the established requirements, and the IM/RUs and other possessors of railway infrastructure are obliged to enable such verification at any time.

(4) The requirements for the reports on inspection of compliance of railway infrastructure, organisation of railway traffic and railway safety with the requirements and on the status of railway safety, the formats and time limits for the submission of the reports shall be established by a regulation of the minister responsible for the area.

Division 2
Safety Investigation

§ 47. Safety Investigation Bureau

(1) The safety investigation of serious accidents, accidents and incidents specified in § 48 of this Act (hereinafter the safety investigation) shall be carried out by the Safety Investigation Bureau, which is a structural unit of the Ministry of Economic Affairs and Communications.

(2) The Safety Investigation Bureau shall be independent upon conducting safety investigations and making related decisions and shall proceed only from laws and other legislation and international agreements binding on Estonia. No supervisory control shall be exercised over the safety investigation activities of the Safety Investigation Bureau.

(3) The Safety Investigation Bureau has the right to involve experts and set up committees where expertise is required to ascertain facts. An expert or committee shall participate in the safety investigation under the management and supervision of an official conducting safety investigation.

(4) Authorities associated with a safety investigation are required to provide the Safety Investigation Bureau with necessary assistance within the limits of their competence.

(5) When performing their duties, officials conducting a safety investigation shall present identification.

§ 48. Events affecting railway safety

(1) The events affecting railway safety are serious accidents, accidents and incidents (hereinafter referred to as events affecting railway safety).

(2) For the purposes of this Act, serious accident means collision of trains or derailment of a train causing death of a person or serious physical harm to at least five people or as a result of which railway vehicles, railway
infrastructure or the environment is damaged to the extent of at least two million euros by estimation of the Safety Investigation Bureau and other accidents with the same consequences which clearly affect railway safety.

(3) For the purposes of this Act, accident means an unintended or sudden event or chain of events in consequence of which damage is caused. Accidents are divided into the following categories:
1) collision of a train with another train, shunting railway vehicles or another obstruction;
2) derailment of a train;
3) accident occurring at a railway crossing;
4) railway vehicles hitting a person;
5) fire of railway vehicles;
6) other accidents related to railways.

(4) For the purposes of this Act, incident means an event related to the use of a train which is not a serious accident or accident but which affects or may affect the safety of use of railways.

(5) It is prohibited for a driver involved in a serious accident or accident to consume alcohol or narcotic, psychotropic or psychotoxic substances immediately after the event.

(6) In the case of an event affecting railway safety, the railway infrastructure manager and other possessors of railway infrastructure have the obligation to eliminate the consequences of the event and restore railway traffic as quickly as possible. A railway infrastructure manager or other owner or possessor of railway infrastructure must regularly analyse the efficiency of works performed to restore railway traffic and if necessary apply measures to improve the organisation of works performed to restore railway traffic.

(7) In the case of a serious accident or accident, it is the task of the state and local government to provide all possible assistance to eliminate the consequences of the accident and restore railway traffic as quickly as possible.

(8) If railway traffic is suspended for more than 12 hours as a result of an event affecting railway safety, the Consumer Protection and Technical Regulatory Authority may demand that the railway infrastructure manager or the possessor of non-public railways submit a report on the reasons for the time spent on restoring railway traffic, the appropriateness of the action plan of the safety management system and the required additional measures.

(9) Following a serious accident, a railway undertaking must provide assistance to victims helping them in particular in complaints procedures under Regulation (EC) No 1371/2007 of the European Parliament and of the Council, without prejudice to the obligations of other parties. Such assistance shall include the use of appropriate communication channels and psychological support for victims of the serious accident and their families.

§ 49. Notification of events affecting railway safety

(1) Railway infrastructure managers or other possessors of railway infrastructure or railway undertakings and the Consumer Protection and Technical Regulatory Authority that has received relevant information during supervisory operations shall notify the Safety Investigation Bureau promptly of the events affecting railway safety through the means of communication disclosed on its website, followed by a written notice of the serious accident or accident within three working days after the occurrence of the event providing all the available information about the event.

(2) If the notifier of the event specified in subsection (1) of this section learns about additional information, it must be submitted promptly to the Safety Investigation Bureau through the means of communication disclosed on its website, followed by a written notice of the serious accident or accident within three working days after the receipt of additional information.

(3) Additional information concerning an incident must be provided in writing by means of a report within three working days after the Safety Investigation Bureau has requested such information.

(4) Railway infrastructure managers or other possessors of railway infrastructure shall notify the Consumer Protection and Technical Regulatory Authority promptly of a serious accident and accident. Initial notice shall be given through the means of communication disclosed on the website of the Consumer Protection and Technical Regulatory Authority, followed by a written notice within three working days after the occurrence of the event.

(5) IM/RUs or other possessors of railway infrastructure shall notify the Consumer Protection and Technical Regulatory Authority of an incident after the causes of the incident and other circumstances of the incident have been ascertained within five working days after the occurrence of the incident by submitting a written report to the Consumer Protection and Technical Regulatory Authority.

(6) IM/RUs or other owners or possessors of railway infrastructure are obliged to take all measures to ascertain the causes of an event affecting railway safety.
The procedure for notification of events affecting railway safety and the format requirements for the notice and report shall be established by a regulation of the minister responsible for the area.

§ 50. Commencement of safety investigation

(1) The main purpose of a safety investigation is to ascertain whether the event affecting railway safety was caused by an action, omission, event, condition or their combination and to issue recommendations in order to prevent such events in the future and to improve railway safety.

(2) In the case of a serious accident, the Safety Investigation Bureau shall commence a safety investigation immediately.

(3) The Safety Investigation Bureau has the right to commence a safety investigation in the case of an accident or incident which under certain circumstances could have led to a serious accident as well as in the case of a technical failure in a subsystem or interoperability constituent of the trans-European rail system.

(4) Upon deciding on commencement of a safety investigation in the case specified in subsection (3) of this section the Safety Investigation Bureau must take into account the seriousness of the accident or incident, whether it was a part of a series of accidents or incidents that affect the system as a whole and its impact on railway safety.

(5) In the case of an accident or incident, the Safety Investigation Bureau must decide on commencement of a safety investigation within two months after receipt of the notice concerning the accident or incident.

(6) Upon commencing a safety investigation of an accident or incident the Safety Investigation Bureau shall take account of the requests submitted by safety authorities of other Member States, the Consumer Protection and Technical Regulatory Authority, railway infrastructure managers and railway undertakings.

(7) The Safety Investigation Bureau shall notify the Agency for Railways of deciding on commencement of a safety investigation within one week thereafter. The notice shall set out the date, time and place of the event affecting railway safety, the type of the event and the consequences in case of fatalities, damage to health and presumed material damage.

§ 51. Safety investigation proceedings

(1) IM/RUs and third parties are required to provide relevant information in their possession if requested by the Safety Investigation Bureau.

(2) IM/RUs or other possessors of railways shall submit the collected materials concerning all serious accidents and accidents and, if required by the Safety Investigation Bureau, concerning incidents, to the Safety Investigation Bureau.

(3) The Safety Investigation Bureau shall organise its examinations at the accident site in the shortest possible time in order to enable the railway infrastructure manager to restore the railway infrastructure and open it to traffic.

(4) A safety investigation shall be carried out as publicly as possible. The parties shall be given the possibility to provide explanations and they shall be notified of the results of the safety investigation.

(5) The railway infrastructure manager and the railway undertaking, the Consumer Protection and Technical Regulatory Authority, the Agency for Railways, victims and their relatives, owners of damaged property, manufacturers, representatives of staff and users of railways, the Rescue Board, the Police and Border Guard Board and the Environmental Inspectorate shall be given an opportunity to provide relevant technical or other information in order to improve the quality of the safety investigation report. The safety investigating body shall also take account of the reasonable needs of the victims and their relatives and keep them informed of the progress made in the safety investigation.

(6) The procedure for safety investigations shall be established by a regulation of the minister responsible for the area.

§ 52. Procedural rights of Safety Investigation Bureau

(1) Officials conducting a safety investigation have the right:
   1) to have immediate access to the scene of the event affecting railway safety as well as railway vehicles, railway infrastructure and traffic control and signalling devices involved in the accident;
   2) to demand the restriction of access of unauthorised persons to the scene of the accident and prohibit the moving, removing and destruction of objects at the scene of the accident;
3) to organise prompt compiling of a list of evidence and controlled removal of wrecks, railway vehicles, infrastructure devices or components for investigation or analysis;
4) to have immediate access to the on-board recording devices and devices recording other information as well as recordings thereof and to take control of them;
5) to obtain immediately the forensic examination results of the bodies of casualties;
6) to interrogate the involved rail workers and other witnesses who may have relevant information for the safety investigation and demand that they confirm or submit information required for the safety investigation;
7) to have access to all the relevant information and documents related to the event in cooperation with the investigation authority conducting pre-trial proceedings in criminal matters;
8) to have immediate access to the results of investigation of people involved in the event;
9) to obtain access to the relevant information and documents of the involved railway infrastructure manager, railway undertaking and entity in charge of maintenance and of the Consumer Protection and Technical Regulatory Authority.

(2) An official conducting safety investigations has the right to issue precepts to obligated persons to perform the obligations related to the safety investigation.

(3) The precept specified in subsection (2) of this section shall be in writing and shall contain the following information:
1) the time and place of issue of the precept;
2) the contents and legal bases for the precept;
3) the term for compliance with the precept;
4) the amount of the penalty payment to be imposed upon failure to comply with the precept;
5) the possibility and term of, and procedure for contesting the decision;
6) the given name, surname and official title of the official issuing the precept.

(4) If an obligated person fails to comply with the precept specified in subsection (2) of this section, the official conducting the safety investigation may impose a penalty payment pursuant to the procedure provided in the Substitutive Enforcement and Penalty Payment Act. The upper limit for a penalty payment is 1500 euros for natural persons and 60,000 euros for legal persons.

§ 53. Hazard warning

(1) The Safety Investigation Bureau may issue a hazard warning in the course of a safety investigation if the appearing facts and circumstances that have arisen during the investigation of the event are relevant to more than one railway infrastructure manager or railway undertaking or one or more Member States.

(2) When issuing a hazard warning, the Safety Investigation Bureau shall estimate the circumstances affecting safety in the appropriate part of railway vehicles, on railway infrastructure civil engineering works, in organisation of railway traffic, in maintenance measures, handling procedures and in technical and legal standards.

(3) A hazard warning shall include only the facts and descriptions and shall not include any recommendations or opinions.

(4) The Safety Investigation Bureau shall send the hazard warning to the persons concerned and the Agency for Railways.

§ 54. Cooperation with safety investigation and safety authorities of other countries

(1) If the place of the scene of the event affecting railway safety in the Member States cannot be ascertained or if it occurred on or close to a border installation between Estonia and another Member State, the Safety Investigation Bureau shall cooperate with the safety investigation authority of the other Member State in order to agree on the organisation of safety investigation either jointly or only by one safety investigation authority.

(2) The investigation bodies of another Member State shall be invited to participate in a safety investigation and shall be given access to the relevant information and evidence if an IM/RU established and licensed in that Member State is involved in the event affecting railway safety or if the railway vehicles registered or maintained in that Member State are involved in the event affecting railway safety. The appointment of a body conducting a safety investigation shall be agreed on with a third country by a separate agreement.

(3) If necessary and provided that it does not undermine the independence of the safety investigation, the Safety Investigation Bureau may request the safety investigation authorities of other Member States or the Agency for Railways to provide special knowledge or their assistance in carrying out technical checks and analyses or to give opinions.

(4) The Safety Investigation Bureau shall exchange views and experience with the safety investigation authorities of other Member States for the purposes of the development of common investigation methods, drawing up common principles for follow-up of safety recommendations and adaptation to the development of technical and scientific progress.
The Safety Investigation Bureau shall participate in the programme of peer reviews in accordance with the provisions of Article 22 of Directive (EU) 2016/798 of the European Parliament and of the Council.

§ 55. Safety investigation reports

(1) The Safety Investigation Bureau shall prepare a written safety investigation report about the results of a safety investigation no later than 12 months after the event affecting railway safety, and shall make it public immediately.

(2) A safety investigation report shall not provide an opinion on the party at fault or the party who is liable.

(3) A safety investigation report shall be forwarded to all the concerned railway infrastructure managers, railway undertakings, safety investigation authorities of other Member States, victims and their relatives, the owners and producers of damaged property, the Rescue Board, representatives of the employees and passengers and the Agency for Railways.

(4) A safety investigation report shall include a summary, facts about the event, information concerning investigation and handling, an analysis and conclusions, applied measures and recommendations of the Safety Investigation Bureau in connection with the event affecting railway safety depending on the severity of the event.

(5) The Consumer Protection and Technical Regulatory Authority and the authorities, undertakings and organisations whom the recommendations of the Safety Investigation Bureau presented in the safety investigation report concern shall submit a report on the measures taken or planned to be taken on the basis of the recommendations to the Safety Investigation Bureau by 1 April of the year following the making of the safety investigation report public. The Safety Investigation Bureau may present a copy of the report to other authorities.

(6) By 30 September each year, the Safety Investigation Bureau shall publish on its website an annual report which presents an overview of the events affecting railway safety investigated during the previous calendar year, its recommendations and railway traffic safety measures taken on the basis of the recommendations. A copy of the annual report shall be sent to the Agency for Railways.

Chapter 5

Driving of Railway Vehicles

§ 56. Driving of railway vehicles

(1) Vehicles used for rail transport are driven by a train crew which consists of two members: the train driver and the assistant train driver. Special railway vehicles may be driven by a train driver alone.

(2) The train driver may drive vehicles used for rail transport without the presence of an assistant train driver only if the railway undertaking or other owner or possessor of railway vehicles has established rules on driving railway vehicles without the presence of assistant train drivers and the locomotive has been fitted with a device which enables the train to be stopped if the train driver is unable to drive the locomotive.

(3) Draft rules on driving railway vehicles without the presence of assistant train drivers specified in subsection (2) of this section together with a safety analysis prepared in accordance with Commission Implementing Regulation (EU) No 402/2013 on the common safety method for risk evaluation and assessment and repealing Regulation (EC) No 352/2009 (OJ L 121, 3.5.2013, p. 8–25) shall be submitted by a railway undertaking or other owner or possessor of railway vehicles for prior approval to the railway infrastructure manager whose infrastructure is intended to be used for driving and thereafter for approval to the Consumer Protection and Technical Regulatory Authority.

(4) The Consumer Protection and Technical Regulatory Authority shall refuse to approve the rules on driving railway vehicles without the presence of assistant train drivers if the rules do not guarantee the safety of driving railway vehicles without the presence of assistant train drivers. The rules enter into force after approval thereof by the Consumer Protection and Technical Regulatory Authority.

(5) The Consumer Protection and Technical Regulatory Authority has the right to stop immediately railway vehicles in railway traffic if the train crew does not include a train driver and assistant train driver if such train crew is required.

§ 57. Right to drive railway vehicles

(1) A person may work as a train driver and drive railway vehicles if the person has:
1) a valid train driver's licence issued by Estonia or another Member State (hereinafter train driver's licence) demonstrating that the train driver complies with the requirements established for the state of health, education and professional skills;
2) a certificate (hereinafter certificate) issued by an IM/RU operating in Estonia which indicates the section of the infrastructure on which the holder of the certificate is authorised to drive and the railway vehicles which the holder is authorised to drive.

(2) A train driver shall carry a train driver's licence and a certificate when driving railway vehicles. If a train driver carries an identity document, there is no obligation to carry a train driver's licence and certificate issued in Estonia.

(3) A person may work as a train driver or assistant train driver on the basis of a train driver's licence issued outside the European Union on railway vehicles running from the state border until the frontier station in Estonia if this has been agreed on between Estonia and the foreign country.

(4) Notifying the railway infrastructure manager thereof beforehand, a railway undertaking may allow a train driver without a required certificate to drive railway vehicles on a specific railway section provided that the person is being instructed by another train driver who holds a certificate allowing the latter to drive railway vehicles on this railway section, in the following cases:
1) if, due to a disturbance related to the operation of railway infrastructure, there is a need to drive a train quickly onto another track or to carry out railway infrastructure maintenance work;
2) upon use of a single railway capacity intended for specific purposes for rail transport on historical railway vehicles;
3) upon use of a single railway capacity intended for specific purposes for transport of goods, with the consent of the railway infrastructure manager;
4) for the delivery or demonstration of new railway vehicles;
5) for the training or examination of train drivers;
6) for the testing of new railway vehicles or if there is some other technological need, with the consent of the railway infrastructure manager.

(5) On a railway closed to traffic, special railway vehicles may be driven, in addition to a train driver with the corresponding competence, also by a person who has the profession of a driver of special railway vehicles within the meaning of the Professions Act.

(6) An assistant train driver must have the profession of an assistant train driver within the meaning of the Professions Act which is granted for five years.

(7) Persons who have acquired foreign professional qualifications may also act as assistant train drivers if their professional qualifications have been recognised in accordance with the Recognition of Foreign Professional Qualifications Act. The competent authority provided in subsection 7 (2) of the Recognition of Foreign Professional Qualifications Act is the Consumer Protection and Technical Regulatory Authority.

(8) It is not permitted for a person to drive railway vehicles or perform the duties of an assistant train driver if the person is in a state of intoxication within the meaning of § 36 of the Law Enforcement Act and subsection 69 (2) of the Traffic Act or in a state exceeding the maximum limit of alcohol within the meaning of subsection 69 (3) of the Traffic Act. A state of intoxication or exceeding the maximum limit of alcohol is identified in accordance with the procedure established in the Law Enforcement Act.

(9) Railway undertakings and other possessors of railway vehicles shall prohibit the persons specified in subsection (8) of this section from driving railway vehicles or performing the duties of an assistant train driver.

(10) Railway infrastructure managers have the right to remove a train driver from driving the railway vehicles, or remove an assistant train driver from the performance of his or her duties if there is good reason to believe that such person has consumed alcohol or narcotic, psychotropic or other psychotoxic substances, and immediate notice shall be given of such fact to the railway undertaking or other possessor of railway vehicles.

§ 58. Application for train driver's licence or its duplicate and renewal of train driver's licence

(1) A train driver's licence is prepared and issued to a person by the Transport Administration on the basis of a decision of the Consumer Protection and Technical Regulatory Authority.
[RT I, 10.12.2020, 1 - entry into force 01.01.2021]

(2) To obtain a train driver's licence, a person must take an examination for train drivers at the Transport Administration.
[RT I, 10.12.2020, 1 - entry into force 01.01.2021]

(3) A train driver's licence is issued to a person, who:
1) is at least 20 years of age;
2) has acquired at least basic education and has completed level 3 vocational training for train drivers or general basic training for train drivers on the basis of secondary education;
3) has presented a certificate concerning the passing of a medical examination provided in § 37 of this Act;
4) has passed an examination for train drivers.
(4) A train driver's licence shall be valid for ten years. A train driver's licence shall be renewed prior to the expiry thereof. In order to have a train driver's licence renewed, a train driver shall pass an examination for train drivers at the Transport Administration. [RT I, 10.12.2020, 1 - entry into force 01.01.2021]

(5) To keep a train driver's licence valid, its holder must pass the routine medical examinations prescribed in subsection 37 (5) of this Act and participate in the training on general professional knowledge offered by the IM/RU.

(6) The Consumer Protection and Technical Regulatory Authority shall refuse to issue or renew a train driver's licence in the following cases:
1) the applicant fails to pass examinations for train drivers with a required result;
2) the applicant has submitted incorrect information concerning himself or herself in the application;
3) the applicant has not passed a medical examination;
4) the applicant has not paid the state fee;
5) the applicant's right to drive railway vehicles has been suspended in conformity with clause 69 (1) 2) of this Act and the term for suspension has not expired.

(7) The state fees for applying for, or for review of the application for renewal of, a train driver's licence and for issue of a duplicate shall be paid at the rate provided in the State Fees Act.

(8) The rules for the issue, renewal and issue of duplicates of train driver's licences, the format of train driver's licences and the procedure for conducting examinations of train drivers shall be established by a regulation of the minister responsible for the area.


§ 59. Issue of certificate

(1) The certificate specified in clause 57 (1) 2) of this Act shall be issued and renewed by the IM/RU that has employed the train driver.

(2) The formats of the certificate and certified copy of the certificate have been established in Annexes II and III of Commission Regulation (EU) No 36/2010.

(3) If a certificate has been issued to a train driver before, an IM/RU must take account of the information on his or her earlier certificate when issuing a new certificate thereto.

(4) The IM/RU that has employed a train driver shall enter on the certificate one or both categories of the right to drive or, if necessary, the subcategories specified in Annex II of Commission Regulation (EU) No 36/2010:
1) Category A – shunting locomotives, work trains, self-propelled special railway vehicles and other locomotives when they are used for shunting;
2) Category B – railway vehicles used for transport of goods or passengers.

(5) The IM/RU that has employed the train driver shall enter on the certificate the information concerning the operational area of railways, where the train driver is allowed to drive, on the basis of a written consent of the railway infrastructure manager.

(6) An IM/RU shall, upon issue or amendment of a certificate, enter the information provided on the certificate or the information on suspending or revocation of a certificate immediately in the railway traffic register.

§ 60. Requirements for application for certificate and keeping it valid

(1) A certificate shall be issued to a person who has undergone the basic certificate training under subsection 62 (3) of this Act and passed the certificate examination.

(2) A certificate shall be valid only for the type of locomotive and in the operational area specified thereon. To obtain a certificate, a train driver must:
1) have a train driver's licence;
2) have undergone training on the safety management system of the IM/RU;
3) be able to drive the type of locomotives for the driving of which the certificate is applied;
4) have thorough knowledge about the operational area, where the certificate is applied for driving;
5) have language skills on the level required for operation in railway traffic.
(3) A person applying for the right to drive a certain type of locomotives for the first time must have a valid train driver's licence and prior to the application a length of service of four months as an assistant train driver on the type of locomotives for which the person applies for the right to drive.

(4) If a train driver applies additionally for the right to drive another type of locomotives, he or she must have prior to the application a length of service of at least two months as an assistant train driver on this type of locomotives and a prior length of service of at least six months as a train driver.

(5) A person applying for the right to drive a certain type of locomotives, who is not employed by an undertaking managing public railways and who wants to obtain a certificate which would also grant the right to drive on public railways, must accompany in the course of a basic certificate training at least ten journeys on a locomotive running on public railways within one month prior to applying for the certificate.

(6) If a person applies for the first time for the right to drive such railway vehicles which are adapted for operation without an assistant train driver, he or she must have at least four months of experience in driving such railway vehicles as a trainee under the supervision of a train driver.

(7) In order to keep a certificate valid, the train driver must undergo regular in-service training under subsection 62 (3) of this Act and interim inspections under clause 65 (2) 3) pursuant to the procedure established in the safety management system of the IM/RU. The training and interim inspections of the train driver as well as the skills of the train driver upon receipt of the certificate shall comply with the professional knowledge and skills established for train drivers.

§ 61. Suspension, revocation and contesting of certificates

(1) An IM/RU shall suspend or revoke a certificate if:

1) the train driver fails to attend in-service training without good reason;
2) the train driver fails to pass the interim inspection specified in clause 65 (2) 3) of this Act;
3) an employment contract or other similar contract between the train driver and the IM/RU is terminated.

(2) The procedure for the issue, amendment, suspension or revocation of certificates and contesting thereof shall be established by an IM/RU in its safety management system.

(3) If a train driver has contested, in compliance with the procedure provided in subsection (2) of this section, the decision made by an IM/RU on the issue, amendment, suspension or revocation of the certificate and is not satisfied with the solution to the dispute, he or she has the right to refer a complaint to the Consumer Protection and Technical Regulatory Authority.

(4) The Consumer Protection and Technical Regulatory Authority shall make a decision concerning the complaint within one month after receiving the complaint. By the decision, the Consumer Protection and Technical Regulatory Authority shall refuse to satisfy the complaint, or issue a precept to the IM/RU for elimination of the violation of the rights of the complainant.

§ 62. Training of train drivers

(1) An IM/RU is responsible for training the train drivers employed by it.

(2) The training of train drivers is conducted by means of basic training to acquire new skills or a profession or by means of in-service training to develop the acquired profession.

(3) Basic training is general basic training for train drivers or basic certificate training. In-service training of train drivers is regular in-service training to keep the certificate valid or other additional training.

(4) The completion of training is evidenced by a certificate or statement issued by the training provider.

(5) A train driver must undergo in-service training at least once every three years. Upon planning in-service training account shall be taken of the education and work experience of train drivers and the need to develop their knowledge and skills for the continued due performance of their duties.

§ 63. Providers of training for train drivers

(1) The training of train drivers may be conducted by an undertaking to whom an operating licence has been issued for this purpose and who complies with the requirements established in Articles 3 and 4 of Commission Decision 2011/765/EU on criteria for the recognition of training centres involved in the training of train drivers, on criteria for the recognition of examiners of train drivers and on criteria for the organisation of examinations in accordance with Directive 2007/59/EC of the European Parliament and of the Council (OJ L 314, 29.11.2011, p. 36–40).

(2) Application for an operating licence of a provider of training shall be adjudicated within three months by the Ministry of Education and Research, to whom the following information and documents shall be submitted upon application for an operating licence:
1) confirmation that the training for train drivers complies with the requirements of independence and impartiality established in Article 3 of Commission Decision 2011/765/EU;
2) information and documents that prove compliance with the requirements established in Article 4(2) of Commission Decision 2011/765/EU.

(3) Compliance with the requirements specified in subsection (2) of this section shall be established by the Consumer Protection and Technical Regulatory Authority by a preliminary administrative act.

§ 64. Requirements for professional knowledge and skills of train drivers

(1) To obtain and hold the right to drive railway vehicles, a person must know:
1) the rules for technical use of railways;
2) fire safety requirements and fire-fighting equipment;
3) environmental protection requirements and requirements for reducing environmental pollution;
4) occupational safety and occupational health requirements;
5) practical emergency aid;
6) the build of the relevant type of locomotive;
7) the build of automatic brakes and automatic couplers;
8) the use of safety and protection equipment of locomotives;
9) practical detection and removal of failures in the locomotive while running;
10) the rules for the maintenance and repair of railway vehicles.

(2) In addition to the knowledge specified in subsection (1) of this section, persons applying for the right to drive railway vehicles and train drivers shall be acquainted with the profile of the tracks, the location of the traffic lights and other signalling devices in the corresponding operational area, the regulations concerning the technical organisation in the stations falling within the operational area, and the speed limits established by the railway infrastructure manager within the operational area.

(3) A railway infrastructure manager on whose railways a train driver is driving shall, in order to ensure that provided for in subsection (2) of this section, take measures established in the operating rules of the railway infrastructure manager on the basis of which the use of railway infrastructure is granted to the railway undertaking.

(4) A railway infrastructure manager shall, in order to ensure that provided for in subsection (2) of this section, organise, for a reasonable charge, basic driving instruction and driving practice for the train drivers and train crews of the railway undertakings to whom it has allocated railway capacity or who have submitted an application for obtaining railway capacity or a safety certificate.

(5) The requirements on the knowledge and skills of train drivers and the contents of general basic training shall be established by a regulation of the minister responsible for the area.

§ 65. Assessment of knowledge of train drivers

(1) The purpose of assessment of knowledge is to ascertain the work-related knowledge and skills of train drivers. If necessary, train drivers shall be provided with additional training to improve their knowledge and skills.

(2) The knowledge and skills of train drivers shall be assessed:
1) at examinations for train drivers after completing the general basic training for obtaining a train driver's licence;
2) at certificate examinations after completing the basic certificate training;
3) at periodic checks to keep the certificate valid.

(3) Certificate examinations and periodic checks shall be organised by an examiner recognised by the Consumer Protection and Technical Regulatory Authority.

(4) The examiner shall prepare the examination procedure which establishes the principles of assessment and scoring as well as the manner of presenting results and which complies with Article 9 of Commission Decision 2011/765/EU. The examination procedure must be made available to the examinees no less than one week before the examination.

(5) Train drivers must undergo the periodic checks specified in clause (2) 3) of this section once every three years. During periodic checks, the knowledge of a train driver about railway vehicles and the operational area is assessed, assessing also the language skills if the language determined by the railway infrastructure manager for communication on railway infrastructure is not the mother tongue of the person.

(6) A train driver must also undergo a periodic check concerning the knowledge of the operational area and language skills if he or she has been away from work for at least one year and wishes to return to work.
(7) The examiner shall notify the Consumer Protection and Technical Regulatory Authority of the time and place of the assessment of knowledge and the inspected topic not less than ten working days before a certificate examination or periodic check.

(8) The passing of the certificate examination or periodic check shall be evidenced by a certificate or statement issued by the examiner.

(9) The procedure for contesting the results of certificate examinations or periodic checks shall be established by an IM/RU in its safety management system.

(10) If a train driver is not satisfied with the decision made by the IM/RU after contesting the results of a certificate examination or periodic check under the procedure specified in subsection (9) of this section, he or she has the right to refer a complaint to the Consumer Protection and Technical Regulatory Authority who shall make a decision within one month after receipt of the complaint. By the decision, the Consumer Protection and Technical Regulatory Authority shall refuse to satisfy the complaint, or issue a precept for elimination of the violation of the rights of the complainant.

§ 66. Requirements for examiners and recognition of examiners

(1) An examiner specified in subsection 65 (3) of this Act must have a valid train driver's licence and no less than four years of experience in driving the appropriate railway vehicles.

(2) Compliance of the examiner with the requirements of subsection (1) of this section and compliance of the examination procedure prepared by the examiner with the requirements of subsection 65 (4) of this Act shall be confirmed by an examiner's certificate issued by the Consumer Protection and Technical Regulatory Authority.

(3) To obtain an examiner's certificate, the applicant shall submit an application to the Consumer Protection and Technical Regulatory Authority, enclosing therewith the examination procedure specified in subsection 65 (4) of this Act and the documents evidencing his or her compliance with the competence requirements established in Article 8 of Commission Decision 2011/765/EU.

(4) The application specified in subsection (3) of this section must additionally set out the area or areas for which the examiner's certificate is applied:

1) assessment of general professional knowledge;
2) assessment of professional knowledge relating to railway vehicles;
3) assessment of professional knowledge relating to railway infrastructure.

(5) The application for an examiner's certificate shall be adjudicated within 30 days after receipt of all the documents specified in subsection (3) of this section.

(6) An examiner's certificate is issued for five years and the following information is indicated thereon:

1) the name, personal identification code and contact details of the examiner;
2) the number of the examiner's certificate;
3) the area or areas in which the examiner is entitled to organise examinations;
4) the languages in which the examiner organises examinations;
5) validity of the certificate.

(7) If the information which constituted the basis for issue of the examiner's certificate changes, the examiner must submit an application to the Consumer Protection and Technical Regulatory Authority for amendment of the certificate, enclosing therewith documents about the changes.

§ 67. Evaluation of procedures for assessment of knowledge of train drivers and of systems for issuing of train driver's licences and certificates

(1) At least every five years the Ministry of Economic Affairs and Communications shall organise an independent evaluation of the procedures for the acquisition and assessment of professional knowledge and skills of train drivers, and of the system for the issuing of train driver's licences and certificates.

(2) The results of the evaluation shall be forwarded to the appropriate authorities and, if necessary, measures shall be taken to liquidate any deficiencies that have appeared during the evaluation.

§ 68. Temporary removal from driving railway vehicles

An official of the Consumer Protection and Technical Regulatory Authority shall remove a person temporarily from the driving of railway vehicles on the bases and pursuant to the procedure provided for in § 91 of the Traffic Act.

§ 69. Suspension of right to drive railway vehicles and prohibition to work as assistant train driver

(1) The Consumer Protection and Technical Regulatory Authority shall suspend the right to drive railway vehicles or, in the cases specified in clauses 2)–4) of this subsection, prohibit a person from working as an assistant train driver:
1) until the time that a person passes the examination for train drivers if the person has failed the examination for train drivers required for renewal of the train driver's licence;
2) for the period of up to 24 months on entry into force of a punishment for a misdemeanour provided for in § 156, 158 or 159 of this Act;
3) if the person's medical certificate is not valid;
4) on the basis of a decision received from a medical committee if the person's state of health does not comply with the requirements established in or on the basis of § 37 of this Act.

(2) A decision to suspend a person's right to drive railway vehicles or to prohibit a person from working as an assistant train driver shall set out:
1) the date and place of making the decision;
2) the given name, surname and position of the person who made the decision and the name and address of the authority;
3) the given name, surname and residence of the train driver or assistant train driver;
4) information entered in the train driver's licence or the professional certificate of an assistant train driver;
5) the basis for and the term of suspension of the right to drive railway vehicles or prohibition to work as an assistant train driver;
6) the procedure for contesting the decision;
7) the signature of the person who prepared the decision.

(3) The decision specified in subsection (2) of this section shall be sent to the person immediately after the signing of it, and the receipt of the decision shall be confirmed by the person by his or her signature. If the decision is issued on paper, the person shall note the date of receipt of the decision next to the signature.

(4) The right to drive railway vehicles or the right to work as an assistant train driver is suspended as of communication of the decision specified in subsection (2) of this section.

(5) A train driver whose right to drive railway vehicles is suspended must deposit the train driver's licence with the Consumer Protection and Technical Regulatory Authority without delay.

§ 70. Restoration of right to drive railway vehicles or work as assistant train driver

(1) If a person's right to drive railway vehicles has been suspended for longer than six months, the right to drive railway vehicles can be restored when the basis for the suspension has ceased to exist provided that the person passes an examination for train drivers.

(2) If a person has been prohibited from working as an assistant train driver for longer than 12 months, he or she may work as an assistant train driver again when the basis for the suspension has ceased to exist and the person passes again the professional examination required for working as an assistant train driver with the body that awards professions.

§ 71. Checking of compliance of train drivers and assistant train drivers with requirements

(1) The Consumer Protection and Technical Regulatory Authority may check the compliance of train drivers and assistant train drivers with the requirements at any time.

(2) If the Consumer Protection and Technical Regulatory Authority finds that a train driver to whom a train driver's licence has been issued by a competent authority of another Member State does not comply with the requirements for train drivers, it shall present a reasoned request to the authority that has issued the licence for carrying out a further inspection or for suspension of the licence and shall notify the European Commission and other competent authorities thereof.

(3) If a competent authority of another Member State presents a reasoned request to the Consumer Protection and Technical Regulatory Authority concerning a train driver's licence issued thereby for carrying out a further inspection or for suspension of the licence, the request shall be reviewed within four weeks from its receipt and the European Commission and other competent authorities shall be notified of its decision.

(4) If the Consumer Protection and Technical Regulatory Authority finds that a train driver does not comply with the conditions of the certificate issued thereto, it shall present a reasoned request to the issuer of the certificate for carrying out a further inspection or for suspension of the certificate. The issuer of the certificate shall take the required measures and present a report thereon to the Consumer Protection and Technical Regulatory Authority within four weeks after receipt of the request.

(5) The Consumer Protection and Technical Regulatory Authority may prohibit a train driver from driving trains in the territory of the Republic of Estonia until a decision is made concerning the train driver's licence or a report is presented concerning the certificate. The European Commission and other competent authorities must be notified of such decision.
(6) If the Consumer Protection and Technical Regulatory Authority finds that a train driver endangers railway traffic, it shall request the railway infrastructure manager to stop the train and shall prohibit the train driver from driving the train in the territory of the Republic of Estonia until it finds that the train driver no longer endangers train traffic. The European Commission and other competent authorities must be notified of such decision.

(7) If the Consumer Protection and Technical Regulatory Authority finds that a decision made by a competent authority of another Member State in the matter specified in subsection (2) of this section does not comply with the requirements, it shall refer the matter to the European Commission who shall provide its opinion within three months after receipt of the request. The prohibitions provided in subsections (5) and (6) of this section may be extended until the matter is solved in cooperation with the European Commission.

Chapter 6
Operation as Railway Infrastructure Manager

§ 72. Liability and independence of railway infrastructure managers

(1) Railway infrastructure managers shall be responsible for the performance of the duties specified in clause 2 14) of this Act.

(2) A railway infrastructure manager must be legally separate from any railway undertaking and, in case of a vertically integrated undertaking specified in subsection 74 (1) of this Act, from any other entity within the undertaking.

(3) Other legal entities within the vertically integrated undertaking specified in subsection 74 (1) of this Act shall not exert control over the railway infrastructure manager upon performing the essential functions of management of railway infrastructure specified in clause 2 21).

(4) Members of the supervisory board and management board of a railway infrastructure manager and any employees thereof must operate in a non-discriminatory manner in relations with other persons operating in the area of railways and the applicants specified in subsection 86 (1) of this Act and avoid any activities in the situations of conflict of interest.

(5) A person shall not act simultaneously as:
   1) a member of the management board of a railway infrastructure manager and of a railway undertaking;
   2) a person in charge of taking decisions on the essential functions of management of railway infrastructure and a member of the management board of a railway undertaking;
   3) a member of the supervisory board of a railway infrastructure manager and of a railway undertaking;
   4) a member of the supervisory board of a legal entity within a vertically integrated undertaking specified in subsection 74 (1) of this Act which controls both a railway infrastructure manager and a railway undertaking and a member of the management board of the railway infrastructure manager controlled by such person.

(6) Members of the management board of a vertically integrated railway infrastructure manager specified in subsection 74 (1) of this Act and persons in charge of taking decisions on the essential functions of management of railway infrastructure shall not receive any performance-based remuneration from any other legal entities within the vertically integrated undertaking or any bonuses principally related to the financial performance of particular railway undertakings, except for bonuses related to the overall functioning of the rail system.

(7) Where information systems are common to different entities within the vertically integrated undertaking specified in subsection 74 (1) of this Act, access to sensitive information relating to essential functions of management of railway infrastructure shall be granted only to authorised employees of the railway infrastructure manager.

(8) The sensitive information specified in subsection (7) of this section shall not be passed on to other entities within the vertically integrated undertaking.

§ 73. Financing of railway infrastructure manager managing public railways

(1) The Ministry of Economic Affairs and Communications shall prepare an action plan for the development of public railway infrastructure the purpose of which is sustainable financing of the maintenance, renewing and development of infrastructure necessary to meet future mobility needs.

(2) The Government of the Republic shall approve the action plan specified in subsection (1) of this section which covers a period of at least five years.

(3) A railway infrastructure manager shall prepare a business plan which shall include investment and financing plans, taking into account the action plan specified in subsection (2) of this section and state financing. The business plan must ensure optimal and efficient use, provision and development of the railway infrastructure while providing financial balance and financial means for these objectives to be achieved. The business plan must conform to the contract specified in § 80 of this Act if such contract has been entered into.
(4) A railway infrastructure manager shall provide potential applicants for capacity who are known before the approval of the business plan and have expressed such wish with access to the relevant information and an opportunity to express their positions on the business plan as regards access to infrastructure and the conditions of its use and the nature, providing and development of infrastructure.

(5) The state must ensure that in normal business conditions the income of a railway infrastructure manager which manages public railways, consisting of user fees for railway infrastructure, profit from other economic operation and funds allocated by the state or other persons, and railway infrastructure expenditure would be balanced in terms of a five-year period.

§ 74. Vertically integrated undertaking

(1) For the purposes of this Act, a vertically integrated undertaking means a railway infrastructure manager:
   1) who is controlled by an undertaking which at the same time controls at least one railway undertaking that provides rail transport services in its network;
   2) who is controlled by at least one railway undertaking that provides rail transport services in its network;
   3) who controls at least one railway undertaking that provides rail transport services in its network.

(2) If a railway infrastructure manager and a railway undertaking are fully independent of each other, but both are controlled directly by the state without an intermediary entity, they are not considered to constitute a vertically integrated undertaking for the purposes of this Act.

§ 75. Performance of essential functions of management of railway infrastructure by railway infrastructure manager

(1) When performing the essential functions of management of railway infrastructure, a railway infrastructure manager must be independent both organisationally and upon decision-making, and to ensure this it shall not be allowed:
   1) for a railway undertaking or any other legal entity to exercise control over a railway infrastructure manager upon performing the essential functions of management of railway infrastructure;
   2) for a railway undertaking or any other legal entity within a vertically integrated undertaking to control the appointing and removing of persons taking decisions on essential functions of management of railway infrastructure;
   3) that a conflict of interests arises when persons in charge of essential functions of management of railway infrastructure commence employment with another employer.


§ 76. Impartiality of railway infrastructure manager upon traffic management and planning of maintenance work

(1) A railway infrastructure manager shall perform the functions related to traffic management and planning of maintenance work in a transparent and non-discriminatory manner and shall ensure that the persons in charge of taking decisions on these functions are not affected by any conflict of interests.

(2) A railway undertaking, in case of disruptions in railway traffic related thereto, shall have full and timely access to relevant information. When a railway infrastructure manager grants a railway undertaking access to the traffic management process, it shall do so in a transparent and non-discriminatory manner.

(3) In case of long-term planning of major maintenance and renewal of railway infrastructure, the railway infrastructure manager shall consult applicants for capacity, take the positions expressed into account if possible and prepare a maintenance schedule in accordance therewith.

§ 77. Sharing of functions of railway infrastructure manager

(1) Provided that no conflicts of interests exist and that the confidentiality of commercially sensitive information is ensured, a railway infrastructure manager may:
   1) outsource such functions specified in clause 2 14) of this Act which are not the essential functions of management of railway infrastructure specified in clause 2 21) to a different entity, who is not a railway undertaking or a person controlling a railway undertaking or a person who is controlled by a railway undertaking;
   2) outsource the essential functions of management of railway infrastructure specified in clause 2 21) of this Act to another entity within the vertically integrated undertaking if such entity performs only the essential functions of management of railway infrastructure and complies with the requirements provided in §§ 72, 75, 76 and 78;
3) outsource the works related to development, maintenance or renewal of the railway infrastructure and the performance of the functions related thereto to a railway undertaking or to a company which controls a railway undertaking or is controlled by a railway undertaking.

(2) Regardless of outsourcing of the functions specified in subsection (1) of this section, a railway infrastructure manager shall retain the supervisory power over the performance of the functions specified in clause 2 14) of this Act and bear ultimate responsibility for their performance.

(3) The functions of a railway infrastructure manager specified in clause 2 14) of this Act may be performed by different railway infrastructure managers and parties to a public-private partnership if they fulfil the requirements provided in subsections 72 (3)–(7) and §§ 75, 76 and 78 of this Act and assume full responsibility for the exercise of the functions concerned.

(4) Public-private partnership means a situation, where an agreement is entered into between a public sector agency and at least one undertaking who is not the main railway infrastructure manager under which the undertaking constructs or funds the railway infrastructure in part or in full or acquires the right to exercise the functions listed in clause 2 14) of this Act for a pre-defined period of time.

(5) A railway infrastructure manager may, under the supervision of the Competition Authority, for the purpose of sharing its functions, enter into cooperation agreements with one or more railway undertakings in a transparent and non-discriminatory manner and with a view to delivering benefits to customers by reduced costs or improved performance on the part of the railway network covered by the agreement.

(6) The Competition Authority shall monitor the entry into and performance of the agreements specified in subsection (5) of this section and in justified cases recommend that they be amended or terminated.

§ 78. Financial transparency of transactions of railway infrastructure manager

(1) A railway infrastructure manager may use income from railway infrastructure management activities and public funds only to finance its own activities and perform its debt obligations as well as to pay dividends on the conditions provided in subsection (2) of this section.

(2) Profit generated from the income specified in subsection (1) of this section may be used to pay dividends to those owners of the undertaking who are not undertakings which are part of a vertically integrated undertaking and which exercise control over both the railway infrastructure manager and a railway undertaking.

(3) It is not permitted for a railway infrastructure manager to grant loans to or receive loans from railway undertakings.

(4) Loans between legal entities of a vertically integrated undertaking may only be granted and serviced at the market interest rate and on the conditions which reflect the individual risk profile of the legal entity.

(5) Any services offered by other legal entities of a vertically integrated undertaking to the infrastructure manager shall be provided on the basis of a contract and either a market price or a price which reflects the cost of production and reasonable profit shall be paid for these.

(6) The debt obligations of a railway infrastructure manager shall be kept clearly separate from the debt obligations of other legal entities within the vertically integrated undertaking and these shall be serviced separately. A debt obligation of a railway infrastructure manager may be paid by an undertaking which is part of the vertically integrated undertaking and which exercises control over both a railway undertaking and the railway infrastructure manager, or by another entity within the vertically integrated undertaking.

(7) The accounts of a railway infrastructure manager and of the other legal entities within the vertically integrated undertaking shall be kept in a manner that ensures compliance with the requirements provided in this section and allows for separate accounting and transparent financial cash flows within the undertaking.

(8) A railway infrastructure manager within a vertically integrated undertaking shall keep detailed records of any commercial and financial relations with the other legal entities within this vertically integrated undertaking.

§ 79. Railway infrastructure manager's guidelines for interaction

(1) A railway infrastructure manager shall prepare and disclose the guidelines for interaction, in consultation with interested persons.

(2) The interested persons specified in subsection (1) of this section are railway undertakings and the applicants specified in subsection 86 (1) of this Act. If necessary, representatives of rail transport users and representatives of state and local government agencies shall be invited to participate in the consultation.

(3) The Competition Authority may participate in the consultation specified in subsection (1) of this section as an observer.

(4) The guidelines for interaction shall include:
1) the needs of the applicants specified in subsection 86 (1) of this Act in connection with maintenance of
railway infrastructure and development of infrastructure capacity;
2) the contents of the user-oriented performance targets specified in clause 80 (4) 3) of this Act and the
contents of the incentives specified in clause 5) of the same subsection and their implementation;
3) the contents and implementation of the railway network statement specified in § 84 of this Act;
4) issues of intermodality and interoperability;
5) other issues related to access to railway infrastructure, the conditions for use of railway infrastructure and
the quality of the services of the infrastructure manager.

(5) A railway infrastructure manager shall discuss the issues specified in subsection (4) of this section with
interested persons at least once annually and publish on its website an overview of the activities undertaken
pursuant to this section.

(6) Consultation held under this section shall not restrict the right of the applicants specified in subsection
86 (1) of this Act to file appeals with the Competition Authority or the rights of the Competition Authority
specified in §§ 108 and 109 of this Act.

§ 80. Contract between competent authority and railway infrastructure manager

(1) The Ministry of Economic Affairs and Communications as a competent national authority responsible for
the area of railways and a railway infrastructure manager shall enter into a contract for a term of at least five
years if necessary which aims to reduce the costs of providing infrastructure and user fees, with due regard to
safety and to improving the quality of the service.

(2) The contract specified in subsection (1) of this section must be entered into if funds are allocated from the
state budget to a railway infrastructure manager for ensuring the balance specified in subsection 73 (5) of this
Act.

(3) Upon entering into the contract specified in subsection (1) of this section the competent national authority
responsible for the area of railways and the railway infrastructure manager shall ensure that the applicants and
potential applicants for capacity, upon their request, are given an opportunity to present their positions on the
contents of the contract before it is signed. The contract shall be published on the websites of the competent
national authority responsible for the area of railways and the railway infrastructure manager within one month
after it is entered into.

(4) The contract specified in subsection (1) of this section shall contain at least:
1) the scope of the contract as regards railway infrastructure and service facilities, covering all aspects of
railway infrastructure management, maintenance and renewal of the infrastructure already in operation and,
where appropriate, construction of new infrastructure;
2) the structure of payments or funds allocated to the infrastructure services, maintenance and renewal and
dealing with existing maintenance and renewal backlogs, covering, where appropriate, the structure of funds
allocated to new infrastructure;
3) user-oriented performance targets, i.e. train performance, line speed and reliability, customer satisfaction,
railway network capacity, asset management, activity volumes, safety levels and environmental protection;
4) the amount of possible maintenance backlog and the assets which will be phased out of use and therefore
trigger different financial flows;
5) incentives to reduce the costs of providing infrastructure and user fees;
6) the content and frequency of the minimum contractual reporting obligation of the railway infrastructure
manager, including information to be disclosed annually;
7) the agreed duration of the contract, which shall be synchronised and consistent with the duration of the
infrastructure manager's business plan, concession or operating licence and the methods for setting user fees
established pursuant to subsection 98 (7) of this Act;
8) rules for dealing with major disruptions of operations and emergency situations, including the action plan
for dealing with events affecting railway safety in conformity with the safety management system of the IM/RU,
conditions for early termination of the contract due to disruptions or emergencies and informing of the users of
the appropriate railway infrastructure;
9) remedial measures to be taken in emergency situations affecting the availability of public funding and if
either of the parties is in breach of its contractual obligations;
10) the conditions and procedure for renegotiation and termination of the contract.

Chapter 7
§ 81. Access to public railways

(1) Railway undertakings have the right to use public railways without discrimination with regard to user fees for railway infrastructure, and the time and other conditions of use of railway infrastructure.

(2) The right specified in subsection (1) of this section includes also access to the railway infrastructure connecting maritime and inland ports and service facilities, and to the railway infrastructure serving or potentially serving more than one final customer.

(3) A railway infrastructure manager shall enter the train paths necessary for public transport of passengers in international direct connection in the timetable in the first priority. The first priority applies to railway undertakings who are engaged in public transport of passengers in international direct connection according to international agreements and who comply with the terms and conditions of such agreements.

(4) The train paths necessary for domestic public transport of passengers shall be entered in the timetable in the second priority. The Ministry of Economic Affairs and Communications shall inform a railway infrastructure manager of the need to use domestic public transport of passengers by the due date provided in subsection 85 (1) of this Act. For domestic public transport of passengers, public service contracts shall be entered into with railway undertakings pursuant to the procedure provided in the Public Transport Act.

(5) In order to organise operation on train paths which run through more than one railway network, a railway infrastructure manager shall co-operate with other railway infrastructure managers or, in the case provided in this Act, with the Consumer Protection and Technical Regulatory Authority. In order to organise operation on international train paths, a railway infrastructure manager shall co-operate with capacity allocation bodies of other countries.

§ 82. Cross-border agreement

(1) Cross-border agreement means an agreement between two or more Member States or between a Member State and a third country intended to facilitate the provision of cross-border rail services.

(2) The provisions contained in a cross-border agreement shall not discriminate against IM/RUs and shall not restrict the freedom of undertakings to provide cross-border services.

(3) Before entering into or amendment of a cross-border agreement between Member States, the European Commission shall be notified thereof.

(4) The European Commission shall be notified of an intention to commence negotiations for the purpose of entering into or amendment of a cross-border agreement with a third country. The European Commission shall be regularly notified of the course of the negotiations and its representative shall be invited to participate in the negotiations as an observer, where necessary.

§ 83. Publication of conditions for access to railway infrastructure

(1) After consultations with railway undertakings, relevant capacity allocation bodies and other interested persons, a railway infrastructure manager is required to prepare, for each timetable period, a railway network statement in conformity with § 84 of this Act in at least two official languages of the European Union.

(2) A railway infrastructure manager shall publish the railway network statement on its website no later than four months prior to the due date provided in subsection 85 (1) of this Act and is required to update the information set out in the railway network statement, and amend it as necessary.

(3) A railway infrastructure manager shall notify the Consumer Protection and Technical Regulatory Authority of any amendments to be made in the railway network statement in connection with determination of user fees for railway infrastructure and, in the case provided in subsection 107 (1) of this Act, in connection with capacity.

(4) The volume of the capacity to be allocated is the largest possible total number of trains which may pass through a railway section between the station of origin and the station of destination and is calculated taking into account the technological restrictions of the railway traffic, i.e. speed limits established on the railway, the length of time needed for acceleration and braking of trains, technological possessions, possible deviations from normal railway traffic, etc., from which the railway capacity covered by valid contracts for use of railway infrastructure is deducted.

(5) In order to verify the correctness of information presented in a railway network statement, the Consumer Protection and Technical Regulatory Authority and the Competition Authority have the right to demand additional information, clarifications and documents from the railway infrastructure manager.

(6) If incomplete or incorrect information is discovered in a railway network statement or if a railway network statement has not been prepared in compliance with the requirements provided by this Act, the Consumer
Protection and Technical Regulatory Authority or the Competition Authority has the right to issue a precept to the railway infrastructure manager for elimination of the deficiencies.

(7) A railway infrastructure manager is required to enter the amendments to be made pursuant to the precept specified in subsection (6) of this section in the railway network statement within five days after receipt of the precept and, within the same term, forward such amendments to the persons specified in subsection (1).

§ 84. Railway network statement

(1) A railway network statement shall consist of six sections, which contents are specified in subsections (2)–(7) of this section, and a template form for applications for capacity. A model agreement for entering into framework agreements between a railway infrastructure manager and an applicant for capacity in accordance with subsection 89 (1) of this Act shall be added to the railway network statement.

(2) One of the sections must describe the technical characteristics of the infrastructure which is available to railway undertakings and the conditions of access to it. The information provided in this section shall be annually brought into accordance with the railway traffic register or a reference shall be made to the railway traffic register.

(3) One of the sections must include appropriate details on the principles for setting user fees, information on the amount of user fees and other appropriate information concerning access to the services specified in § 94 of this Act and the services provided in the service facilities which are provided by the railway infrastructure manager. In addition, detailed information shall be provided in this section about direct costs, mark-ups, discounts, performance scheme, methods and rules for applying reservation charges and, where appropriate, rates as regards both costs and fees. The section shall contain information on any known changes in user fees already decided upon or foreseen in the next five years.

(4) One of the sections must include the principles and criteria for allocation of capacity, setting out the general capacity characteristics of the infrastructure which is available to railway undertakings and any restrictions relating to its use and likely capacity requirements for maintenance. It shall also specify the procedures and deadlines which relate to the capacity allocation process. The section includes at least the following information used in the procedure for allocation of capacity:

1) the procedure for application for capacity;
2) effective requirements for applicants for capacity;
3) the time-scheme for application for and allocation of capacity, the procedure for requesting information on the time-scheme and the procedure for scheduling planned and unforeseen maintenance work;
4) the principles governing the coordination process and the dispute resolution system made available as part of this process;
5) the procedures used in the event of capacity depletion and the priority criteria for allocation of capacity which shall take account of the importance of a service to society relative to any other service which will be excluded;
6) detailed information about restrictions on the use of infrastructure;
7) conditions pursuant to which account is taken of previous levels of utilisation of capacity in determining priorities in the allocation process;
8) details of the measures taken to ensure adequate treatment of freight services, international services and applications for single railway capacity.

(5) One of the sections must include descriptions of the procedure for application for the operating licence specified in § 14 of this Act and for application for the single safety certificate specified in § 27 of this Act or a reference to the website where such information is electronically available free of charge in at least two official languages of the European Union.

(6) One of the sections must describe the procedures for dispute resolution and appeal relating to the matters of access to railway infrastructure and services, and relating to the performance scheme specified in subsection 97 (3) of this Act.

(7) One of the sections must describe access to service facilities and setting of relevant user fees. Operators of service facilities which are not controlled by the railway infrastructure manager shall supply information on user fees for gaining access to the facility and for the provision of services, and information on technical access conditions for inclusion in the railway network statement or shall indicate a website where such information is electronically available free of charge in at least two official languages of the European Union.

(8) The railway network statement shall also include information about the allocation procedures for international train paths.

(9) A railway infrastructure manager shall disclose in the railway network statement and shall review at least every five years a list of market segments in which persons are subjected to mark-ups in conformity with subsection 99 (1) of this Act.
§ 85. Capacity allocation time-scheme

(1) A railway infrastructure manager shall determine and disclose in the railway network statement for each timetable period the due date, which shall not be earlier than 12 months prior to the beginning of the respective timetable period, for the submission of applications for the allocation of capacity.

(2) A railway infrastructure manager shall ensure that initial international train paths have been established in cooperation with other railway infrastructure managers no later than 11 months prior to the beginning of the timetable period and these shall be observed during further proceedings to the highest possible extent.

(3) A decision on the allocation of capacity for a timetable period shall be made within two months after the due date provided in subsection (1) of this section.

(4) A railway infrastructure manager shall prepare a draft timetable and disclose it on its website within four months after the due date provided in subsection (1) of this section.

(5) After disclosing of a draft timetable, a railway infrastructure manager shall consult interested parties about the draft and allow them at least one month to present their positions.

§ 86. Applicants for capacity

(1) Capacity may be applied for by:
1) railway undertakings who have an operating licence for rail transport of passengers or goods and a single safety certificate;
2) international groupings of railway undertakings;
4) shippers, freight forwarders and combined transport operators with a public-service or commercial interest in procuring infrastructure capacity.

(2) Railway infrastructure managers have the right to apply for capacity in the case provided in subsection 90 (3) of this Act.

§ 87. Applying for capacity in another Member State

If an applicant specified in subsection 86 (1) of this Act intends to apply for capacity in order to provide rail transport of passengers in a Member State, where access to the railway infrastructure is limited in conformity with Article 11 of Directive 2012/34/EU of the European Parliament and of the Council, the applicant shall notify the appropriate railway infrastructure managers and the regulatory bodies within the meaning of the same Directive at least 18 months before the beginning of the timetable period, for which it applies for capacity.

§ 88. Timetable period and timetable

(1) Railway infrastructure capacity shall be allocated based on a timetable period which begins on the second Sunday in December. Railway infrastructure managers may agree on other dates of beginning or end of a timetable period notifying the European Commission thereof if it affects international train traffic.

(2) A railway infrastructure manager shall approve a timetable no later than two months prior to the beginning of the timetable period.

(3) A railway infrastructure manager may amend an adopted timetable only with the consent of the person to whom relevant capacity was allocated.

(4) A railway infrastructure manager may amend an adopted timetable unilaterally as regards the allocation of unallocated capacity or renouncing of capacity if this is grounded and unavoidable.

(5) The Competition Authority has the right to demand additional information, clarifications and documents from a railway infrastructure manager in order to verify the correctness of information presented in a draft timetable or approved timetable. If there is incomplete or incorrect information in a draft timetable or approved timetable or if it is not in compliance with the requirements provided by this Act or regulations established on the basis thereof, the Competition Authority has the right to issue a precept to the railway infrastructure manager for elimination of the deficiencies.

(6) A railway infrastructure manager is required to enter the amendments to be made pursuant to the precept specified in subsection (5) of this section in the draft timetable or approved timetable within five days after receipt of the precept and, within the same term and at the railway infrastructure manager's expense, send information about the amendments that have been made to the persons who have applied for capacity.
§ 89. Framework agreement for use of capacity

(1) A railway infrastructure manager may enter into a framework agreement for the use of capacity with an applicant for capacity for a term of up to five consecutive timetable periods, setting out the obligations and rights of the parties in relation to the capacity and fees for a period longer than one timetable period, whereas capacity shall be specified separately for each timetable period in accordance with the framework agreement.

(2) A framework agreement may be renewable for periods equal to the original duration.

(3) A railway infrastructure manager shall make the contents of each framework agreement available to any interested party, while keeping the business secrets of the applicant for capacity.

(4) Upon entering into framework agreements, a railway infrastructure manager may, in justified cases, agree to a shorter or longer term than provided in subsection (1) of this section.

(5) A railway infrastructure manager may enter into a contract with an applicant for a longer term than specified in subsection (1) of this section, which shall however, not be longer than ten consecutive timetable periods, only if the applicant for capacity:
   1) presents a public service contract or a contract with the owner of transported goods entered into for the entire term of the framework agreement;
   2) has made long-term investments for rail transport and is able to present proof of such investments;
   3) undertakes in writing to make long-term investments for rail transport and provides a written schedule for making such investments.

(6) It must be possible to amend the framework agreements specified in this section if necessary and these shall not preclude the use of capacity by other applicants for capacity.

(7) Before entering into the framework agreements specified in this section, such agreements must be presented for approval to the Competition Authority who may refuse to approve a framework agreement if it does not conform to the requirements provided in subsection (6) of this section or if entering into a framework agreement for a longer term than provided in subsection (1) is not justified in accordance with subsection (5) or if the investments provided as a justification are not proven or adequate.

(8) In order to decide on approval of a framework agreement, the Competition Authority has the right to request additional information, clarifications and documents from the railway infrastructure manager.

§ 90. Capacity allocation principles

(1) A railway infrastructure manager shall, to the widest possible extent, satisfy applications for railway capacity submitted by railway undertakings and shall, as far as possible, take account of all constraints on applicants and their effect on the applicants' business.

(2) Allocation of train paths running through more than one railway network shall be coordinated in advance by the relevant capacity allocation bodies at the best possible terms and conditions for the railway undertaking.

(3) An applicant wishing to apply for a train path running through more than one railway network has the right to request capacity only from one railway infrastructure manager who in such case has the obligation to act on behalf of the applicant and request the needed capacity from other capacity allocation bodies.

(4) Railway capacity need not be applied for separately:
   1) for the traffic of a rescue train or assisting locomotive;
   2) for the traffic of a locomotive or multiple-unit train in the case of an accident or to replace a locomotive which is pulling rolling stock or a multiple-unit train with technical failure so that transport of goods or passengers can be continued;
   3) for the traffic of work trains to and from the site of work for the purpose of management of railway infrastructure.

§ 91. Capacity allocation coordination process

(1) If it becomes evident upon review of applications for capacity that applications for capacity have been submitted for a certain section of the railway infrastructure to an extent exceeding the maximum estimated capacity of this section of the railway infrastructure or several applicants are applying for the same railway capacity or railway capacities which partially overlap, the railway infrastructure manager is required to organise a coordination process.

(2) The capacity allocation coordination process means the activity of a railway infrastructure manager for adjusting the capacities applied for to the timetable which shall be achieved by way of negotiations with the applicants and making them best possible proposals. In the course of the coordination process, the railway
infrastructure manager consults with the applicants and makes proposals for allocation of capacity to them suggesting reasonable limitations. In making the proposal, the railway infrastructure manager shall evaluate the possible repercussions of such proposal to the business of the applicants.

(3) The coordination process shall be conducted on the basis of the following information which shall be made available to the interested applicants for capacity within reasonable time after receipt of the information under subsection (1) of this section:
1) train paths requested by all other applicants for capacity on the same routes;
2) train paths allocated on a preliminary basis to all other applicants for capacity on the same routes;
3) alternative train paths proposed on the relevant routes in accordance with subsection (2) of this section;
4) full details of the criteria being used in the capacity allocation process.

(4) Upon making the information specified in subsection (3) of this section available, applicants for capacity shall not be disclosed unless they have consented thereto.

(5) If applicants fail to come to an understanding, the railway infrastructure manager has the right to make a coordinating decision for satisfying the applications and settling the disputes which shall take into account, as far as possible, the financial interests of all applicants. The railway infrastructure manager shall inform the applicants of preparation of a coordinating decision on its website. The railway infrastructure manager shall make a coordinating decision within ten working days after the day on which the notice concerning preparation of the coordinating decision is published, and shall publish it on its website.

(6) In organising a coordination process and making a coordinating decision, a railway infrastructure manager is required to observe the process and principles for coordination process expressed in the railway network statement.

(7) Coordination process shall be organised in such manner that possible depletion of railway infrastructure capacity provided in subsection 92 (1) of this Act could be foreseen at least ten months before the beginning of the next timetable period.

§ 92. Depletion of railway infrastructure capacity

(1) If it becomes evident in the course of the capacity allocation coordination process that all the reasoned applications concerning a certain section of the railway network cannot be satisfied, the railway infrastructure manager shall declare the capacity of this section of the railway network to be depleted and immediately notify the Consumer Protection and Technical Regulatory Authority and the Competition Authority thereof. Railway infrastructure capacity shall be declared to be depleted on the basis of an analysis of actual use of the railway infrastructure capacity, including evaluation of freight volumes transported and to be transported thereon and growth in the demand for the offered rail transport.

(2) In the event of capacity depletion upon allocation of capacity, all railway undertakings belonging to the same group or other railway undertakings connected to each other through control within the meaning of the Competition Act are deemed to be one railway undertaking.

(3) A railway infrastructure manager shall prescribe the criteria and procedure for allocating capacity in the event of capacity depletion in the railway network statement, which the railway infrastructure manager is required to comply with.

(4) In the event of capacity depletion, capacity shall be allocated such that the maximum possible number of railway undertakings who have applied are granted railway capacity. In order to guarantee adherence to such principle, a railway infrastructure manager shall prescribe, taking into consideration the market situation, a reasonable limit for capacity to be allocated to a single railway undertaking in the event of capacity depletion regardless of the criteria used upon allocation of capacity.

(5) In the event of capacity depletion, the user fee for railway infrastructure collected by the railway infrastructure manager may, in addition to the user fee provided in subsection 98 (1) of this Act, include a fee for capacity depletion which reflects the depletion of capacity arising in the event of congestion of railway infrastructure in the section of the railway infrastructure determined by the railway infrastructure manager. The fee for capacity depletion shall result from the auctioning of the capacity of the corresponding section of the railway infrastructure, where the applicants who submitted the highest tenders are granted capacity. When organising an auction for fees for capacity depletion, a railway infrastructure manager shall take into consideration the principle provided in subsection (4) of this section.

(6) In justified cases of capacity depletion, a railway infrastructure manager has the right to use other criteria for allocation of capacity than that which is provided in subsection (5) of this section. The selected criteria must be described and justified beforehand in the railway network statement and must conform to the principles provided in subsection (4) of this section.

(7) A railway infrastructure manager shall use the fees for capacity depletion provided in subsection (5) of this section or other possible fees payable by railway undertakings in addition to the user fees for railway infrastructure in the event of capacity depletion only for application of the measures set forth in the railway infrastructure capacity enhancement plan provided in § 93 of this Act. The Competition Authority has the right
to monitor compliance of railway infrastructure managers with such requirement and to require information, explanations and documents for such purpose from the railway infrastructure managers.

(8) A railway infrastructure manager loses the right to collect the fees for capacity depletion specified in subsection (5) of this section from railway undertakings if the railway infrastructure manager fails to prepare the railway infrastructure capacity enhancement plan provided in § 93 of this Act by the required due date or fails to commence with the application of the measures set forth in the railway infrastructure capacity enhancement plan approved by the Consumer Protection and Technical Regulatory Authority, unless the railway infrastructure manager was unable to apply the measures set forth in the railway infrastructure capacity enhancement plan due to reasons independent of the railway infrastructure manager or the possible solutions were not feasible economically or financially.

(9) The railway network statement shall include, for the event of the circumstances specified in subsection (8) of this section, the criteria and procedure for allocation of capacity which enable allocation of capacity in the case of capacity depletion such that only user fees for railway infrastructure are collected from railway undertakings for access to railway infrastructure. Such criteria and procedure must conform to the principles provided in subsection (4) of this section.

§ 93. Railway infrastructure capacity analysis and capacity enhancement plan

(1) A railway infrastructure manager is required to perform a capacity analysis within six months after declaring railway infrastructure capacity to be depleted. Such analysis is performed in order to clarify the reasons for capacity depletion and to determine the financial and technical measures needed for removal of the depletion and creation of additional capacity.

(2) The capacity analysis shall take account of the railway infrastructure, the operating procedures relating thereto, the nature of the types of provided services and the impact of all these factors on the infrastructure capacity. The measures to be considered include in particular the redirecting and retiming of services, speed alterations and infrastructure improvements.

(3) Within six months after performance of a capacity analysis, the railway infrastructure manager shall prepare a capacity enhancement plan. When preparing the plan, the railway infrastructure manager shall take into account the proposals made by the users of the railway infrastructure. The capacity enhancement plan shall be submitted to the Consumer Protection and Technical Regulatory Authority for approval.

(4) A railway infrastructure capacity enhancement plan shall contain the following information:
1) reasons for capacity depletion;
2) expected developments in railway traffic at the time of implementation of the capacity enhancement plan;
3) circumstances preventing development of railway infrastructure;
4) possibilities and costs of increasing capacity, including expected changes in user fees for railway infrastructure after increase of capacity;
5) measures to be implemented for increasing capacity and a schedule for their implementation.

(5) The Consumer Protection and Technical Regulatory Authority has the right to refuse to approve a railway infrastructure capacity enhancement plan if the plan does not comply with the requirements provided in subsection (4) of this section, and to set, by way of precept, the railway infrastructure manager a term for elimination of the deficiencies.

(6) A railway infrastructure manager is required to make reasonable efforts to implement the measures set forth in the railway infrastructure capacity enhancement plan. A railway infrastructure manager shall publish the railway infrastructure capacity enhancement plan on its website after the plan has been approved by the Consumer Protection and Technical Regulatory Authority.

(7) If a railway infrastructure manager has not performed the capacity analysis provided in subsection (1) of this section within the term or has not made reasonable efforts to increase railway infrastructure capacity on the basis of the capacity enhancement plan, the Consumer Protection and Technical Regulatory Authority has the right to issue a precept for performing a capacity analysis or for acting on the basis of the capacity enhancement plan.

(8) Upon failure to comply with the precept specified in subsection (7) of this section, the Consumer Protection and Technical Regulatory Authority may impose a penalty payment pursuant to the procedure provided in the Substitutive Enforcement and Penalty Payment Act.

§ 94. Basic services and additional services ensuring access and access ancillary services

(1) A railway infrastructure manager must provide all undertakings with the basic services ensuring access defined as follows:
1) the review of applications for capacity, which means the compiling of a draft timetable by the entity allocating railway infrastructure capacity on the basis of submitted applications taking into consideration the
capacity volume subject to allocation and the priorities for entry in the timetable specified in subsections 81 (3) and (4) of this Act as well as the review of proposals submitted concerning the draft timetable, taking them into consideration to the extent possible, organisation of the coordination process, the procedure in the case of depletion of capacity and approval of the timetable;

2) the grant of use of allocated capacity, which means the enabling of access to the railway infrastructure to the extent of the obtained capacity and the enabling of the use of capacity pursuant to the procedure provided in the contract for the use of railway infrastructure, having regard to the provisions of this Act;

3) ensuring the use and operation of track, communication and protection equipment, which means the grant of use of the equipment used for railway traffic control, which ensures safety train traffic, shunting and distance control for operative and safe operation of train traffic, including electronic, cable and radio communication, to IM/RUs and ensuring the compliance thereof with technical requirements;

4) organisation of railway traffic, which means train traffic management in compliance with the requirements established in the rules for technical use of railways in railway sections and organisation of shunting in stations, on open track, in shunting areas and on sidings;

5) communication of information necessary for use of allocated capacity to railway undertakings, which means the notification of railway undertakings by a railway infrastructure manager about organisation of traffic on the infrastructure, the rules, traffic disturbances and other changes in traffic to the extent of this capacity;

6) use of railway infrastructure, including track points and sidings;

7) ensuring the use of traction substations, plants for transforming and carrying electric power for train haulage and traction current transmission lines in the places where it is possible.

(2) A railway infrastructure manager must provide additional services ensuring access if an undertaking is unable to use other options. Additional services ensuring access include:

1) transmission of traction current, the fee for which shall be shown separately from the user fee for the plant for transforming and carrying electric power for train haulage;

2) passenger train preheating, which means the heating of passenger cabins in the carriages of a passenger train up to the established temperature before the dispatch of the train;

3) inspection of carriage of hazardous goods on the basis of a special contract, which means the transport of hazardous loads carried out by a railway undertaking under the supervision of a safety adviser of a railway infrastructure manager on the basis of a contract between the railway undertaking without a safety adviser and the railway infrastructure manager with a safety adviser;

4) assistance in running abnormal trains on the basis of a special contract.

(3) A railway infrastructure manager may also provide access ancillary services to an undertaking upon reaching an agreement. The access ancillary services include:

1) grant of use of feeder lines leading to civil engineering works necessary for rail transport with the aim of providing refuelling, train formation and other services, which means the enabling of access for railway vehicles located within the limits of a station or on a network of tracks branching from the limits of the station up to the civil engineering works necessary for rail transport, such as cargo loading platforms, trestles etc., fuel storages and other places necessary for rail transport;

2) grant of access to the voice communication system, which means enabling of communication of information to passengers about the traffic of passenger trains through the announcement system of a railway station;

3) technical inspection of rolling stock, which means the checking of the technical state of railway vehicles in the period between scheduled repairs with an aim of preventing potential faults and determining the need for repair of railway vehicles;

4) ticketing services in passenger station buildings;

5) maintenance services supplied in maintenance facilities dedicated to high-speed trains or to other types of railway vehicles requiring specific facilities;

6) grant of access to telecommunication networks;

7) provision of supplementary information.

§ 95. Service facility and service facility operator

(1) Service facility operator means an undertaking who manages one or more service facilities or provides an appropriate service or the service specified in subsection 94 (2) or (3) of this Act in one or more service facilities to a railway undertaking.

(2) Service facilities are:

1) passenger stations, their buildings and other service facilities for passengers, travel information displays and ticketing services;

2) freight terminals;

3) marshalling yards and facilities for train formation and shunting;

4) storage sidings specifically dedicated to temporary parking of railway vehicles between two assignments;

5) maintenance facilities, with the exception of workshops where such maintenance is provided to high-speed trains or to other railway vehicles requiring specific facilities which is not carried out routinely as part of day-to-day operations and which requires the vehicle to be removed from service;

6) other technical facilities, cleaning and washing facilities;

7) maritime and inland port facilities which are linked to rail activities;

8) relief facilities for rail workers;

9) refuelling facilities if charges payable for supply of fuel in these are shown on invoices separately.
(3) If an operator of any of the service facilities specified in clauses (2) 1)–4), 7) and 9) of this section is under the direct or indirect control of such undertaking who holds a dominant position in the rail transport market, the work of the facility operator must be organised so that it is independent of such undertaking in terms of its organisation and decision-making. The requirement of independence shall be deemed fulfilled if separate structural units have been created for different activities within the undertaking and such units have separate accounting.

(4) If operation of a service facility is ensured by a railway infrastructure manager or if a service facility operator is under the direct or indirect control of a railway infrastructure manager, the requirement of independence specified in the second sentence of subsection (3) of this section shall be deemed fulfilled if the corresponding railway infrastructure manager itself is independent of all railway undertakings in terms of its legal form, organisation and decision-making.

§ 96. Access to service facilities and to services provided therein

(1) Service facility operators shall ensure that all railway undertakings have access in a non-discriminatory manner to railway, the service facilities and the services provided therein.

(2) An application for access to a service facility and the services provided therein submitted by a railway undertaking shall be responded to by the facility operator within 30 days after receipt of the application. In justified cases and upon the receipt of a corresponding request, the Competition Authority may set a term for responding which is different from the general term.

(3) The application specified in subsection (2) of this section may only be rejected if there is a viable alternative for operation of the transport service concerned on the same or alternative routes under economically reasonable conditions. Receipt of an application for access shall not oblige the service facility operator to make investments in order to accommodate all requests by railway undertakings.

(4) Viable alternative means access to another service facility which is economically acceptable to the railway undertaking and allows it to operate the freight or passenger transport concerned, and alternative route means another route between the same origin and destination where there is substitutability between the two routes for the operation of the freight or passenger transport concerned by the railway undertaking.

(5) If a service facility operator is an IM/RU specified in subsection 95 (3) or (4) of this Act, the operator shall justify its decision of rejection in writing and indicate which viable alternatives exist in other service facilities.

(6) If a service facility operator finds that applications for access to the services provided therein overlap, it shall try to satisfy all the applications to the greatest extent possible. If no viable alternative can be found and all the applications related to the particular service facility cannot be satisfied on the basis of the submitted applications, an applicant may file a complaint with the Competition Authority, which shall review the complaint and take measures if necessary in order to provide the applicant with an appropriate volume of use of the service facility.

(7) If a service facility has not been used for two subsequent years and railway undertakings have expressed their wish to the operator or owner of the service facility to obtain access to the facility and have proven their need for access, the operator or owner of the service facility must promptly notify the interested persons that the facility can be operated as a service facility, either in part or as a whole, on the basis of a contract for use.

(8) As an exception from the provision in subsection (7) of this section, the use of a service facility need not be granted if the operator or owner of the facility proves that railway undertakings cannot use it due to the current reorganisation operations.

§ 97. Contract for use of railway infrastructure and performance scheme

(1) A railway undertaking to whom railway capacity is allocated and the railway infrastructure manager shall, by the beginning of a timetable period, enter into a contract for the use of railway infrastructure which shall set out the details for access to the railway infrastructure, such as the time and duration of use as well as the user fee and other conditions related to the use of railway infrastructure.

(2) The contract specified in subsection (1) of this section shall be entered into in writing. The conditions for use shall be determined on the basis of the nature and duration of the service, the market situation and the degree of depreciation of the railway infrastructure, as well as the composition, condition and operating velocity of the railway vehicles.

(3) A performance scheme, which is effective to the extent of the entire railway network and which aims to encourage the parties to the contract to minimise disruption and improve the performance of the railway network, shall be an annex to the contract specified in subsection (1) of this section. This scheme may include
penalties for actions which disrupt the operation of the railway network, compensation for undertakings which suffer from disruption and bonuses that reward better-than-planned performance.

(4) The basic principles of the performance scheme specified in subsection (3) of this section are included in point 2 of Annex VI of Directive 2012/34/EU of the European Parliament and of the Council.

(5) If a railway undertaking who was granted priority in the process of entry in the timetable and the railway infrastructure manager fail to reach an agreement on the terms and conditions for the use of railway infrastructure by the beginning of a timetable period, the railway infrastructure manager is required to allow the railway undertaking to use the railway infrastructure on the terms and conditions already agreed upon for the previous timetable period until a new agreement is reached.

(6) If a railway undertaking is granted priority for entry in the timetable for the first time and fails to reach an agreement with the railway infrastructure manager on the terms and conditions for the use of railway infrastructure, the Consumer Protection and Technical Regulatory Authority shall set the terms and conditions for the use of railway infrastructure until an agreement is reached, taking into account the terms and conditions for the use of railway infrastructure for public transport of passengers currently in force and the public interest.

§ 98. Principles for setting user fees for railway infrastructure and service facilities

(1) The user fees for railway infrastructure charged for basic services ensuring access and for use of infrastructure connecting service facilities consist of the direct costs of the railway infrastructure manager for provision of such services.

(2) The user fees established for track access within the service facilities and for the provision of services therein shall not exceed the cost of providing the service together with reasonable operating profit. Reasonable operating profit is considered to mean a rate of return on own capital that takes account of the risk or the absence of such risk, incurred by the operator of the service facility, and is in line with the average rate for the sector concerned in recent years.

(3) If the additional services ensuring access specified in subsection 94 (2) of this Act and the access ancillary services specified in subsection 94 (3) are provided on a train path only by a single provider, the user fees charged for additional and ancillary services for access shall not exceed the total costs of providing these. The total costs of additional and ancillary services for the purposes of this Act are direct expenses relating to the provided service, the capital expenditure, a proportional part of the overheads of the railway infrastructure manager and reasonable operating profit.

(4) The user fee for railway infrastructure charged for the grant of use of single railway capacity intended for specific purposes consists of the direct costs of the railway infrastructure manager for provision of such service which may be added mark-ups specified in subsection 99 (1) of this Act. If rail transport is carried out for other than commercial purposes, including the grant of use of railway infrastructure to conduct a practical driving test or organise driving practice, the user fee shall only be linked to the direct costs of the grant of use of this railway capacity, and no mark-ups shall be charged for these.

(5) If train traffic covers more than one railway network of the rail system within the European Union, railway infrastructure managers shall cooperate in order to apply efficient schemes for charging user fees, to coordinate the setting of user fees and to implement the performance scheme specified in subsection 97 (3) of this Act.

(6) Negotiations between a railway infrastructure manager and an applicant for capacity on the amount of the user fee are permitted only under the supervision of the Competition Authority.

(7) The methods for calculation of user fees for railway infrastructure, establishing more specific bases for setting fees for basic and additional services ensuring access to railway infrastructure, access ancillary services, for use of single railway capacity intended for specific purposes and service facilities as well as for calculation of mark-ups specified in § 99 of this Act shall be established by a regulation of the minister responsible for the area.

(8) On account of the user fees set on the basis of subsection (7) of this section railway infrastructure managers and service facility operators shall finance their economic operation.

§ 99. Principles for setting mark-ups

(1) In addition to user fees charged for basic services ensuring access, the body setting user fees specified in § 106 of this Act may set mark-ups in order to ensure full recovery of the costs incurred by a railway infrastructure manager. Mark-ups shall be set on the basis of efficient, transparent and non-discriminatory principles, taking account of the capability of persons operating in railway market segments to pay these.

(2) The mark-ups, which must take account of the productivity increases achieved by railway undertakings, together with direct costs shall not exceed the costs associated with the provision of basic services ensuring access together with reasonable operating profit.
(3) For transport of goods to and from third countries, the body setting user fees specified in § 106 of this Act may, in order to ensure full recovery of the costs incurred by a railway infrastructure manager, establish higher user fees which together with direct costs shall not exceed the costs associated with the provision of basic services ensuring access together with reasonable operating profit.

(4) The body setting user fees specified in § 106 of this Act must give a notice of amendment of the principles for setting mark-ups no less than three months before the publication of the railway network statement.

§ 100. Submission of information about user fees to Competition Authority

Railway infrastructure managers, service facility operators and the Consumer Protection and Technical Regulatory Authority are required to submit all necessary information about user fees to the Competition Authority so that the Competition Authority could perform the duties specified in subsection 109 (1) of this Act.

§ 101. Principles for ordering services

(1) The basic services ensuring access can be ordered only as a complete set of the services listed in subsection 94 (1) of this Act and the user fee for railway infrastructure for basic services ensuring access includes the provision of all the specified services.

(2) The additional services ensuring access specified in subsection 94 (2) of this Act and the access ancillary services specified in subsection (3) can be ordered by a railway undertaking separately, according to necessity.

(3) A separate user fee shall be charged for each additional service ensuring access and access ancillary service.

§ 102. Reservation charge

(1) For capacity that is allocated but not used, a railway infrastructure manager may charge a reservation charge from an applicant for capacity in order to encourage more efficient use of allocated capacity. A railway infrastructure manager shall set the amount of the reservation charge and disclose it in the railway network statement.

(2) If a railway undertaking has regularly failed to use a train path or a part thereof in the capacity allocated thereto, the railway infrastructure manager must charge the charge specified in subsection (1) of this section from the applicant for capacity.

(3) The principles for charging reservation charges and determining failure to use allocated capacity shall be disclosed in the railway network statement specified in § 84 of this Act.

§ 103. Use of capacity

(1) A railway undertaking has no right to transfer or assign the capacity which has been allocated thereto. In the event of violation of this requirement, the capacity shall be withdrawn and the railway undertaking in violation of the requirement loses the right to be allocated capacity in the future.

(2) Use by a railway undertaking of the capacity allocated to the applicant specified in subsection 86 (1) of this Act who itself is not a railway undertaking in the interests and at the request of such applicant shall not be deemed as transfer or assignment of capacity.

(3) If capacity is declared to be depleted, a railway infrastructure manager has the right to withdraw capacity from a railway undertaking who has failed to use, within at least one month, the capacity allocated to it pursuant to the procedure provided in the contract for the use of railway infrastructure, unless the railway undertaking was prevented from using the capacity due to reasons independent of the railway undertaking.

(4) A railway infrastructure manager shall publish a notice concerning withdrawn railway capacity on its website and shall set a term of no less than 14 days for submission of applications for the withdrawn capacity in the notice.

(5) If several applicants wish to be allocated withdrawn capacity, the provisions of subsections 91 (1)–(6) of this Act apply to the allocation thereof. In the case of capacity depletion, the provisions of subsections 92 (2), (3), (5), (6), (8) and (9) of this Act apply to the allocation of withdrawn capacity.

§ 104. Allocation of single railway capacity intended for specific purposes

(1) Possessors of railway vehicles have the right to submit an application to a railway infrastructure manager for allocation of single railway capacity intended for specific purposes.
A possessor of railway vehicles who is not a railway undertaking shall, for use of single railway capacity intended for specific purposes, enter into a contract with a railway undertaking who performs the carriage for specific purposes on behalf of the possessor of the railway vehicles.

Single railway capacity intended for specific purposes means the entire reserve capacity of a railway section, which is allocated to an IM/RU either:
1) for a single rail transport operation due to a technological need, i.e. test-driving of railway vehicles, transport of railway vehicles to repairs, conducting of practical driving test or organisation of driving practice for train drivers, or
2) for a rail transport operation not specified in the timetable approved for the timetable period, i.e. traffic of a tourist train, transport under charter contract or moving on of rolling stock of a freight train which has been left in an intermediate station for a longer period of time to wait for moving on.

A railway infrastructure manager is required to review an application specified in subsection (1) of this section and plan the use of a single railway capacity intended for specific purposes within five working days after the day of receipt of the application. A railway infrastructure manager must take account of the need to satisfy such applications upon preparing an annual timetable. This requirement also applies in the event of capacity depletion.

If a railway infrastructure manager receives an explanation where the reasons for objective urgency of the application are provided, it must allocate single railway capacity intended for specific purposes within two days after receipt of the application if there is available capacity and notify the applicant for capacity thereof without delay.

§ 105. Unallocated capacity

A railway infrastructure manager shall publish information on its website concerning capacity which has not been allocated due to absence of applications by the due date provided in subsection 85 (1) of this Act or due to other reasons. If a railway infrastructure manager receives an application for such capacity, the railway infrastructure manager has the right to satisfy the application immediately.

§ 106. Consumer Protection and Technical Regulatory Authority as body setting user fees

(1) The Consumer Protection and Technical Regulatory Authority shall set user fees for railway infrastructure and mark-ups on the basis of the methods for calculation of user fees for railway infrastructure established on the basis of subsection 98 (7) of this Act and the accounting data of the railway infrastructure manager and shall collect user fees.

(2) If a railway infrastructure manager is independent of a railway undertaking in terms of its legal form, organisation or decision-making, it shall collect user fees itself.

§ 107. Consumer Protection and Technical Regulatory Authority as capacity allocation body

(1) If a railway infrastructure manager is not independent of a railway undertaking in terms of its legal form, organisation or decision-making, the functions of a capacity allocation body shall be performed in its stead by the Consumer Protection and Technical Regulatory Authority and in such case an applicant must pay a state fee for the submission of an application for capacity at the rate provided in the State Fees Act.

(2) In the event specified in subsection (1) of this section the Consumer Protection and Technical Regulatory Authority shall perform the following functions:
1) review the draft railway network statement prepared by a railway infrastructure manager and make corrections if necessary in conformity with the requirements provided in the legislation;
2) review the railway network statement prepared by a railway infrastructure manager and decide on approval or refusal to approve the railway network statement;
3) review applications for capacity and decide on the allocation of capacity;
4) organise coordination process and make a coordinating decision;
5) if necessary, declare capacity to be depleted;
6) in the event of capacity depletion, organise the allocation of capacity and make a decision on allocation of capacity;
7) instruct the railway infrastructure manager in preparation of draft timetables;
8) review the opinions presented on draft timetables and make suggestions to the railway infrastructure manager on taking them into consideration;
9) evaluate timetables and decide on approval or refusal to approve timetables;
10) review applications for single railway capacity intended for specific purposes and decide on the allocation of such capacity;
11) review applications for the capacity which has not been allocated due to absence of applications by the due date provided in subsection 85 (1) of this Act and decide on the allocation of such unallocated capacity.

(3) Upon allocating capacity to an applicant, information about the allocated capacity and the details of access to the railway infrastructure specified in subsection 97 (1) of this Act shall be set out in the decision of the Consumer Protection and Technical Regulatory Authority.
(4) The decisions made on the basis of subsections (2) and (3) of this section and other essential information regarding allocation of capacity shall be immediately forwarded to the railway infrastructure manager.

Chapter 8
Monitoring of Competitive Situation in Rail Services Market and Processing of Complaints

§ 108. Monitoring of competitive situation in rail services market

(1) The competitive situation in the rail services market shall be monitored by the Competition Authority, which shall implement measures to remove discriminating or otherwise unfair treatment. To ensure fair competitive situation in the rail services market, the Competition Authority shall cooperate with the appropriate supervisory bodies of other Member States.

(2) The Competition Authority, which is also the regulatory body for the purposes of Directive 2012/34/EU of the European Parliament and of the Council, shall control the circumstances specified in subsection 109 (1) of this Act on its own initiative with a view to preventing discrimination against applicants and shall check whether the railway network statement contains discriminatory clauses or creates discretionary powers for the railway infrastructure manager that may be used to discriminate against applicants for capacity.

(3) In the framework of cooperation specified in subsection (1) of this section, the Competition Authority shall, together with the regulatory bodies of other Member States, develop common principles and practices for exercising the decision-making rights granted thereto. Resolution of such disputes which arise in the procedure provided in subsection 109 (6) of this Act shall also be agreed on.

(4) The Competition Authority and the Consumer Protection and Technical Regulatory Authority shall mutually cooperate and share appropriate information aiming to prevent adverse effects on competition or safety in the rail services market. In the framework of such cooperation the Competition Authority shall give recommendations on the circumstances that may affect competition in the rail services market and the Consumer Protection and Technical Regulatory Authority shall give recommendations on the circumstances that may affect safety.

(5) Without prejudice to the independence of the authorities specified in subsection (4) of this section in the performance of their duties, they shall examine any recommendation given by the other authority before adopting its decisions. Any deviation from a recommendation shall be justified in the decision.

(6) The Competition Authority shall regularly, at least every two years, consult representatives of users of rail transport to take into account their views on the rail services market.

(7) For the performance of its duties, the Competition Authority has the right to demand appropriate information from railway infrastructure managers, the applicants specified in subsection 86 (1) of this Act and the third persons concerned. Information shall be submitted to the Competition Authority within the set term, which shall not exceed one month and which may, in justified cases, be extended by two weeks.

(8) If necessary, the Competition Authority may demand from railway infrastructure managers that they notify the Competition Authority when railway infrastructure is not accessible due to unscheduled maintenance work.

(9) The Competition Authority shall monitor compliance with the requirements of financial transparency provided in § 78 of this Act.

(10) To organise the first independent allocation of capacity, a railway infrastructure manager must submit a one-off application to the Competition Authority and provide the Competition Authority with access to the documents and premises required for the assessment of independence. The Competition Authority shall make a decision on the independence of the railway infrastructure manager within 60 days.

§ 109. Processing of complaints

(1) If an applicant for capacity specified in subsection 86 (1) of this Act finds that its rights have been damaged, it has the right to file a complaint with the Competition Authority against the acts and decisions relating to the following:
1) railway network statement in its initial or final form and the criteria provided therein;
2) the procedure for allocation of capacity and its result;
3) the setting of user fees for railway infrastructure and mark-ups;
4) the amount of user fees for railway infrastructure and mark-ups which it is, or may be, required to pay;
5) access to railway infrastructure and service facilities;
6) access to services and setting of user fees for services;
7) traffic management;
8) renewal plans and scheduled or unscheduled maintenance work;
9) compliance with the requirements provided in §§ 72 and 75–78 of this Act; or
10) acting in the situation of conflict of interests.

(2) The Competition Authority shall review a complaint, request additional information if necessary and commence consultations with the parties within one month after receipt of the complaint. The Competition Authority shall make and publish its decision on the complaint within six weeks after receipt of all the appropriate information. By a decision, the Competition Authority shall refuse to satisfy the complaint or issue a precept for elimination of the violation and set a reasonable term therefor.

(3) Upon failure to comply with the precept specified in subsection (2) of this section, the Competition Authority may impose a penalty payment pursuant to the procedure provided in the Substitutive Enforcement and Penalty Payment Act.

(4) If a complaint is related to access to, or determination of fees for, an international train path, the Competition Authority shall consult the regulatory bodies of the Member States through which the international train path concerned runs and, where appropriate, the European Commission and request all necessary information from them before making its decision.

(5) If the Competition Authority is being contacted by a regulatory body of another Member State for the purpose of consultation in connection with the complaint specified in subsection (4) of this section, the Competition Authority shall present all the information that it is entitled to request from the person concerned. Such information shall only be used for the purpose of solving matters connected with the complaint referred to in subsection (4) or with an investigation.

(6) If matters concerning international transport require decisions of two or more regulatory bodies, the Competition Authority shall cooperate with other regulatory bodies in preparing the decision in order to bring about a resolution of the matters.

(7) If the person who has filed a complaint with the Competition Authority does not agree with the decision of the Competition Authority, the person has the right to file a complaint against the decision with an administrative court pursuant to the procedure provided in the Code of Administrative Court Procedure.

Chapter 9
Rail Transport Requirements

§ 110. Transport rules

(1) A railway undertaking may engage in public transport of passengers or other rail transport on public railways only pursuant to transport rules. In transport rules, a railway undertaking shall establish the conditions for transport of passengers or goods based on the types of goods or railway vehicles.

(2) Transport rules shall set out, inter alia, the following:
1) the procedure for setting, establishment and amendment of fees;
2) the procedure for notification of amendments of fees;
3) the procedure for processing of complaints by the users of transport of passengers or goods.
4) in case of undertakings engaged in transport of passengers, a plan for resolving disruptions, which determines the provision of assistance to passengers in case of major disruption of the service within the meaning of Article 18 of Regulation (EC) No 1371/2007 of the European Parliament and of the Council.

(3) A railway undertaking shall publish transport rules or amendments thereto on its website before entry into force thereof.

(4) Transport rules or amendments thereto enter into force not earlier than 45 days after the day of publication of transport rules or amendments thereto on the website.

(5) The established transport rules and amendments thereto shall be forwarded to the Consumer Protection and Technical Regulatory Authority and the Competition Authority for their information.

(6) The Consumer Protection and Technical Regulatory Authority and the Competition Authority may issue a precept for amendment of transport rules if transport rules contradict the legislation.
Upon failure to comply with the precept specified in subsection (6) of this section, the body having issued the precept may impose a penalty payment pursuant to the procedure provided in the Substitutive Enforcement and Penalty Payment Act.

§ 111: Rail transport of hazardous goods

(1) Rail transport of hazardous goods shall be carried out only under the supervision of a safety adviser who meets the requirements of § 13 of the Chemicals Act.

(2) Rail transport of hazardous goods shall be carried out in adherence to the requirements of Appendix C (RID) to the Convention concerning International Carriage by Rail (COTIF) of 1980 or the requirements of the Agreement on International Railway Freight Communications (SMGS).

Chapter 10
Interoperability of Rail Systems

§ 112: Placing in service of subsystems and interoperability constituents

(1) Subsystems shall be placed in service on the basis of an authorisation for placing in service or placing on the market.

(2) An interoperability constituent may be placed on the market or in service if it enables to achieve interoperability in the rail system, meets the essential requirements, is used in its area of use as intended and suitably installed and maintained.

(3) Trackside control-command and signalling, energy and railway infrastructure subsystems shall be placed in service only if they are designed, constructed and installed in such a way as to meet the essential requirements, and the authorisation for placing them in service is received in accordance with § 115 of this Act.

(4) The Consumer Protection and Technical Regulatory Authority shall not hinder or restrict the placing in service of subsystems or interoperability constituents which comply with the requirements, whereas it shall not demand additional inspection of compliance with the requirements if such inspection has already been conducted:
   1) during the conformity assessment procedure or
   2) by a competent authority of another Member State for the purpose of inspecting compliance with identical requirements under identical operational conditions.

(5) The procedure for application of technical specifications of subsystems and interoperability constituents, the specific conditions for placing them in service and the list of essential requirements specified in subsections (2) and (3) of this section shall be established by a regulation of the minister responsible for the area.

§ 113: Compliance of subsystems and interoperability constituents with requirements

(1) Compliance of subsystems and interoperability constituents with the requirements shall be attested by the manufacturer or an authorised representative thereof or it shall be done by the EC declaration of conformity drawn up by the importer in the European Union market. If prescribed by the technical specification for interoperability, a conformity certificate issued by a conformity assessment body shall be enclosed with the EC declaration of conformity.

(2) If the Consumer Protection and Technical Regulatory Authority finds that an interoperability constituent does not meet the essential requirements, when used as intended, the authority must take measures taking account of the danger to railway traffic due to the non-compliance and issue a precept with a demand to restrict the use of the interoperability constituent, prohibit its use, withdraw it from the market or recall it.

(3) Upon failure to comply with the precept specified in subsection (2) of this section, the Consumer Protection and Technical Regulatory Authority may impose a penalty payment pursuant to the procedure provided in the Substitutive Enforcement and Penalty Payment Act.

(4) Notice of the measures taken in accordance with subsection (2) of this section shall be given to the European Commission, the Agency for Railways and other Member States and the notice shall set out whether the non-compliance with the essential requirements is due to:
   1) failure to meet the essential requirements;
   2) inadequacy of European specifications;
   3) incorrect application of European specifications where application of such specifications is relied upon.
In addition to the provisions of subsection (2) of this section, the Consumer Protection and Technical Regulatory Authority shall take appropriate measures in respect of the entity which has drawn up the EC declaration of conformity and notify the European Commission and other Member States thereof.

If the Consumer Protection and Technical Regulatory Authority finds that a structural subsystem covered by the EC declaration of conformity accompanied by the technical file does not comply with the essential requirements, it may demand the carrying out of additional checks, notifying the European Commission thereof and providing the reasons for the need for additional checks.

The notice in accordance with subsection (6) of this section shall set out whether the non-compliance with the essential requirements is due to:
1) non-compliance with the technical specification for interoperability or with the essential requirements, or incorrect application of the technical specification for interoperability; or
2) inadequacy of the technical specification for interoperability.

The procedure for assessment and attestation of compliance of subsystems and interoperability constituents with the requirements shall be established by a regulation of the minister responsible for the area.

Conformity assessment body

The certification of compliance of subsystems and interoperability constituents with the requirements shall be organised by the conformity assessment body within the meaning of the Product Conformity Act.

The Product Conformity Act, with the specifications arising from this Act, applies to the grant to a person the right to operate as a conformity assessment body, to the suspension or revocation of such right, and to the operation of a person as a conformity assessment body and the exercise of state supervision over that person.

The Consumer Protection and Technical Regulatory Authority as the body issuing operating licenses specified in subsection 30 (1) of the Product Conformity Act shall notify the European Commission of the procedures for granting to persons the right to operate as a conformity assessment body and for supervision and, if requested, shall send all the information about the basis for the notification and the competence of the conformity assessment body to the European Commission.

Authorisation for placing in service of subsystem

To obtain an authorisation for placing in service a subsystem to be used in Estonia, an application must be submitted to the Consumer Protection and Technical Regulatory Authority. The state fee for reviewing the application shall be paid at the rate provided in the State Fees Act.

The applicant may be a natural or legal person, including a railway undertaking, railway infrastructure manager or a producer, owner or possessor.

The application shall be accompanied by a file, which includes the following:
1) EC declarations of conformity;
2) the description of how the technical compatibility is ensured with the systems into which the subsystem is to be integrated;
3) the description of how the safe integration of the subsystem is ensured;
4) in the case of trackside control-command and signalling subsystems involving European Train Control System (ETCS) or Global System for Mobile Communications – Railway (GSM-R) equipment, information about the positive decision of the Agency for Railways in accordance with Article 19 of Directive (EU) 2016/797 of the European Parliament and of the Council;
5) in the case of a change to the draft tender specifications or to the description of the envisaged technical solutions that occurred after the positive decision specified in clause 4) of this subsection, the compliance with the result of the procedure referred to in Article 30(2) of Regulation (EU) 2016/796 of the European Parliament and of the Council.

Within one month after receipt of the application, the Consumer Protection and Technical Regulatory Authority shall inform the applicant whether the submitted documentation is complete or shall ask for additional information within a reasonable term.

The Consumer Protection and Technical Regulatory Authority shall verify the completeness, relevance and consistency of the submitted documentation and, in the case of trackside European Rail Traffic Management System (ERTMS) equipment, compliance with the positive decision referred to in clause (3) 4) of this section and, if necessary, with the result of the procedure prescribed in Article 30(2) of Regulation (EU) 2016/796 of the European Parliament and of the Council.

The Consumer Protection and Technical Regulatory Authority shall issue an authorisation for placing in service of a subsystem or shall refuse to issue an authorisation within a predetermined, reasonable period of time, which may not be longer than four months after receipt of all relevant information.

In case of refusal to issue an authorisation, the applicant may, within one month, submit a reasoned request to the Consumer Protection and Technical Regulatory Authority for reviewing the decision which must be
adjudicated within two months. If the denying decision is confirmed, the applicant may refer a complaint to the administrative court pursuant to the procedure and within the term provided in the Code of Administrative Court Procedure.

§ 116. Placing in service of subsystem in case of its renewal or upgrading

(1) In the case of renewal or upgrading of an existing subsystem, the applicant shall send a file describing the project to the Consumer Protection and Technical Regulatory Authority.

(2) Renewal means any major substitution work on a subsystem or part of it which does not change the overall performance of the subsystem.

(3) Upgrading means any major modification work on a subsystem or part of it which results in the improvement of the overall performance of the subsystem and involves a change in the technical file accompanying the EC declaration of conformity.

(4) Within one month after receipt of the application, the Consumer Protection and Technical Regulatory Authority shall inform the applicant whether the submitted documentation is complete or shall ask for additional information within a reasonable term.

(5) The Consumer Protection and Technical Regulatory Authority shall review the file, in the case of a trackside European Rail Traffic Management System (ERTMS) project in cooperation with the Agency for Railways, and shall decide whether a new authorisation for placing in service is needed within four months after receipt of all the appropriate information, on the basis of the following circumstances:
   1) whether the overall safety level of the subsystem may be adversely affected by the works envisaged;
   2) whether the technical specifications for interoperability concerned include the requirement to apply for a new authorisation for placing in service;
   3) whether the national implementation plans established by the Member States include the requirement to apply for a new authorisation for placing in service; or
   4) whether changes are made to the values of the parameters on the basis of which the earlier authorisation for placing in service was issued.

§ 117. Deployment of European Rail Traffic Management System (ERTMS)

(1) In order to deploy the European Rail Traffic Management System (ERTMS), a railway infrastructure manager must apply to the Agency for Railways for a decision for the approval of the technical solutions envisaged for the ERTMS trackside equipment projects.

(2) The application relating to an individual ERTMS project or a combination of projects, to one or more train paths or a railway network shall be accompanied by a file which includes:
   1) the draft tender specifications or the description of the envisaged technical solutions;
   2) documentary evidence of the conditions necessary for technical and operational compatibility of the subsystem with the railway vehicles intended to operate on the relevant network;
   3) documentary evidence of the compliance of technical solutions envisaged with the relevant technical specifications for interoperability;
   4) the opinion of the Consumer Protection and Technical Regulatory Authority about the application as specified in subsection (4) of this section, EC declarations of conformity, certificates of conformity and other relevant documents.

(3) The application specified in subsection (1) of this section and information about all applications, the stages of the relevant procedures and their outcome, and, where applicable, the requests and decisions of the Board of Appeal established on the basis of Article 55 of Regulation (EU) 2016/796 of the European Parliament and of the Council, shall be submitted through the one-stop shop.

(4) The Consumer Protection and Technical Regulatory Authority may issue an opinion about the application specified in clause (2) 4) of this section before submission of the application specified in subsection (1) or to the Agency for Railways after submission of the application.

§ 118. Authorisation for placing on market of railway vehicles

(1) Railway vehicles may be placed on the market if the relevant authorisation has been issued in accordance with subsection 119 (1) of this Act by the Agency for Railways or in accordance with subsection 119 (3) by the Consumer Protection and Technical Regulatory Authority.

(2) An authorisation for placing on the market of railway vehicles shall include the following information:
   1) the area of use;
   2) the values of the parameters set out in the technical specifications for interoperability and in the applicable national rules, for checking the technical compatibility between the railway vehicles and the area of use;
3) compliance of the railway vehicles with the national rules relating to the parameters specified in clause 2) of this subsection;
4) the conditions for use of the railway vehicles and other restrictions.

(3) This section and §§ 119–123 of this Act are not applied to track maintenance and repair machines arrived from third countries temporarily and to freight wagons and passenger coaches which are in shared use with IM/RUs from such a third country the track gauge of which is different from that of the main rail network within the European Union and authorised in accordance with a different procedure for authorisation of railway vehicles. The procedure for the issue of such authorisations for railway vehicles shall be regulated by the rules on the website of the railway infrastructure manager and the European Commission shall be notified thereof.

(4) A railway undertaking shall ensure the compliance of the railway vehicles specified in subsection (3) of this section with the essential requirements by means of its safety management system.

(5) In addition to the requirements provided in this Act, the requirements provided in Commission Implementing Regulation (EU) 2018/545 establishing practical arrangements for the railway vehicle authorisation and railway vehicle type authorisation process pursuant to Directive (EU) 2016/797 of the European Parliament and of the Council (OJ L 90, 6.4.2018, p. 66–104) shall be observed upon processing of authorisations for placing on the market of railway vehicles.

§ 119. Entity authorising placing on market of railway vehicles

(1) If the area of use of railway vehicles is in one or more Member States, the authorisation for placing on the market of railway vehicles shall be issued by the Agency for Railways.

(2) The area of use of railway vehicles means the railway network of a state or states where the railway vehicles are intended to be used.

(3) If the area of use of railway vehicles is only limited to the territory of the Republic of Estonia, an authorisation may be issued by the Consumer Protection and Technical Regulatory Authority if the applicant applies for it.

§ 120. Application for authorisation for placing on market of railway vehicles

(1) The application for an authorisation for placing on the market of railway vehicles and information about all applications, the stages of the relevant procedures and their outcome shall be submitted through the one-stop shop.

(2) The application for an authorisation shall set out the area of use of the railway vehicles and it shall be added evidence that the technical compatibility between the railway vehicles and the railway network of the area of use has been checked.

(3) The application must be accompanied by a file concerning the railway vehicles or the type of the railway vehicles which includes documentary evidence of the following:
1) EC declaration of conformity about the mobile subsystems of which the railway vehicles are composed;
2) how the technical compatibility of the subsystems specified in clause 1) of this subsection is ensured in the railway vehicles and how it complies with the applicable technical specifications for interoperability and the applicable national rules;
3) how the safe integration of the subsystems specified in clause 1) of this subsection in the railway vehicles is ensured and how it complies with the applicable technical specifications for interoperability, the applicable national rules and the common safety methods;
4) how the technical compatibility of the railway vehicles with the railway network of the area of use stated in the application is ensured and how it complies with the applicable technical specifications for interoperability, the applicable national rules, the information of the railway traffic registers and the common safety method for risk evaluation and assessment described in Article 6 of Directive (EU) 2016/798 of the European Parliament and of the Council.

§ 121. Authorisation procedure for placing on market of railway vehicles

(1) In the case specified in subsection 119 (1) of this Act, for the purpose of issuing an authorisation, the Agency for Railways shall:
1) assess the circumstances specified in clauses 120 (3) 2)–4) of this Act in order to verify the completeness and relevance of the file and its consistency in relation to the technical specifications for interoperability;
2) refer the applicant's file to the national safety authorities concerned by the intended area of use for assessment of the file in order to verify its completeness, relevance and consistency in relation to the requirement specified in clause 120 (3) 4) of this Act and the compliance of the circumstances specified in clause 1)–3) of the same subsection with the relevant national rules.

(2) In the case specified in subsection 119 (3) of this Act, the consistency of the file in respect of subsection 120 (3) for the purpose of issuing an authorisation shall be assessed by the Consumer Protection and Technical Regulatory Authority.
(3) As part of the assessments in accordance with subsections (1) and (2) of this section or in the case of justified doubts, the Agency for Railways or the Consumer Protection and Technical Regulatory Authority may request that tests be conducted on the railway network.

(4) The Consumer Protection and Technical Regulatory Authority may, for the purpose of practical verification, issue a temporary authorisation for use of railway vehicles in the railway network for carrying out tests:
1) if the tests are necessary in order to evidence the technical compatibility specified in clauses 120 (3) 2) and 4) of this Act;
2) in the case specified in subsection (3) of this section.

(5) A railway infrastructure manager must enable the test within three months after receipt of the application from the applicant for authorisation for placing on the market of railway vehicles, from the Agency for Railways or the Consumer Protection and Technical Regulatory Authority.

(6) Within one month after receipt of an application for an authorisation for placing on the market of railway vehicles, the authorising entity shall inform the applicant whether the submitted file is complete, or shall ask for additional information, setting a reasonable term for it.

(7) The authorising entity shall issue an authorisation for placing on the market of railway vehicles to the applicant or shall refuse to do it within a predetermined, reasonable period of time, which may not be longer than four months after receipt of all relevant information from the applicant.

§ 122. Application for authorisation for placing on market of railway vehicles in case of renewal or upgrading of railway vehicles

In the event of renewal or upgrading of railway vehicles which have obtained an authorisation for placing on the market, a new authorisation for placing on the market of railway vehicles shall be required if:
1) changes are made to the values of the parameters specified in clause 118 (2) 2) of this Act which are outside the range of acceptable parameters as defined in the technical specifications for interoperability;
2) the overall safety level of the railway vehicles may be adversely affected by the works envisaged; or
3) the technical specifications for interoperability include such requirement.

§ 123. Extension of area of use of railway vehicles

(1) If an applicant wishes to extend the area of use of the railway vehicles which have obtained an authorisation, it shall supplement the file with the documents required in subsection 120 (3) of this Act concerning the additional area of use.

(2) The applicant shall submit the file to the appropriate authorising entity specified in § 119 of this Act which shall, after following the procedures provided in § 121, issue an updated authorisation covering the extended area of use.

§ 124. Registration of railway vehicles

(1) After receipt of the authorisation specified in § 118 of this Act and before using the railway vehicles for the first time, the railway vehicles must be registered in the railway traffic register specified in § 137 on the basis of an application of the possessor.

(2) If the area of use of the railway vehicles covers the territory of more than one Member State, the railway vehicles shall be registered on the basis of an application of their possessor in one of the Member States concerned.

§ 125. Checks before use of railway vehicles

(1) Before using railway vehicles in the area of use specified in the authorisation for placing on the market, a railway undertaking shall check whether the railway vehicles:
1) have been issued an authorisation for placing on the market in conformity with § 118 of this Act and whether the railway vehicles have been duly registered;
2) are compatible with the railway infrastructure on which they are intended to be used on the basis of the railway traffic register, the technical specifications for interoperability or other essential information to be provided by the railway infrastructure manager free of charge and within a reasonable period of time if the register does not exist or is incomplete;
3) are properly integrated in the composition of the train where they are intended to operate, taking into account the safety management system provided in § 40 of this Act and the technical specifications for interoperability concerning operation and traffic management.

(2) For the purposes of the checks specified in subsection (1) of this section, a railway undertaking may carry out a test in cooperation with the railway infrastructure manager. The railway infrastructure manager shall, in
agreement with the applicant, make every effort to ensure that the test takes place within three months after receipt of an application from the railway undertaking.

§ 126. Type authorisation of railway vehicles

(1) A type authorisation of railway vehicles shall be issued by the Agency for Railways or if the railway vehicles are used only in the territory of the Republic of Estonia, then by the Consumer Protection and Technical Regulatory Authority.

(2) The application for type authorisation of railway vehicles, information about all applications, information about the stages of the relevant procedures and their outcome, and, where applicable, the requests and decisions of the Board of Appeal established on the basis of Article 55 of Regulation (EU) 2016/796 of the European Parliament and of the Council, shall be submitted through the one-stop shop.

(3) The Agency for Railways or the Consumer Protection and Technical Regulatory Authority shall, at the request of the applicant, issue simultaneously with the authorisation for placing on the market of railway vehicles also the type authorisation of railway vehicles relating to the same area of use of the railway vehicles.

(4) If the technical requirements established by the technical specifications for interoperability or the national rules have changed after authorising the placing of the type of railway vehicles in service, the type authorisation must be renewed if prescribed so by the technical specifications for interoperability or the national rules. Upon renewal, only compliance with the changed rules shall be checked.

(5) A declaration of conformity to the type of railway vehicles shall be issued:

1) in the procedure for proving compliance with the technical specifications for interoperability, or


(7) The requirements provided in the Commission Implementing Regulation (EU) 2018/545 shall be observed upon processing of type authorisations of railway vehicles.

§ 127. Conformity of railway vehicles with authorised type of railway vehicles

(1) Railway vehicles or a series of railway vehicles which are in conformity with an authorised type of railway vehicles shall be issued an authorisation for placing on the market in conformity with § 118 of this Act on the basis of a declaration of conformity of type of railway vehicles submitted by the applicant for an authorisation without further checks.

(2) The renewal of a type authorisation of railway vehicles in accordance with subsection 126 (4) of this Act shall not affect such authorisations for placing of a type of railway vehicles on the market which have already been issued on the basis of a type authorisation of railway vehicles.

§ 128. Non-compliance of railway vehicles or type of railway vehicles with essential requirements

(1) When a railway undertaking finds during operation that the railway vehicles it is using do not meet some of the applicable essential requirements, it shall take the necessary corrective measures in order to bring the railway vehicles into conformity with the requirements. The railway undertaking may inform the Agency for Railways and the Consumer Protection and Technical Regulatory Authority of the taken measures.

(2) If a railway undertaking has evidence that railway vehicles did not comply with the requirements already at the time of issue of an authorisation for placing them on the market, it shall inform the Agency for Railways and the Consumer Protection and Technical Regulatory Authority thereof.

(3) If the Consumer Protection and Technical Regulatory Authority learns during supervision that railway vehicles or a type of railway vehicles that have received an authorisation for placing on the market, when used as intended, do not meet some of the applicable essential requirements, it shall inform the railway undertaking using these railway vehicles or this type of railway vehicles thereof and ask it to take the necessary corrective measures in order to bring the railway vehicles into conformity with the requirements.

(4) Notification of the circumstances specified in subsection (3) of this section shall be given by the Consumer Protection and Technical Regulatory Authority to the Agency for Railways and other relevant national safety authorities, including those that are processing applications for placing the same type of railway vehicles on the market.

(5) If the corrective measures taken by a railway undertaking do not ensure conformity with the essential requirements and if the non-conformity results in the risk to railway safety, the Consumer Protection and
Technical Regulatory Authority may, under its supervision tasks, temporarily suspend the validity of a type authorisation of railway vehicles and restrict the use of the corresponding type of railway vehicles.

(6) If the type authorisation of railway vehicles has been issued by the Agency for Railways, the Consumer Protection and Technical Regulatory Authority shall forward the notice as well as the reasons and evidence for implementing the restrictions specified in subsection (5) of this section to the Agency for Railways.

§ 129. Amendment and revocation of authorisation for placing on market of railway vehicles and type authorisation

(1) The authorising entity specified in subsection 118 (1) or 126 (1) of this Act shall evaluate the efficiency of the measures taken to eliminate the risk specified in subsection 128 (5) and establish whether failure to meet an essential requirement existed already at the time of issue of the authorisation, and thereafter decide whether the risk to railway safety can be eliminated by amendment of the authorisation. If the risk to railway safety cannot be eliminated, the authorising entity shall revoke the authorisation.

(2) Notice of the decision specified in subsection (1) of this section shall be given to the holder of the authorisation for placing on the market of railway vehicles or the type authorisation of railway vehicles and the Agency for Railways if the decision was made by the Consumer Protection and Technical Regulatory Authority, and the reasons for such a decision shall be given.

(3) The holder of the authorisation for placing on the market of railway vehicles or the type authorisation of railway vehicles may, within a period of one month from receipt of the decision, request the entity that has made the decision specified in subsection (1) of this section to review the decision. In this case the decision to revoke the authorisation shall be temporarily suspended.

(4) The entity that has made the decision specified in subsection (1) of this section shall decide, within a period of one month from receipt of the application for reviewing the decision, whether it refuses to satisfy the application or revokes the decision.

(5) If the Agency for Railways, upon receipt of the notice specified in subsection (2) of this section, does not agree with the reasons of the Consumer Protection and Technical Regulatory Authority for amendment or revocation of the authorisation, the arbitration procedure provided in Article 21(7) of Directive (EU) 2016/797 of the European Parliament and of the Council shall be used. If the authorisation for placing on the market of railway vehicles is not amended or revoked as a result of the procedure concerned, the temporary measures provided in subsection 128 (5) of this Act shall be suspended.

(6) If the decision of the Consumer Protection and Technical Regulatory Authority remains effective as a result of the procedure specified in subsection (5) of this section, the holder of the authorisation may contest the decision of the authority in an administrative court within two months after receipt of the decision. If the decision of the Agency for Railways remains effective in the arbitration procedure, the holder of the authorisation may file an appeal with the Board of Appeal established under Article 55 of Regulation (EU) 2016/796 of the European Parliament and of the Council within two months after receipt of the decision.


(8) Notice of revocation of the authorisation for placing on the market of railway vehicles or type authorisation shall be given by the Consumer Protection and Technical Regulatory Authority to the railway undertakings who are using railway vehicles of the same type in respect of which the authorisation for placing on the market or the type authorisation was revoked.

(9) The railway undertakings who have received the notification in accordance with subsection (8) of this section must verify whether the railway vehicles which they are using have the same non-conformity as the railway vehicles with the revoked authorisation. In the event of establishing a non-conformity the railway undertaking shall adhere to the provisions of subsection (10) of this section.

(10) If an authorisation for placing on the market of railway vehicles is revoked, then these railway vehicles shall no longer be used and their area of use shall not be extended. If a type authorisation of railway vehicles is revoked, the railway vehicles built on the basis of this authorisation shall not be placed on the market or, if they had already been placed on the market, they shall be withdrawn. A new authorisation may be applied for in accordance with §§ 118 and 126 of this Act.

(11) If, in the cases provided in subsections 128 (1)–(3) of this Act, the non-compliance with the essential requirements is limited to a part of the area of use of the railway vehicles and such non-compliance already
Chapter 11
Working and Rest Time Conditions of Mobile Workers Engaged in Interoperable Cross-Border Services within Member States

§ 130. Scope of application

(1) The provisions of this Chapter apply to mobile workers who are engaged in interoperable cross-border services and who are assigned to interoperable cross-border services managed by IM/RUs.

(2) Interoperable cross-border services mean cross-border services for which an IM/RU holds a single safety certificate issued by the Agency for Railways and where the origin and destination of the rail transport are in different Member States.

(3) A mobile worker engaged in interoperable cross-border services means a worker who is a member of a train crew and who is assigned to a railway undertaking providing interoperable cross-border services for more than one hour on a daily shift basis.

(4) The provisions of this Chapter do not apply to local and regional cross-border transport of passengers and cross-border transport of goods, which do not extend farther than 15 kilometres from the state border.

(5) The provisions of this Chapter do not apply to such cross-border lines, where the origin and destination are located on the railway infrastructure of the same Member State and which use the infrastructure of another Member State without stopping there.

(6) Compliance with the requirements provided in §§ 131–136 of this Act must be ensured by the employer.

§ 131. Rest time of locomotive crew and staff accompanying trains during working day

(1) A locomotive crew shall be granted a rest time of 45 minutes during a working day if the working time exceeds 8 hours or a rest time of 30 minutes during a working day if the working time lasts 6 to 8 hours.

(2) A rest time during a working day shall be granted between the third and sixth working hours.

(3) In the case of delays of trains, adjustments may be made in the rest times during a working day.

(4) The staff accompanying trains shall be granted a rest time of at least 30 minutes during a working day if the working time exceeds 6 hours.

(5) Subsections (1)–(3) of this section do not apply if a second locomotive crew exists.

§ 132. Daily rest time in home country

(1) The duration of a daily rest time of a worker engaged in interoperable cross-border services spent in the home country shall be at least 12 consecutive hours per each period of 24 hours.

(2) The rest time specified in subsection (1) of this section may be shortened to no less than 9 hours once per each period of 7 days. In such case the hours by which the shortened rest time is shorter than 12 hours shall be added to the next daily rest time outside of the place of work.

(3) A shortened daily rest time cannot be set between two daily rest times spent outside of the home country.

§ 133. Daily rest time outside of home country

(1) The duration of a daily rest time spent outside of the home country shall be at least 8 consecutive hours during a period of 24 hours.

(2) The daily rest time outside of the home country shall be followed by the daily rest time in the home country.

§ 134. Weekly rest time

(1) The duration of a weekly rest time shall be at least 36 consecutive hours per period of 7 days.

(2) Each year a mobile worker engaged in interoperable cross-border services shall have 104 rest times with a duration of 24 hours, including 52 weekly 24-hour rest times, which include:

1) 12 double rest times (48 hours which is added a daily 12-hour rest time) including a Saturday and Sunday;
2) 12 double rest times (48 hours which is added a daily 12-hour rest time), whereby the inclusion of a Saturday or Sunday is not guaranteed.
§ 135. Driving time

(1) The driving time between two daily rest times shall not exceed 9 hours in a day shift or 8 hours in a night shift.

(2) Driving time means the duration of intended activities, when the train driver is in charge of driving the locomotive, excluding the time designed for starting up and stopping the locomotive, but including prescribed interruptions when the train driver is in charge of driving the locomotive.

(3) The duration of driving time in a 2-week period shall not exceed 80 hours.

(4) If working includes at least three hours of work during the night time, it shall be regarded as a night shift.

§ 136. Recording of working time

The employer shall keep records of the workers' working time, setting out daily work and rest hours. The records of working time must be preserved for at least one year.

Chapter 12
Railway Traffic Register

§ 137. Railway traffic register

(1) The purpose of the railway traffic register is to keep a record of railway civil engineering works, railway vehicles, train driver's licences, certificates, single safety certificates, operational safety certificates and safety authorisations.

(2) The data in the railway traffic register are informative and statistical, and the entry of data in the railway traffic register brings about no legal consequences unless otherwise provided by law.

(3) At the request of an owner or possessor, the Consumer Protection and Technical Regulatory Authority shall, upon registration of railway civil engineering works or railway vehicles in the railway traffic register, issue a registration certificate concerning the railway civil engineering works or railway vehicles.

(4) A possessor of railway vehicles shall apply a European railway vehicles number on the railway vehicles running within the territory of the European Union only. A railway vehicles number shall be applied on railway vehicles used on rail tracks with a width of 1520 or 1524 millimetres, which run from the European Union to third countries or arrive from third countries or are prescribed for use in third countries, on the basis of the requirements of the Agreement on Common Use of Freight Wagons and Containers of the Member States of the CIS, the Republic of Azerbaijan, the Republic of Georgia, the Republic of Latvia, the Republic of Lithuania, the Republic of Estonia and the Agreement on Distribution of the Fleet of Freight Wagons and Containers of the Ministry of Transport of the Former USSR among the Member States of the CIS, the Republic of Azerbaijan, the Republic of Georgia, the Republic of Latvia, the Republic of Lithuania and the Republic of Estonia and Subsequent Common Use Thereof.

(5) Prior to submission of an application for registration of railway vehicles or railway civil engineering works or an application for amendment of a registry entry, the owner or possessor of the railway vehicles or railway civil engineering works shall pay a state fee for entry thereof in the railway traffic register and for issue of a registration certificate at the rate provided in the State Fees Act and provide the information thereon in the application.

(6) The railway traffic register shall be established and the statutes for its maintenance shall be approved by a regulation of the minister responsible for the area.

(7) The chief processor of the railway traffic register is the Ministry of Economic Affairs and Communications and the authorised processor of the railway traffic register is the Consumer Protection and Technical Regulatory Authority.

(8) The railway traffic register is maintained as a single-level electronic database.

§ 138. Information in railway traffic register

(1) The railway traffic register is composed of:
   1) the railway civil engineering works database;
   2) the railway vehicles database;
   3) the train driver's licences and certificates database;
4) the single safety certificates, operational safety certificates and safety authorisations database.

(2) Railways, railway bridges and viaducts, railway points, railway culverts and pedestrian tunnels, railway level crossings, pedestrian crossings, waiting platforms, loading platforms, operations control systems, open track lockouts and plants for transforming and carrying electric power for train haulage shall be registered in the railway civil engineering works database and the following information about these shall be entered in the database:

1) the registry code of the railway civil engineering works;
2) the name of the railway civil engineering works;
3) the indication, technical data and purpose of the railway civil engineering works;
4) information concerning the location of the railway civil engineering works;
5) information concerning the owner or other possessor of the railway civil engineering works;
6) the designer of the railway civil engineering works and information concerning the design;
7) the builder of the railway civil engineering works and information concerning the building;
8) the conditions for use of the railway civil engineering works and restrictions;
9) information concerning precepts issued by the Consumer Protection and Technical Regulatory Authority.

(3) Railway vehicles specified in clause 2 26) of this Act used for railway traffic shall be registered in the railway vehicles database. The following shall be entered in the railway vehicles database:

1) the railway vehicles number;
2) the letter marking of the railway vehicles;
3) the technical data, manufacturer and year of manufacture of the railway vehicles;
4) information concerning the EC declaration of conformity and the entity that has issued it;
5) information concerning the owner or other possessor of the railway vehicles;
6) information concerning the entity in charge of maintenance;
7) a reference to the European register of authorised vehicle types;
8) restrictions on the use of the railway vehicles;
9) information concerning precepts issued by the Consumer Protection and Technical Regulatory Authority;
10) information concerning revocation of authorisations for placing on the market of railway vehicles.

(4) The following information shall be entered in the train driver's licences and certificates database:

1) information concerning the train driver's licence;
2) information concerning the suspension and restoration of the right to drive;
3) information included in the certificate;
4) information concerning the suspension or revocation of the certificate;
5) information concerning the train driver's training and evaluation of knowledge;
6) the following information concerning the health certificate: the name of the medical practitioner who has issued the certificate, the dates of issue and expiry of the certificate and the certificate number.

(5) Information concerning certificates and authorisations issued to IM/RUs shall be entered in the single safety certificates, operational safety certificates and safety authorisations database.

(6) The information entered in the railway traffic register is public and shall be published on the website of the railway traffic register, having regard to the restrictions established by the legislation.

§ 139. Submission of information to railway traffic register

(1) In order to have railway vehicles registered, or to have such registration amended or revoked, the owner or possessor of the railway vehicles shall submit a registration application to the Consumer Protection and Technical Regulatory Authority in the format established in Appendix 4 of Annex to the Commission Decision 2011/107/EU amending Decision 2007/756/EC adopting a common specification of the national vehicle register (OJ L 43, 17.2.2011, p. 33–54).

(2) In order to have railway civil engineering works registered, or to have such registration amended or revoked, the owner or possessor of the railway civil engineering works shall submit a registration application and the information provided in clauses 138 (2) 2)–8) of this Act to the Consumer Protection and Technical Regulatory Authority.

(3) If railway civil engineering works entered in the railway traffic register are not being used, a corresponding notice shall be submitted to the Consumer Protection and Technical Regulatory Authority. In the event of resuming the use of railway civil engineering works which were not in use, a corresponding notice and a report on inspection of compliance of the railway infrastructure with the requirements shall be submitted to the Consumer Protection and Technical Regulatory Authority.

(4) Information shall be submitted to the railway traffic register by:

1) the owner or possessor of the railway civil engineering works as regards information provided in clauses 138 (2) 2)–8) of this Act;
2) the owner or possessor of the railway vehicles as regards information provided in clauses 138 (3) 3)–6) of this Act;
3) the IM/RU as regards information provided in clauses 138 (4) 3) and 4) of this Act;
4) the trainer or examiner as regards information provided in clause 138 (4) 5) of this Act;
5) the Consumer Protection and Technical Regulatory Authority as regards information provided in clauses 138 (2) 1) and 9), (3) 1), 2) and 7)–10), (4) 1), 2) and 6) and in subsection 138 (5) of this Act.

(5) A person who submits information to the railway traffic register shall be responsible for the correctness of submitted information.

§ 140. Time limits for submission of information to railway traffic register

The time limits for submission of information to the railway traffic register are as follows:
1) as regards changes in the information on railway civil engineering works or railway vehicles, the information shall be submitted within ten working days after the changes therein;
2) the information on railway vehicles not registered in the European Union shall be submitted prior to placing the railway vehicles in service in the territory of the Republic of Estonia;
3) the Consumer Protection and Technical Regulatory Authority shall submit the information specified in clause 139 (4) 5) of this Act without delay.

§ 141. Refusal to register and revocation of registration

(1) If the Consumer Protection and Technical Regulatory Authority establishes during registration that railway civil engineering works or railway vehicles do not comply with the requirements, it shall refuse to register them.

(2) The Consumer Protection and Technical Regulatory Authority shall revoke a registration if:
1) the owner or possessor of railway civil engineering works or railway vehicles submits an application for revocation;
2) the railway civil engineering work the use of which is resumed under subsection 139 (3) of this Act do not comply with the requirements.

§ 142. Use of railway civil engineering works and railway vehicles not registered in railway traffic register

(1) It is prohibited to use railway civil engineering works which have not been registered in the railway traffic register upon organising railway traffic.

(2) The use of railway vehicles which have not been registered in any Member State in railway traffic is prohibited. Railway vehicles registered outside the Member States may be used by IM/RUs operating in Estonia for rail transport pursuant to international agreements.

(3) Railway vehicles which have not been registered may be used in traffic only in the following cases:
1) for taking the railway vehicles which enter the territory of the Republic of Estonia for the first time from the border to its destination (home station);
2) for testing the railway vehicles under the supervision of the Consumer Protection and Technical Regulatory Authority.

Chapter 13
State Supervision

§ 143. State supervision

(1) State supervision over compliance with this Act and legislation established on the basis thereof shall be exercised by the following law enforcement bodies:
1) the Ministry of Economic Affairs and Communications;
2) the Competition Authority;
3) the Consumer Protection and Technical Regulatory Authority;
4) the Transport Administration;
5) the Labour Inspectorate;
6) the Information System Authority.

(2) The Ministry of Economic Affairs and Communications is competent to ensure performance of the obligations under international agreements related to railways which have been assumed by the Republic of Estonia and where necessary, represent the Republic of Estonia in international railway organisations, and monitor compliance with contracts entered into between IM/RUs managing public railways and IM/RUs managing public railways or railway organisations of other states if rights and obligations arise from such contracts to third parties.

(3) The Competition Authority is competent to:
1) inspect compliance with the requirements set for separate accounting provided in subsections 9 (1)–(3) of this Act;
2) issue, suspend, terminate and revoke operating licences specified in clauses 12 (1) 1)–3) of this Act;
3) supervise over compliance of the agreements specified in subsection 77 (5) of this Act with the requirements;
4) conduct proceedings on the complaints filed in accordance with § 109 of this Act.

(4) The Consumer Protection and Technical Regulatory Authority is competent to:
1) inspect compliance with the requirements for maintenance of railway civil engineering works and railway vehicles and organisation of railway traffic;
2) supervise over implementation of the safety management system;
3) issue, suspend, terminate and revoke operating licences specified in clauses 12 (1) 4) and 5) of this Act;
4) inspect compliance with the requirements provided in Chapter 5 of this Act and constantly monitor the activities related to the training and assessment of competences of train drivers, train driver's licences and certificates;
5) inspect compliance with the requirements for interoperability of rail systems provided in Chapter 10 of this Act.

(5) The Consumer Protection and Technical Regulatory Authority shall supervise over single safety certificates issued to IM/RUs, the safety management systems as well as the trackside control-command and signalling, energy and railway infrastructure subsystems, in addition to the provisions of this Act, also in accordance with Article 17 of Directive (EU) 2016/798 of the European Parliament and of the Council, and when supervising over the requirements for interoperability of rail systems it has the rights and obligations of the market supervision authority provided in the Product Conformity Act.

(6) The Transport Administration is competent to inspect compliance with the requirements established for IM/RUs, having regard to the provisions of § 7 of this Act.

(7) The Labour Inspectorate is competent to exercise state supervision on the conditions established in §§ 131–136 of this Act.

(8) The Information System Authority shall exercise state supervision on compliance with the requirements provided in § 8 of this Act within the limits of competence provided in the Cybersecurity Act.

(9) In order to enable the Ministry of Economic Affairs and Communications to perform the function provided in subsection (2) of this section, a railway infrastructure manager whose railway is designated for public use and who wants to enter into a contract with an IM/RU or railway organisation of another state shall submit the draft contract for approval to the minister responsible for the area if the contract brings about rights or obligations to third parties.

§ 144. Special state supervision measures

In order to exercise state supervision provided in this Act, a law enforcement authority may apply the special state supervision measures provided in §§ 30, 31, 32, 49, 50, 51 and 52 of the Law Enforcement Act on the basis of and pursuant to the procedure provided in the Law Enforcement Act.

§ 145. Specifications concerning state supervision

(1) The Consumer Protection and Technical Regulatory Authority has the right to issue a precept to an IM/RU or another possessor of railway infrastructure or railway vehicles for ordering a technical expert assessment of railway civil engineering works or railway vehicles from an expert assessment institution having the corresponding competence. The IM/RU or other possessor of railway infrastructure or railway vehicles shall cover the costs of the expert assessment.

(2) In the performance of their duties, officials of the Ministry of Economic Affairs and Communications, the Transport Administration and the Consumer Protection and Technical Regulatory Authority exercising state supervision have the right for free transportation on locomotives and passenger trains.

§ 146. Penalty payment rates

In the event of failure to comply with a precept, the Consumer Protection and Technical Regulatory Authority and the Competition Authority have the right to apply, pursuant to the procedure provided in the Substitutive Enforcement and Penalty Payment Act, penalty payment in the amount of up to 3200 euros to natural persons and in the amount of up to 32,000 euros to legal persons.

§ 147. Right of Ministry of Economic Affairs and Communications, Consumer Protection and Technical Regulatory Authority, Competition Authority, Transport Administration and Labour Inspectorate to obtain information and access objects of supervision
§ 148. Confidentiality of business and technical information

The Ministry of Economic Affairs and Communications, the Consumer Protection and Technical Regulatory Authority, the Competition Authority, the Labour Inspectorate, the Information System Authority and the Transport Administration are required to ensure the confidentiality of business and technical information obtained in the course of exercising state supervision, unless the disclosure of such information is prescribed by law.

§ 149. Damaging railways or railway civil engineering works

1) Damaging a railway or railway civil engineering works by the owner or possessor of the railway or railway civil engineering works, if it causes danger to human life or health or danger of significant damage or endangers railway traffic, is punishable by a fine of up to 300 fine units.

2) The same act, if committed by a legal person, is punishable by a fine of up to 100,000 euros.

§ 150. Failure to adhere to requirements established for external dimensions

1) Failure to adhere to the requirements established for external dimensions upon loading or unloading cargo onto or from railway vehicles, performing construction work or placing objects, if it causes danger to the life or health of a person on or near railway vehicles or to the property of a person, is punishable by a fine of up to 200 fine units.

2) The same act, if committed by a legal person, is punishable by a fine of up to 60,000 euros.

§ 151. Obstructing of railway traffic

Placing objects on a railway which may obstruct railway traffic, staying on a railway in places not intended therefor, or obstructing railway traffic in any other manner is punishable by a fine of up to 100 fine units.

§ 152. Restriction of visibility and causing of fire in protection zone

1) Restriction of visibility or causing of fire in the protection zone, if it hinders railway traffic, is punishable by a fine of up to 300 fine units.

2) The same act, if committed by a legal person, is punishable by a fine of up to 100,000 euros.
§ 153. Use of unregistered railway vehicles in railway traffic

(1) Use of railway vehicles which have not been registered in the established procedure in railway traffic is punishable by a fine of up to 200 fine units.

(2) The same act, if committed by a legal person, is punishable by a fine of up to 60,000 euros.

§ 154. Violation of requirements for transporting hazardous substances or items by rail

(1) Violation of the requirements for transporting hazardous substances or items by rail, if it causes danger to human life or health or danger of significant damage or endangers railway traffic, is punishable by a fine of up to 300 fine units.

(2) The same act, if committed by a legal person, is punishable by a fine of up to 100,000 euros.

§ 155. Violation of requirements for use of means of rail transport

Mounting or alighting from a moving train, travelling on a running board of a carriage, on the roof of a train or on the coupling mechanism of a train or in another place not intended for travelling, unauthorised stopping of train or unauthorised travelling on a freight train is punishable by a fine of up to 200 fine units.

§ 156. Violation of railway traffic requirements by driver of railway vehicles, assistant train driver or employee responsible for railway safety and railway traffic control

Violation of railway traffic requirements by a driver of railway vehicles, assistant train driver or employee responsible for railway safety and railway traffic control, whereas such act lacks the necessary elements of an offence provided in § 422, 423 or 425 of the Penal Code, is punishable by a fine of up to 300 fine units.

§ 157. Driving of railway vehicles by person without right to drive

(1) Driving of railway vehicles by a person without the right to drive is punishable by a fine of up to 200 fine units.

(2) The same act, if committed by a person who has been deprived of the right to drive railway vehicles or whose right to drive has been suspended, is punishable by a fine of up to 300 fine units or by detention.

§ 158. Driving of railway vehicles and performance of duties of assistant train driver by person in state of intoxication or in state of exceeding maximum limit of alcohol

Driving of railway vehicles and performance of the duties of assistant train driver by a person in a state of intoxication or in a state exceeding the maximum limit of alcohol is punishable by a fine of up to 300 fine units or by detention.

§ 159. Consumption of alcohol or narcotic, psychotropic or psychotoxic substances after accident by driver involved in serious accident or accident

The consumption of alcohol or narcotic, psychotropic or psychotoxic substances immediately after an accident by a driver involved in a serious accident or accident and before the circumstances of the accident have been ascertained at the scene of the accident, whereas such act lacks the necessary elements of an offence provided in § 423 of the Penal Code, is punishable by a fine of up to 300 fine units or by detention.

§ 160. Permitting person in state of intoxication, person in state exceeding maximum limit of alcohol or person without right to drive to drive railway vehicles or perform duties of assistant train driver

(1) Permitting a person in a state of intoxication or a person in a state exceeding the maximum limit of alcohol to drive railway vehicles or perform the duties of an assistant train driver or permitting a person without the right to drive to drive railway vehicles, if committed by a person responsible for the fitness for service or for operation of railway vehicles or for railway traffic control, is punishable by a fine of up to 300 fine units.

(2) The same act, if committed by a legal person, is punishable by a fine of up to 100,000 euros.
§ 161. Violation of railway traffic and rail transport procedure

(1) Organisation of rail transport of goods or rail transport of passengers or organisation of traffic on railway infrastructure without having a corresponding single safety certificate, operational safety certificate or safety authorisation as well as violation of the procedure for substantial restriction or temporary closure of railway traffic is punishable by a fine of up to 300 fine units.

(2) The same act, if committed by a legal person, is punishable by a fine of up to 100,000 euros.

§ 162. Violation of rules for technical use of railways

(1) Violation of the requirements for maintenance of railway infrastructure and railway vehicles provided in the rules for technical use of railways, if it causes danger to human life or health or danger of significant damage or endangers railway traffic, is punishable by a fine of up to 300 fine units.

(2) The same act, if committed by a legal person, is punishable by a fine of up to 100,000 euros.

§ 163. Violation of procedure for notification of events affecting railway safety

(1) Violation of the procedure for notification of events affecting railway safety concerning an event occurring on railways is punishable by a fine of up to 300 fine units.

(2) The same act, if committed by a legal person, is punishable by a fine of up to 100,000 euros.

§ 164. Violation of rail transport requirements

(1) Violation of the requirements for securing rail cargoes, if it causes danger to the life or health of persons or property or endangers railway traffic, is punishable by a fine of up to 300 fine units.

(2) The same act, if committed by a legal person, is punishable by a fine of up to 100,000 euros.

§ 165. Organising of rail transport on railways not registered in railway traffic register

(1) Organising of rail transport on the railways not registered in the railway traffic register is punishable by a fine of up to 300 fine units.

(2) The same act, if committed by a legal person, is punishable by a fine of up to 100,000 euros.

§ 166. Violation of conditions of certificate

(1) Violation of the conditions of issue and maintenance of validity of the certificate specified in §§ 59–61 of this Act is punishable by a fine of up to 200 fine units.

(2) The same act, if committed by a legal person, is punishable by a fine of up to 60,000 euros.

§ 167. Failure to provide passengers with information

(1) Failure to comply with the requirement provided in Article 8 of Regulation (EC) No 1371/2007 of the European Parliament and of the Council is punishable by a fine of up to 100 fine units.

(2) The same act, if committed by a legal person, is punishable by a fine of up to 100,000 euros.
§ 168. Failure to make advance payment

(1) Failure to comply with the requirement provided in Article 13 of Regulation (EC) No 1371/2007 of the European Parliament and of the Council is punishable by a fine of up to 100 fine units.

(2) The same act, if committed by a legal person, is punishable by a fine of up to 100,000 euros.

§ 169. Failure to provide assistance to passenger in case of delay of train

(1) Failure to comply with the requirement provided in Article 16 or 18 of Regulation (EC) No 1371/2007 of the European Parliament and of the Council is punishable by a fine of up to 100 fine units.

(2) The same act, if committed by a legal person, is punishable by a fine of up to 100,000 euros.

§ 170. Failure to provide information or assistance to disabled passenger or passenger with reduced mobility

(1) Failure to comply with the requirement provided in Article 20, 22 or 23 of Regulation (EC) No 1371/2007 of the European Parliament and of the Council is punishable by a fine of up to 100 fine units.

(2) The same act, if committed by a legal person, is punishable by a fine of up to 100,000 euros.

§ 171. Violation of requirements for working and rest time by employer

(1) Violation of the conditions of working and rest time provided in §§ 131–136 of this Act by the employer, a member of its management board or another representative to whom the duty was delegated is punishable by a fine of up to 100 fine units.

(2) The same act, if committed by a legal person, is punishable by a fine of up to 40,000 euros.

§ 172. Proceedings

(1) Extra-judicial proceedings concerning the misdemeanours provided in §§ 149–166 of this Act shall be conducted by the Consumer Protection and Technical Regulatory Authority.

(2) Extra-judicial proceedings concerning the misdemeanours provided in §§ 151, 155, 158 and 159 of this Act shall be conducted by the Police and Border Guard Board.

(3) Extra-judicial proceedings concerning the misdemeanours provided in §§ 167–170 of this Act shall be conducted by the Transport Administration.

[RT I, 10.12.2020, 1 - entry into force 01.01.2021]

(4) Extra-judicial proceedings concerning the misdemeanours provided in § 171 of this Act shall be conducted by the Labour Inspectorate.

Chapter 15
Implementing Provisions

§ 173. Designation of railways for public use

Railways which had been designated as public railways before entry into force of this Act shall also be deemed to be public railways after entry into force of this Act.


(1) In the case of domestic transport of passengers, including urban, suburban and regional services, an exemption is applied on the basis of Articles 2(4) and 2(5) of Regulation (EC) No 1371/2007 of the European Parliament and of the Council, according to which Article 10 of the same Regulation is not applied until 3 December 2024.

(2) In the case of international transport of passengers, where the train path crosses the border of the European Union, an exemption is applied on the basis of Article 2(6) of Regulation (EC) No 1371/2007 of the European
Parliament and of the Council, according to which Article 10 and Articles 15–17 of the same Regulation are not applied until 3 December 2024.

§ 175. Driving of special railway vehicles

In addition to train drivers holding a train driver’s licence and a corresponding certificate, special railway vehicles may be driven on railways open for traffic until 31 December 2021 also by persons who have the profession of a driver of special railway vehicles.

§ 176. Specifications in emergency situation declared by Government of Republic on 12 March 2020 concerning requirements imposed on rail workers

(4) If employees responsible for railway safety and railway traffic control, assistant train drivers and drivers of special rail vehicles were unable to renew the professional qualifications awarded thereto due to the emergency situation declared by the Government of the Republic on 12 March 2020, the competence requirement imposed thereon is deemed to be fulfilled on the basis of the expired professional qualifications. The professional qualifications awarded to the person and proving the competence must be renewed within 180 days after the end of the emergency situation.

§ 177. –§ 180. The provisions on amendment of other Acts omitted from translation

§ 181. Repeal of Railways Act

The Railways Act (RT I 2003, 79, 530) is repealed.

§ 182. Entry into force of Act

This Act enters into force on 31 October 2020.