Railways Act

Passed 19.11.2003
RT I 2003, 79, 530
Entry into force 31.03.2004

Amended by the following acts

Passed | Published | Entry into force
---|---|---
10.03.2004 | RT I 2004, 18, 131 | 15.04.2004, partially 31.03.2004
07.06.2006 | RT I 2006, 30, 232 | 01.01.2007
24.01.2007 | RT I 2007, 12, 66 | 01.01.2008
24.01.2007 | RT I 2007, 14, 70 | 02.03.2007
24.01.2007 | RT I 2007, 14, 70 | 01.01.2008
15.11.2007 | RT I 2007, 63, 398 | 01.01.2008
22.11.2007 | RT I 2007, 66, 408 | 01.01.2008
26.11.2009 | RT I 2009, 62, 405 | 01.01.2010
27.01.2010 | RT I 2010, 8, 38 | 27.02.2010

20.05.2010 | RT I 2010, 29, 151 | 20.06.2010
20.05.2010 | RT I 2010, 31, 158 | 01.10.2010
17.06.2010 | RT I 2010, 44, 261 | 01.01.2011, entry into force amended on 01.07.2011
10.11.2010 | RT I, 29.11.2010, 1 | 09.12.2010, partially 01.01.2011
23.02.2011 | RT I, 25.03.2011, 1 | 01.01.2014; date of entry into force changed to 01.07.2014 [RT I, 22.12.2013, 1]
05.12.2013 | RT I, 22.12.2013, 1 | 01.01.2014
13.02.2014 | RT I, 13.03.2014, 1 | 23.03.2014, partially 01.04.2014
19.02.2014 | RT I, 13.03.2014, 4 | 01.07.2014
05.06.2014 | RT I, 29.06.2014, 1 | 01.07.2014
19.06.2014 | RT I, 12.07.2014, 1 | 01.01.2015
Chapter 1

GENERAL PROVISIONS

§ 1. Scope of application of Act

(1) This Act regulates:
1) the rights and obligations of the possessors of railway infrastructure and railway vehicles in the maintenance and use of railways and railway vehicles, including the rights and obligations of IM/RUs in the management of railway infrastructure, and the transport of passengers and goods;
2) the rights and obligations of undertakings engaged in the building of railway infrastructure civil engineering works (hereinafter railway civil engineering works) or the servicing and repair of railway vehicles in operating in their respective areas of activity;
2) interoperability of the conventional and high-speed rail systems with the trans-European conventional and high-speed rail systems;
3) exercise of state supervision over railway traffic, maintenance of railway infrastructure and railway vehicles, building of railway civil engineering works and servicing and repair of railway vehicles;
4) liability for violation of this Act.

(2) [Repealed - RT I, 24.03.2016, 1 - entry into force 01.04.2016]

(3) The width of rail tracks of railways designated for public use (hereinafter public railway) and railways connecting thereto shall be 1520 mm, 1524 mm or 1435 mm. If the width of a rail track to be connected to a public railway differs from the width of existing rail tracks, approval for such difference shall be obtained, before the building is commenced, from the railway infrastructure manager managing the public railway to which connection is desired.

[RT I, 24.03.2016, 1 - entry into force 01.04.2016]

(4) 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. This Act applies to railways which are not connected to public railway networks, including narrow-gauge railways with the width of rail tracks of 750 mm, only where such railways are used for rail transport.

[RT I, 13.03.2014, 1 - entry into force 01.04.2014]

(5) 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.

[RT I 2005, 38, 298 - entry into force 17.07.2005]

§ 2. IM/RU

(1) For the purposes of this Act, IM/RU (infrastructure manager / railway undertaking) means a sole proprietor or company which is entered in the commercial register and the area of activity of which is rail transport or management of railway infrastructure.

[RT I, 13.03.2014, 1 - entry into force 01.04.2014]

(2) Members of the supervisory board and management board of an IM/RU 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 53 (1) of this Act and avoid any activities in the situations of conflict of interest.

(3) In addition to the requirements provided in subsection (2) of this section, IM/RUs engaged in management of railway infrastructure shall, when performing the essential functions of management of railway infrastructure, be independent both organisationally and upon decision-making.

§ 2. Railway infrastructure

(1) Railway infrastructure consists of the following items 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) passenger and freight platforms, including platforms in passenger stations and freight terminals, four-foot way, walkways and apparatus for heating points;
  4) railway bridges, culverts and other overpasses, tunnels, covered cuttings and other underpasses as well as retaining walls and structures;
  5) level crossings and appliances connected thereto to ensure the safety of road traffic;
  6) superstructure, including rails, grooved rails and check rails, sleepers and longitudinal ties, small fittings for permanent way, stone chippings ballast and sand ballast, points crossings, turntables and traverses;
  7) 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) plant for transforming and carrying electric power for train haulage, substations, supply cables between substations and contact wires, catenaries and supports and third rail with supports;
  11) railway infrastructure buildings, including a proportion of installations for the collection of transport charges.

(2) Railway infrastructure shall not include a railway which is not a public railway or which is located in a depot or railway repair workshop.
[RT I, 24.03.2016, 1 - entry into force 01.04.2016]

§ 3. Definitions

In this Act, the following definitions are used:
  1) [repealed - RT I, 24.03.2016, 1 - entry into force 01.04.2016]
  2) 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, switch blades, sleepers and ballast and supported by the track bed;
[RT I, 13.03.2014, 1 - entry into force 01.04.2014]
  3) 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;
[RT I, 23.03.2015, 3 - entry into force 01.07.2015]
  4) railway civil engineering works mean railways, bridges, viaducts, trestles, tunnels, retaining walls, culverts, plants for transforming and carrying electric power for train haulage, 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;
[RT I, 13.03.2014, 1 - entry into force 01.04.2014]
  5) railway ground area means the land under railways and railway infrastructure buildings and civil engineering works, and the land necessary for servicing thereof;
  6) [repealed - RT I, 23.03.2015, 3 - entry into force 01.07.2015]
  7) railway network means the entire railway infrastructure of one railway infrastructure manager or other owner or possessor of railway infrastructure;
  8) railway vehicles mean locomotives, carriages, multiple-unit trains, railbuses, special railway vehicles and any other vehicles built for railway traffic;
[RT I, 13.03.2014, 1 - entry into force 01.04.2014]
  9) train means a unit of coupled railway vehicles, which is marked with visible train signals and consists of carriages and one or several locomotives or railcars; single locomotives, railcars, railbuses, non-dismountable trolleys and other self-propelled special railway vehicles, means of transport and special railway vehicles with guide wheels, which run on open tracks and are marked with visible train signals, are also deemed to be a train;
10) **locomotive** means a railway vehicle equipped with one or more power sources used for train haulage or shunting;

11) **railway undertaking** means any undertaking licensed according to this Act, the principal business of which is rail transport and which is obliged to ensure traction, as well as a person who provides traction only;

12) **railway infrastructure manager** means an IM/RU, whose duties are to manage, operate, maintain and renew railway infrastructure of the railway network and to participate in the development of railway infrastructure in accordance with the action plan specified in subsection 49(1) of this Act;

12') **development of the railway infrastructure** means the planning of railway network, 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;

12) **operation of the railway infrastructure** means the distribution of railway capacity, traffic management and determination of user fees for railway infrastructure;

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

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

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

12) **public-private partnership** means an agreement entered into between a public sector agency and at least one undertaking who is not the main railway infrastructure manager under which the undertaking builds or finances the building of railway infrastructure in part or in full or obtains the right to perform the functions listed in clause 12) of this section during a pre-defined period of time;

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

14) **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 technological time for organising the running repair and maintenance of railway civil engineering works (hereinafter technological possessions);

15) **train path** means the railway capacity necessary for the operation, during a given period of time, of a train from its point of origin to its point of destination;

16) **management of railway infrastructure** means liability for building, repair and maintenance of railway infrastructure or a part thereof as well as operation of railway infrastructure management and safety systems;

17) **rail transport** means rail transport of goods or passengers and provision of locomotive service or the provision of locomotive service only;

17) **international freight transport** means transport where the train crosses at least one border of a Member State, whereas the train may be joined or split and the different sections may have different origins and destinations provided that all wagons cross at least one border;

17) **international passenger transport** means transport where the train crosses at least one border of a Member State and the principal purpose of which is to carry passengers between stations located in different Member States, whereas the train may be joined or split and the different sections may have different origins and destinations provided that all wagons cross at least one border;

18) **railway vehicle maintenance** 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 railway vehicle repairs;

19) **railway vehicle repair** means significant work performed on the main assemblies and equipment of a railway vehicle, or replacement thereof, with the aim of restoring the good working condition of the railway vehicle;

20) **performance of construction work on railways** means the building of bridges, viaducts, trestles, culverts, plants for transforming and carrying electric power for train haulage, protection equipment, communication equipment, railway level crossings, stations and other safety signalling and telecommunications installation points on the track which form a part of the railway or railway civil engineering works;

21) **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;
22) **significant restriction of railway traffic** means the cancellation of one or several passenger trains 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;

23) [repealed - RT I, 13.03.2014, 1 - entry into force 01.04.2014]

24) [repealed - RT I, 13.03.2014, 1 - entry into force 01.04.2014]

25) [repealed - RT I, 13.03.2014, 1 - entry into force 01.04.2014]

26) **body authorised to allocate capacity** 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;

[RT I 2007, 66, 408 - entry into force 01.01.2008]

26½ [repealed - RT I, 13.03.2014, 1 - entry into force 01.04.2014]

27) **conventional and high-speed rail systems** mean a structure which consists of railways and other civil engineering works of the entire network of conventional railways and high-speed railways, which have been built or rebuilt for conventional rail transport or high-speed traffic, and railway vehicles designed to run on such railway infrastructure;

28) **trans-European conventional rail systems** mean a structure which consists of railways and other civil engineering works of the trans-European transport network, which have been built or rebuilt for conventional or combined rail transport, and railway vehicles designed to run on such railway infrastructure;

[RT I, 04.07.2011, 3 - entry into force 14.07.2011]

29) **trans-European high-speed rail systems** mean a structure which consists of railways and other civil engineering works of the trans-European transport network, which have been built or rebuilt for high-speed traffic, and railway vehicles designed to run on such railway infrastructure;

[RT I, 04.07.2011, 3 - entry into force 14.07.2011]

30) **interoperability** means the ability to allow the safe and uninterrupted movement of the trains of conventional and high-speed rail systems on trans-European conventional or high-speed rail systems on the determined level of performance for these systems;

31) **subsystem** means the result of division of conventional and high-speed rail systems. A subsystem is divided into structural and functional subsystems as described in Annex II to the Directive 2008/57/EC of the European Parliament and of the Council;

[RT I, 13.03.2014, 1 - entry into force 01.04.2014]

32) **interoperability constituent** means a tangible or intangible (e.g. software) elementary component, group of components, subassembly or complete assembly of equipment incorporated or intended to be incorporated into a subsystem, upon which the interoperability depends directly or indirectly;

33) **technical specification for interoperability** means a list of specifications which ensure interoperability and create necessary mutual functional relations between the subsystem of conventional and high-speed rail systems and the subsystem of trans-European conventional and high-speed rail systems;

[RT I 2005, 38, 298 - entry into force 17.07.2005]

33½ **unit responsible for maintenance** means an IM/RU or another possessor of railway vehicles which is responsible for maintenance of railway vehicles and is registered in the Estonian state railway traffic register or in the corresponding register of other Member States of the European Union as a unit responsible for maintenance;

[RT I, 13.03.2014, 1 - entry into force 01.04.2014]

34) **urban services** mean a train path which is located to a significant extent in the administrative territory of a city and the passenger transport carried out thereon arises primarily from the need for public transport services within the city;

[RT I, 13.03.2014, 1 - entry into force 01.04.2014]

35) **suburban services** mean a train path which is located within one county and the passenger transport carried out thereon arises primarily from the need for public transport services in the city and the rural municipalities adjacent to the city;

[RT I, 13.03.2014, 1 - entry into force 01.04.2014]

36) **regional services** mean a train path which is located in the administrative territory of two or more counties and the passenger transport carried out thereon arises from the need for public transport services in these counties;

[RT I, 13.03.2014, 1 - entry into force 01.04.2014]

37) **interoperable cross-border services** mean cross-border services, where an IM/RU is required to have at least two safety certificates in accordance with Directive 2001/14/EC of the European Parliament and of the Council on the allocation of railway infrastructure capacity and the levying of charges for the use of railway infrastructure and safety certification (OJ L 75, 15.3.2001, p. 29–46);

[RT I, 29.11.2010, 1 - entry into force 09.12.2010]

38) **mobile worker engaged in interoperable cross-border services** means a worker who is a train crew member (locomotive crew and accompanying personnel) and who is engaged in interoperable cross-border services for more than one hour during the daytime working time;

[RT I, 29.11.2010, 1 - entry into force 09.12.2010]

39) **night shift** means a shift, which includes at least three hours of work in the night time;

[RT I, 29.11.2010, 1 - entry into force 09.12.2010]
40) **rest time outside the place of residence** means the daily rest time, which a mobile worker cannot spend in the place of his or her residence;

[RT I, 29.11.2010, 1 - entry into force 09.12.2010]

41) **driving time** means the duration of intended activities, when the locomotive driver is in charge of driving the locomotive, excluding the time designed for starting up and stopping the locomotive, but including prescribed breaks, when the locomotive driver is in charge of driving the locomotive;

[RT I, 29.11.2010, 1 - entry into force 09.12.2010]

42) **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;

[RT I, 24.03.2016, 1 - entry into force 01.04.2016]

43) **viable alternative** for the purposes of this Act 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.

[RT I, 24.03.2016, 1 - entry into force 01.04.2016]

§ 4. Application of this Act to IM/RUs, ensuring of electronic security and separate accounting requirement

[RT I, 03.03.2017, 1 - entry into force 01.07.2017]

(1) IM/RUs who are engaged in rail transport and manage railway infrastructure shall, in rail transport, be governed by the provisions of this Act concerning railway undertakings and, in management of railway infrastructure, by the provisions of this Act concerning railway infrastructure managers.

[RT I, 13.03.2014, 1 - entry into force 01.04.2014]

(1^1) An IM/RU, who manages public railway infrastructure or whose market share of transport of cargo or transport of passengers forms at least 20 percent of the market share of transport of cargo or transport of passengers, is required, for the purposes of ensuring security of the network and information systems used for provision of the services, to comply with the requirements provided in and established on the basis of §§ 7 and 8 of the Cybersecurity Act.

[RT I, 22.05.2018, 1 - entry into force 23.05.2018]

(2) IM/RUs who manage public railways and are engaged in rail transport are required to keep separate accounting of the revenue and expenditure relating to management of railway infrastructure and the type of rail transport. An IM/RU which manages public railways is required to keep separate accounting of the revenue and expenditure relating to basic services ensuring access, additional services ensuring access and access ancillary services. If an IM/RU managing public railways is also engaged in other areas of activity, the IM/RU is required to keep separate accounting of the revenue and expenditure relating to management of railway infrastructure and the other areas of activity.

[RT I, 13.03.2014, 1 - entry into force 01.04.2014]

(2^1) IM/RUs who are engaged in public transport of passengers in compliance with subsection 9 (3) of this Act and other rail transport are required to keep separate accounting of the revenue and expenditure relating to the areas of public transport of passengers and other rail transport. An IM/RU who provides services to an IM/RU which is engaged in public transport of passengers and belongs to the same group of companies as the IM/RU is required to keep separate accounting of the revenue and expenditure relating to the service provided to the IM/RU belonging to the same group of companies as the IM/RU.

[RT I, 13.03.2014, 1 - entry into force 01.04.2014]

(3) Aid granted by the state or local government for the management of railway infrastructure or public rail transport of passengers shall not be transferred from one area of activity to another, or to other areas of activity. Adherence to such requirement shall be reflected in the accounting of the revenue and expenditure of both areas of activity.

[RT I, 13.03.2014, 1 - entry into force 01.04.2014]

(3^1) IM/RUs specified in subsections (2) and (2^1) of this section are required to submit the accounting of revenue and expenditure kept according to the requirements set out in subsections (2) and (2^1) to the Competition Authority. In the case of justified interest, information concerning the accounting of revenue and expenditure submitted to the Competition Authority shall be provided pursuant to the procedure provided for in the Public Information Act.

[RT I, 24.03.2016, 1 - entry into force 01.04.2016]

(4) The procedure and terms for submission of the accounting of revenue and expenditure of IM/RUs specified in subsections (2) and (2^1) of this section and the list of accounting data specified in subsection (6) of this section shall be established by a regulation of the minister responsible for the area.

[RT I, 24.03.2016, 1 - entry into force 01.04.2016]

(5) In addition to the Competition Authority, the Ministry of Economic Affairs and Communications and the Consumer Protection and Technical Regulatory Authority have the right to use the accounting of revenue and
expenditure kept under subsections (2) and (2¹) of this section in the performance of their duties arising from law.

[RT I, 24.03.2016, 1 - entry into force 01.04.2016]

(6) In order to inspect separate accounting and the requirements of financial transparency provided in § 49 of this Act, the Competition Authority has the right to demand additionally appropriate accounting data from railway infrastructure managers, operators of service facilities and, if necessary, railway undertakings.


(7) In case of a vertically integrated undertaking specified in subsection 49³(1) of this Act, the right specified in subsection (6) of this section applies to all legal entities within the vertically integrated undertaking.


§ 4¹. Election of supervisory board and management board of railway infrastructure manager belonging to group of companies

(1) A member of the supervisory board or management board of a railway infrastructure manager belonging to a group of companies shall not be a member of the supervisory board or management board of a railway undertaking belonging to the group of companies or having control thereof. A member of the supervisory board or management board of a railway undertaking belonging to a group of companies or having control shall not be a member of the supervisory board or management board of a railway infrastructure manager belonging to the group of companies.

(2) The Competition Authority has the right to demand the removal of a member of the supervisory board or management board of a railway infrastructure manager if the person does not meet the requirements listed in this section.

(3) If a railway infrastructure manager fails to comply with a precept specified in subsection (2) of this section in full or within the prescribed term, the Competition Authority has the right to demand the removal of the manager of the railway infrastructure manager by way of court proceedings.

[RT I 2010, 8, 38 - entry into force 27.02.2010]

§ 5. Transfer of management of railway infrastructure


§ 6. Transfer of railway infrastructure and encumbrance of railway ground area with right of superficies

(1) An owner may transfer an immovable, an essential part of which is the railway infrastructure of a public railway, and encumber the railway ground area in the composition of an immovable with the right of superficies with the prior consent of the Consumer Protection and Technical Regulatory Authority. The Consumer Protection and Technical Regulatory Authority shall grant consent if transfer of the railway infrastructure of a public railway and encumbering of railway ground area with the right of superficies is safe and reasoned from the point of view of functioning of railways. This requirement also applies to the buildings and civil engineering works necessary for the management of the railway infrastructure which are connected to railways by means of construction or due to their intended purpose but do not belong to the railway infrastructure manager. In such case, the owner of such building or civil engineering works shall apply for the consent of the Consumer Protection and Technical Regulatory Authority.

[RT I 2010, 8, 38 - entry into force 27.02.2010]

(2) The Consumer Protection and Technical Regulatory Authority has the right to refuse to grant the consent provided for in subsection (1) of this section if, in the event of transfer of the railway infrastructure or encumbrance of the railway ground area with the right of superficies, continued use of the railway infrastructure for its intended purpose cannot be guaranteed and, as a result, further use of the railway infrastructure of a public railway for rail transport is materially hindered, the quality of rail transport significantly deteriorates or safety is compromised.

[RT I, 13.03.2014, 1 - entry into force 01.04.2014]

§ 7. Use of public railway

(1) A public railway means the railway infrastructure of an IM/RU the use of which with regard to basic and extra services ensuring access, the fees, time and other conditions of use shall be ensured without discrimination to all IM/RUs for rail transport on the bases of and pursuant to the procedure provided for in this Act.

[RT I, 13.03.2014, 1 - entry into force 01.04.2014]

(2) A railway infrastructure manager who manages a public railway shall organise the use of the railway infrastructure by way of capacity allocation, and allocate railway 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. Possessors of railway vehicles who are not railway undertakings are also entitled to single railway capacities intended for specific purposes. A possessor of railway vehicles who is not a railway undertaking shall, for use of single railway capacities 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.

§ 8. 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 paid for connection specified in subsection (1) of this section shall be prescribed by an agreement entered into between the person requesting connection and the owner or possessor of the railway. If agreement on the conditions of connection or fees paid therefor cannot be reached, the interested party may have recourse to the courts for adjudication of reasonable conditions and justified fees.

§ 9. Public railways and public transport of passengers

[RT I, 13.03.2014, 1 - entry into force 01.04.2014]

(1) Railway infrastructures are designated for public use by the minister responsible for the area on the basis of an application submitted by the IM/RU. Railway infrastructures are excluded from public railways by the Government of the Republic on the basis of an application submitted by the IM/RU. The procedure for designation of railway infrastructures for public use shall be established by the Government of the Republic.

(2) An IM/RU is designated as an IM/RU engaged in public transport of passengers or excluded from such IM/RUs by the minister responsible for the area on the basis of an application submitted by the IM/RU. The procedure for designating IM/RUs as IM/RUs engaged in public transport of passengers shall be established by the Government of the Republic.

[RT I, 13.03.2014, 1 - entry into force 01.04.2014]

(3) IM/RUs which in accordance with subsection (2) of this section are designated as IM/RUs engaged in public transport of passengers are required to organise transport of passengers on public railways to everyone in accordance with the published transport rules, and on the bases of and pursuant to the procedure provided by law (public transport of passengers).

[RT I, 13.03.2014, 1 - entry into force 01.04.2014]

(4) Notices on designation of railway infrastructures for public use, designation of IM/RUs as IM/RUs engaged in public transport of passengers and exclusion of IM/RUs from IM/RUs engaged in public transport of passengers shall be sent for publication in Ametlikud Teadaanded by the Ministry of Economic Affairs and Communications.

[RT I, 13.03.2014, 1 - entry into force 01.04.2014]

(5) The minister responsible for the area shall be given prior notice of planned merger or division of a company managing public railways or engaged in public transport of passengers.

[RT I, 13.03.2014, 1 - entry into force 01.04.2014]

(6) The Government of the Republic has the right to independently designate railway infrastructure for public use for a fair charge if using the railway infrastructure for public transport of passengers is necessary in public interest.

[RT I, 13.03.2014, 1 - entry into force 01.04.2014]

(7) The Government of the Republic 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 public transport of passengers is necessary in public interest.

[RT I, 13.03.2014, 1 - entry into force 01.04.2014]

§ 91. Non-public railways

[RT I, 13.03.2014, 1 - entry into force 01.04.2014]

(1) Non-public railways mean railways which are not a part of public railways.

(2) Railway civil engineering works shall ensure the safety of transport of passengers in the event of extraordinary transport of passengers on non-public railways. Performance of the conditions for ensuring safety shall be monitored by the possessor of the railways and prior to commencement of transport of passengers by the IM/RU planning extraordinary transport of passengers.

[RT I, 13.03.2014, 1 - entry into force 01.04.2014]
§ 9. Rights and obligations of rail passengers

[RT I, 27.02.2015, 1 - entry into force 09.03.2015]

(11) In the case of domestic passenger services, including urban, suburban and regional services, an exemption is applied on the basis of Articles 2 (4) and (5) of Regulation (EC) No 1371/2007 of the European Parliament and of the Council, according to which Articles 10, 13 (2), 15, 18 (2), (4) and (5) and 22 of Regulation (EC) No 1371/2007 of the European Parliament and of the Council are not applied until 3 December 2019.
[RT I, 27.02.2015, 1 - entry into force 09.03.2015]

[RT I, 27.02.2015, 1 - entry into force 09.03.2015]

(2) Rail transport of passengers shall be established in the public service contract in conformity with the definitions of clauses 34)–36) of § 3 of this Act, taking account of Article 2 (5) of Regulation (EC) No 1371/2007 of the European Parliament and of the Council on rail passengers' rights and obligations.
[RT I, 13.03.2014, 1 - entry into force 01.04.2014]

(3) Railway undertakings shall disclose the effective rights and obligations of passengers in the transport rules provided for in § 65 of this Act.
[RT I 2010, 8, 38 - entry into force 27.02.2010]

Chapter 2
OPERATING LICENCE, LIABILITY
INSURANCE CONTRACT, SAFETY
AUTHORISATION, SAFETY CERTIFICATE
AND OPERATIONAL SAFETY CERTIFICATE
[RT I, 13.03.2014, 1 - entry into force 01.04.2014]

Division 1
Operating Licences

§ 10. Operating licence

(1) An undertaking must have an operating licence for operation in the following areas of activity:
1) management of public railway infrastructure;
2) rail transport of passengers;
3) rail transport of goods;
4) maintenance and repair of railway vehicles used on public railways or railway vehicles used for rail transport;
5) construction of railway vehicles.
[RT I, 29.06.2014, 1 - entry into force 01.07.2014]

(2) An operating licence for rail transport of passengers or rail transport of goods is not required if engagement in rail transport is not the principal area of activity of the IM/RU. Rail transport is not the main area of activity 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.
[RT I, 29.06.2014, 1 - entry into force 01.07.2014]

(3) [Repealed - RT I, 29.06.2014, 1 - entry into force 01.07.2014]

(31) [Repealed - RT I, 29.06.2014, 1 - entry into force 01.07.2014]

(4) [Repealed - RT I, 29.06.2014, 1 - entry into force 01.07.2014]
A foreign railway undertaking need not hold an operating licence in order to enter a railway frontier station if a foreign IM/RU and an Estonian IM/RU have, on the basis of an international agreement, agreed on cross-border rail transport.

An IM/RU or association of IM/RUs of a foreign state need not apply for an operating licence for engagement in rail transport in Estonia if the undertaking or association holds a corresponding licence issued by the foreign state, and Estonia and the foreign state have agreed on mutual recognition of operating licences. Operating licences issued in other Member States of the European Union are deemed to be valid in the Republic of Estonia. An IM/RU or association of IM/RUs of a foreign state, including a Member State of the European Union, shall apply to the Consumer Protection and Technical Regulatory Authority for part B of the safety certificate for engagement in rail transport in Estonia if a safety authority of another Member State has issued part A of the safety certificate thereto.

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.

§ 11. Subject of review of operating licence of IM/RU

An IM/RU is issued an operating licence specified in clauses 10 (1) 1)–3) of this Act if it complies with the following requirements:

1) the punishment register does not contain punishment records concerning the sole proprietor, company, members of the management board of the company or other persons with management rights about criminal offences in the first degree, economic criminal offences, criminal official misconduct, criminal offences in the areas of occupational health, safety or technical supervision, and they have not been punished for misdemeanours pertaining to the safety of railway traffic established in this Act on more than two occasions or for misdemeanours pertaining to the area of social or labour law, or customs organisation, with the application of the maximum rate of punishment established for this misdemeanour;
2) an undertaking of a third country is registered in the commercial register of a contracting party to the EEA agreement;
3) the sole proprietor, members of the management board of the company or other persons with management rights who are responsible for the management of the railway infrastructure, transport of passengers or transport of goods have sufficient professional knowledge and experience to ensure the safe operation of the undertaking and the reliable organisation and monitoring of its operation;
4) 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 call its financial capability into question;
5) the undertaking has 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;
6) the person responsible in the undertaking for the safety of railway traffic and railway traffic control holds a professional certificate;
7) the applicant for an operating licence or a member of its management board is not a bankrupt for the purposes of § 8 of the Bankruptcy Act.

An undertaking is issued an operating licence specified in clauses 10 (1) 4) and 5) of this Act if the undertaking complies with all of the following requirements:

1) the punishment register does not contain punishment records concerning the sole proprietor, company, members of the management board of the company or other persons with management rights about criminal offences in the first degree, economic criminal offences, criminal official misconduct, criminal offences in the areas of occupational health, safety or technical supervision, and they have not been punished for misdemeanours pertaining to the safety of railway traffic established in this Act on more than two occasions or
for misdemeanours pertaining to the area of social or labour law, or customs organisation, with the application of the maximum rate of punishment established for this misdemeanour;
2) an undertaking of a third country is registered in the commercial register of a contracting party to the EEA agreement;
3) the sole proprietor or members of the management board of the company or other persons with management rights who are responsible for railway vehicle maintenance or repair or construction have sufficient professional knowledge and experience to ensure the safe operation of the undertaking and the reliable organisation and monitoring of its operation;
4) the undertaking has liability insurance in order to compensate, pursuant to this Act, for any damages caused due to failure to perform its obligations or inadequate performance thereof;
5) the management board of the undertaking has approved the descriptions of technological processes of railway vehicle maintenance, repair or construction;
6) the undertaking has production facilities and equipment for carrying out the work prescribed in the descriptions of technological processes.

§ 12. Application for operating licence

Applications for operating licences for management of public railway infrastructure, rail transport of passengers and rail transport of goods shall be adjudicated by the Competition Authority. Applications for operating licences for maintenance and repair of railway vehicles used on public railways or railway vehicles used for rail transport and construction of railway vehicles shall be adjudicated by the Consumer Protection and Technical Regulatory Authority.

In addition to the documents specified in 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) a copy of the interim accounts as at the end of the month prior to submission of the application 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;
2) a list of the members of the management board or, of the persons who have the right to manage the company which shall set out the given names and surnames of the persons, their personal identification codes (or, in the absence thereof, the date of birth), residences, information concerning their education and professional experience, their recent places of work or service, and documents concerning the compliance of these persons with the established requirements.

In addition to the documents specified in 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 or, of the persons who have the right to manage the company which shall set out the given names and surnames of the persons, their personal identification codes (or, in the absence thereof, the date of birth), residences, information concerning their education and professional experience, their recent places of work or service, and documents concerning the compliance of these persons with the established requirements;
2) descriptions of technological processes of railway vehicle maintenance, repair or construction approved by the management board of the undertaking.

The Competition Authority shall promptly notify the European Railway Agency of grant or amendment of operating licences for rail transport and of suspension or revocation of operating licences.

§ 13. Secondary conditions of operating licence of IM/ RU

The following secondary conditions shall be added to an operating licence:
1) in the case of railway vehicle maintenance and repair, the permitted type of maintenance or repair (maintenance or repair of passenger or freight carriages, automatic brake systems, automatic couplers, wheelsets, rolling bearings of wheelsets, etc.);
2) in the case of railway vehicles construction, the permitted type of railway vehicles.

§ 14. Liability insurance contract

An undertaking wishing to apply for an operating licence provided for in this Act or an operational safety certificate which presumes the existence of an insurance contract shall enter into a liability insurance contract to compensate for damage that may be caused by its operation on the following conditions:
1) the insured event is direct patrimonial damage, or damage arising from bodily injury, for which the undertaking is liable pursuant to legislation, caused during the insured period to passengers and baggage of passengers, owners or possessors of railway civil engineering works or railway vehicles or third persons in connection with the management of railway infrastructure, rail transport, building of railway civil engineering works or maintenance, repair or construction of railway vehicles by the undertaking; 

RT I, 13.03.2014, 1 - entry into force 01.04.2014

2) the minimum amount of insurance coverage for one insured event shall be set in compliance with the provisions of this section 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 Goods Transport by Rail (SMGS) or the Agreement on International Passenger Transport by Rail (SMPS) if a higher minimum amount of insurance coverage than the amount provided for in this Act is established thereby;

RT I, 13.03.2014, 1 - entry into force 01.04.2014

3) the liability insurance contract shall also cover claims to compensate for environmental damage caused by unexpected or unforeseen events. Direct patrimonial damage caused by damage to the environment and expenses for removal of pollution are subject to be compensated for. The minimum amount of insurance coverage for environmental damages shall be 10 percent of the sum insured;

RT I, 13.03.2014, 1 - entry into force 01.04.2014

4) the liability insurance contract covering the activities of two or more IM/RUs shall indicate separately each activity listed in the operating licence specified in § 10 of this Act together with the sum insured;

RT I, 13.03.2014, 1 - entry into force 01.04.2014

5) upon the request of the IM/RU and with the consent of the insurer, the parties may agree on imposition of the excess of an IM/RU. Upon the imposition of the excess of an IM/RU, 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. The amount of excess may not exceed 30 percent of the total sum insured.

RT I, 13.03.2014, 1 - entry into force 01.04.2014

(2) The sum insured shall be determined for a possessor of railways per one-year insurance period, 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. Taking account of total length of the railways, the minimum amounts of insurance coverage are the following:

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;

RT I, 13.03.2014, 1 - entry into force 01.04.2014

2) total length of railways 5001 to 10,000 meters – 191,734 euros;

RT I 2010, 22, 108 - entry into force 01.01.2011

3) total length of railways 10,001 to 50,000 meters – 639,116 euros;

RT I 2010, 22, 108 - entry into force 01.01.2011

4) total length of railways 50,001 meters or more – 3,195,582 euros.

RT I 2010, 22, 108 - entry into force 01.01.2011

(3) The minimum amounts of insurance coverage for undertakings per one-year insurance period:

RT I, 13.03.2014, 1 - entry into force 01.04.2014

1) 1,917,349 euros for IM/RUs engaged in rail transport;

RT I, 13.03.2014, 1 - entry into force 01.04.2014

2) 639,116 euros for IM/RUs engaged in the building of railway civil engineering works;

RT I, 13.03.2014, 1 - entry into force 01.04.2014

3) 639,116 euros for undertakings engaged in the maintenance of railway vehicles used on public railways or used for rail transport;

RT I, 13.03.2014, 1 - entry into force 01.04.2014

4) 639,116 euros for undertakings engaged in the repair of railway vehicles used on public railways or used for rail transport;

RT I, 13.03.2014, 1 - entry into force 01.04.2014

5) 639,116 euros for undertakings engaged in the construction of railway vehicles.

RT I 2010, 22, 108 - entry into force 01.01.2011

(4) Railway undertakings engaged in transport of passengers must enter into a liability insurance contract on such conditions that at least 639,116 euros of the insurance coverage is guaranteed for compensation for claims of passengers arising from direct patrimonial damage or causing of bodily injury.

RT I, 13.03.2014, 1 - entry into force 01.04.2014

(5) The liability insurance contract specified in subsection (1) of this section does not include compensation for direct patrimonial damage to owners of goods or postal items.

RT I, 13.03.2014, 1 - entry into force 01.04.2014

(6) An undertaking shall have a liability insurance contract specified in subsection (1) of this section, which shall be presented to the Competition Authority and which shall be valid during the entire term of the operating licence or the registration specified in clause 24 1) of this Act. A railway infrastructure manager managing non-public railways shall have a liability insurance contract, which shall be presented to the Consumer Protection and Technical Regulatory Authority and which shall be valid during the entire term of the operational safety certificate specified in subsections 20 (3)–(5) of this Act.

RT I, 13.03.2014, 1 - entry into force 01.04.2014

(7) [Repealed - RT I, 25.03.2011, 1 - entry into force 01.07.2014 (entry into force changed - RT I, 22.12.2013, 1)]
§ 15. Issue of and refusal to issue operating licences

[Repealed - RT I, 25.03.2011, 1 - entry into force 01.07.2014 (entry into force changed - RT I, 22.12.2013, 1)]

§ 16. Conditions for validity of operating licences

[Repealed - RT I, 25.03.2011, 1 - entry into force 01.07.2014 (entry into force changed - RT I, 22.12.2013, 1)]

§ 17. Specifications of suspension and revocation of operating licence of IM/RU

[RT I, 24.03.2016, 1 - entry into force 01.04.2016]

(1) An operating licence may be revoked in the following cases:
1) [repealed - RT I, 24.03.2016, 1 - entry into force 01.04.2016]
2) [repealed - RT I, 24.03.2016, 1 - entry into force 01.04.2016]
3) [repealed - RT I, 24.03.2016, 1 - entry into force 01.04.2016]
4) [repealed - RT I, 24.03.2016, 1 - entry into force 01.04.2016]
5) the undertaking does not comply with the requirements provided in § 11 of this Act;
6) the undertaking violates the obligations arising from international agreements, as a result of which persons, property or the environment could be endangered, or international rail transport could be suspended.

[RT I, 13.03.2014, 1 - entry into force 01.04.2014]

(2) 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 for in clause 11 (1) 4) of this Act. A temporary operating licence 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.

[RT I, 24.03.2016, 1 - entry into force 01.04.2016]

(21) The Competition Authority may suspend an operating licence or demand again the information specified in subsection 11 (1) of this Act from an undertaking if the undertaking has not operated in the area of activity specified in the operating licence for six months or has not commenced the operation authorised by the operating licence within six months after receipt of the operating licence.

[RT I, 24.03.2016, 1 - entry into force 01.04.2016]

(22) An undertaking may apply to the Competition Authority for a period of time which is longer than the term specified in subsection (21) 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.

[RT I, 24.03.2016, 1 - entry into force 01.04.2016]

(3) The Competition Authority or the Consumer Protection and Technical Regulatory Authority shall immediately send a notice concerning revocation of an operating licence for publication in Ametlikud Teadaanded.

[RT I, 29.06.2014, 1 - entry into force 01.07.2014]

§ 18. Termination of validity of operating licence

(1) [Repealed - RT I, 25.03.2011, 1 - entry into force 01.07.2014 (entry into force changed - RT I, 22.12.2013, 1)]

(2) The Competition Authority shall immediately send a notice concerning termination of validity of an operating licence for publication in Ametlikud Teadaanded.

[RT I 2007, 66, 408 - entry into force 01.01.2008]

§ 19. Termination of validity of operating licence at request of undertaking

(1) An IM/RU shall submit an application for termination of the validity of its operating licence to the Competition Authority at least six months prior to the requested date of termination of the validity of the operating licence. An undertaking engaged in railway vehicle maintenance and repair shall submit an application for termination of the validity of its operating licence to the Consumer Protection and Technical Regulatory Authority at least 30 days prior to the requested date of termination of the validity of its operating licence.

[RT I, 29.06.2014, 1 - entry into force 01.07.2014]

(2) [Repealed - RT I, 25.03.2011, 1 - entry into force 01.07.2014 (entry into force changed - RT I, 22.12.2013, 1)]
§ 20. Rights granted to undertaking by safety authorisation, safety certificate and operational safety certificate

[RT I, 13.03.2014, 1 - entry into force 01.04.2014]

(1) A railway infrastructure manager may manage public railways if it has valid parts A and B of the safety authorisation.

(2) A railway undertaking may engage in transport of passengers and transport of goods on public railways if it has valid parts A and B of the safety certificate.

(3) A possessor of non-public railways may organise railway traffic on non-public railways if it also has a valid operational safety certificate in addition to the valid liability insurance contract.

(4) A railway undertaking may engage in transport of goods on non-public railways if it has a valid operational safety certificate or valid parts A and B of the safety certificate.

(5) An undertaking may engage in transport of passengers on non-public railways which are not connecting to the network of public railways if it also has valid operational safety certificate in addition to the valid liability insurance contract.

(6) Parts A of the safety certificate and safety authorisation are issued to an undertaking having a safety management system which complies with the requirements of this Act and legislation issued on the basis thereof.

(7) Parts B of the safety certificate and safety authorisation as well as the operational safety certificate are issued to an undertaking whose railway infrastructure, railway traffic management or railway vehicles and staff comply with the requirements of this Act and legislation issued on the basis thereof and if the undertaking is able to comply with the requirements for railway safety.

(8) Part B of the safety certificate is issued only in the case an undertaking has a valid part A of the safety certificate. Part B of the safety authorisation is issued to a railway infrastructure manager only in the case the undertaking has a valid part A of the safety authorisation.

(9) Parts A and B of the safety certificate, parts A and B of the safety authorisation and the operational safety certificate are issued by Consumer Protection and Technical Regulatory Authority.

(10) Parts A and B of the safety certificate, parts A and B of the safety authorisation and the operational safety certificate are valid for five years.

(11) Part A of the safety certificate issued by another Member State of the European Union to an undertaking registered in that Member State is valid in Estonia to the extent of transport specified in part A of this safety certificate for engaging either in transport of passengers or transport of goods. For the purposes of this Act, the existence of part A of the safety certificate specified in this subsection is a prerequisite for the issue of part B of the safety certificate to the undertaking of a Member State of the European Union.

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

[RT I, 13.03.2014, 1 - entry into force 01.04.2014]

(1) In order to obtain or renew part A of the safety authorisation, a railway infrastructure manager wishing to manage public railways shall present a standard format application, information concerning the operating licence and documentation concerning the safety management system which meets the requirements of § 34 of this Act to the Consumer Protection and Technical Regulatory Authority.

(2) In order to obtain or renew part B of the safety authorisation, a railway infrastructure manager wishing to manage public railways shall present the following information and documents to the Consumer Protection and Technical Regulatory Authority:
   1) an application;
   2) 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;
   3) a list of railway civil engineering works which are not included in the railway traffic register;
4) reports on inspection of the compliance of the railway infrastructure and railway traffic management with the requirements unless these have been presented in conformity with subsection 34 (5) of this Act;
5) information concerning payment of the state fee.

(3) An application for renewal of part A or B of the safety authorisation together with all the documents conforming to the requirements shall be submitted at least three months before the expiry of the respective part of the safety authorisation. If the application for renewal of part A or B of the safety authorisation has been presented in a timely manner, the Consumer Protection and Technical Regulatory Authority may, during the time of processing of the application, extend the term of the respective part of the safety authorisation until the end of the processing.

(4) If the circumstances serving as a basis for the issue, amendment or renewal of part A or B of the safety authorisation, including the principles of operation or maintenance of signalling devices and power supply devices, or the list of employees responsible for railway safety and railway traffic, change significantly, the railway infrastructure manager shall notify the Consumer Protection and Technical Regulatory Authority of such changes immediately and present the documents concerning the changed circumstances for the purpose of amendment of the respective part of the safety authorisation.

(5) If the legal framework concerning safety changes significantly, the Consumer Protection and Technical Regulatory Authority is entitled to demand the review of the respective part of the safety authorisation from the railway infrastructure manager and presentation of documents concerning the changed circumstances for the purpose of amendment of the respective part of the safety authorisation.

(6) A state fee shall be paid upon application for the issue, amendment or renewal of part A or B of the safety authorisation.

[RT I, 13.03.2014, 1 - entry into force 01.04.2014]

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

(1) In order to obtain or renew part A of the safety certificate, an undertaking wishing to engage in rail transport of passengers or goods shall present an application in the format provided in Annex 3 to Commission Regulation (EC) No 653/2007 on the use of a common European format for safety certificates and application documents in accordance with Article 10 of Directive 2004/49/EC of the European Parliament and of the Council and on the validity of safety certificates delivered under Directive 2001/14/EC (OJ L 153, 14.06.2007, p. 9–24), information concerning the operating licence and documentation concerning the safety management system which meets the requirements of § 34 of this Act to the Technical Supervision Authority.

(2) In order to obtain or renew part B of the safety certificate, an undertaking wishing to engage in rail transport of passengers or goods shall present the following information and documents to the Consumer Protection and Technical Regulatory Authority:

1) application in the format provided in Annex 3 to Commission Regulation (EC) No 653/2007;
2) a list of locomotive 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 locomotive driver's licence issued to the locomotive driver, including the number of the locomotive driver's licence, the type of locomotive which the locomotive driver has the right to drive, the issuer of the locomotive driver's licence and the place and date of issue;
3) a list of assistant locomotive drivers of the undertaking which shall set out, for each assistant locomotive 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 locomotive driver;
4) information concerning the railway vehicles which the undertaking intends to use for engagement in rail transport of passengers or goods, including the type and subtype of railway vehicles, railway traffic registry code, manufacturer and year of manufacture;
5) report on inspection of the compliance of the railway vehicles with the requirements unless it has been presented in conformity with subsection 34 (52) of this Act;
6) a copy of part A of the safety certificate if it has been issued in another Member State of the European Union;
7) information concerning payment of the state fee.

(3) In order to obtain Part B of the safety certificate or have it renewed, an undertaking of a Member State of the European Union or a foreign country shall submit the information specified in subsection (2) of this section only concerning the activities carried out in Estonia.

(4) An application for renewal of part A or B of the safety certificate together with all the documents conforming to the requirements shall be submitted at least three months before the expiry of part A or B of the safety certificate. If the application for renewal of a safety certificate is submitted in a timely manner, the Consumer Protection and Technical Regulatory Authority may, during the time of processing of the application for renewal of a safety certificate, extend the term of the safety certificate until the end of the processing.
(5) If the circumstances serving as a basis for the issue, amendment or renewal of part A or B of the safety certificate, including the extent of activities of an undertaking or primarily the volume of rail transport operations, change significantly or an undertaking employs a category of employees which it has not employed before or places in service a type of railway vehicles which it has not used before, the undertaking shall notify the Consumer Protection and Technical Regulatory Authority of such changes immediately and present the documents concerning the changed circumstances for the purpose of amendment of the respective part of the safety certificate.

(6) If the legal framework concerning safety changes significantly, the Consumer Protection and Technical Regulatory Authority is entitled to demand the review of the respective part of the safety certificate from the undertaking and presentation of documents concerning the changed circumstances for the purpose of amendment of the respective part of the safety certificate.

(7) A state fee shall be paid upon application for the issue, amendment or renewal of a safety certificate.

[RT I, 13.03.2014, 1 - entry into force 01.04.2014]

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

(1) In order to obtain an operational safety certificate or have it renewed, a possessor of railways wishing to manage railway traffic on non-public railways shall submit the following documents to the Consumer Protection and Technical Regulatory Authority:
   1) an application;
   2) 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;
   3) a list of railway civil engineering works which are not included in the railway traffic register;
   4) information concerning ensuring of the requirements of maintenance of railway infrastructure;
   5) reports on inspection of the compliance of the railway infrastructure and railway traffic management with the requirements unless these have been presented in conformity with subsection 34 (5) of this Act;
   6) a copy of the liability insurance contract;
   7) information concerning payment of the state fee.

(2) In order to obtain an operational safety certificate or have it renewed, an undertaking without a valid part A or B of the safety certificate wishing to engage in rail transport of goods on non-public railways or an undertaking wishing to engage in transport of passengers on non-public railways which are not connecting to the network of public railways shall submit the following information and documents to the Consumer Protection and Technical Regulatory Authority:
   1) an application;
   2) a list of locomotive drivers of the undertaking wishing to engage in transport of goods on non-public railways 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 locomotive driver's licence issued to the locomotive driver, including the number of the locomotive driver's licence, the type of locomotive which the locomotive driver has the right to drive, the issuer of the locomotive driver's licence, and the place and date of issue;
   3) a list of assistant locomotive drivers of the undertaking wishing to engage in transport of goods on non-public railways which shall set out, for each assistant locomotive driver, his or her given name and surname, personal identification code or, in the absence thereof, the date of birth, and information concerning the locomotive driver's licence issued to the assistant locomotive driver;
   4) information concerning the railway vehicles which the undertaking intends to use for engagement in rail transport of passengers or goods, including the type and subtype of railway vehicles, railway traffic registry code, manufacturer and year of manufacture;
   5) information concerning ensuring of the requirements of maintenance of railway vehicles;
   6) report on inspection of the compliance of the railway vehicles with the requirements unless it has been presented in conformity with subsection 34 (5) of this Act;
   7) a copy of the liability insurance contract for engagement in transport of passengers on non-public railways which are not connecting to the network of public railways;
   8) information concerning payment of the state fee.

(3) The area of activity for which the operational safety certificate was applied is entered on the operational safety certificate.

(4) An application for renewal of an operational safety certificate together with all the documents conforming to the requirements shall be submitted at least three months before the expiry of the operational safety certificate. If the application for renewal of an operational safety certificate is submitted in a timely manner, the Consumer Protection and Technical Regulatory Authority may, during the time of processing of the application for renewal of an operational safety certificate, extend the term thereof until the end of the processing.

(5) An undertaking shall immediately notify the Consumer Protection and Technical Regulatory Authority if the circumstances serving as a basis for the issue, amendment or renewal of the operational safety certificate, such as the extent of activities of the undertaking, the principles of operation or maintenance of the railway infrastructure or the list of employees responsible for railway safety and railway traffic, change and shall present
the documents concerning the changed circumstances for the purpose of amendment of the respective part of the operational safety certificate.

(6) A state fee shall be paid upon application for the issue, amendment or renewal of an operational safety certificate.
[RT I, 13.03.2014, 1 - entry into force 01.04.2014]

§ 22. Issue, amendment and renewal of safety authorisation, safety certificate and operational safety certificate
[RT I, 13.03.2014, 1 - entry into force 01.04.2014]

(1) Prior to the issue, amendment or renewal of part A of a safety authorisation or safety certificate, the Consumer Protection and Technical Regulatory Authority shall verify the compliance of the safety management system of the undertaking with the requirements.

(2) Prior to the issue or renewal of part B of a safety authorisation to a railway infrastructure manager or of an operational safety certificate to a possessor of railways wishing to manage railway traffic on non-public railways the Consumer Protection and Technical Regulatory Authority shall verify the correctness of the information presented on the basis of subsections 21 (2) and 21(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 who is competent to conduct such assessment.

(3) Prior to the issue or renewal of part B of a safety certificate or an operational safety certificate to an undertaking wishing to engage in rail transport of goods or of an operational safety certificate to a undertaking wishing to engage in transport of passengers on non-public railways which are not connecting to the network of public railways the Consumer Protection and Technical Regulatory Authority shall verify the correctness of the information presented on the basis of subsections 21(2) and 21(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 who is competent to conduct such assessment.

(4) The Consumer Protection and Technical Regulatory Authority shall issue or renew part A or B of a safety authorisation, part A or B of a safety certificate 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 correctness of the information presented on the basis of subsection (1), (2) or (3) of this section by up to 30 days and shall notify the applicant of the extension of the term of processing. Where necessary, an applicant shall present additional information immediately, but no later than by the due date set by the Consumer Protection and Technical Regulatory Authority. The Consumer Protection and Technical Regulatory Authority shall amend part A or B of a safety authorisation, part A or B of a safety certificate or an operational safety certificate within 30 days after the receipt of a respective application and documents prepared in accordance with the requirements.

(5) The issue, amendment and renewal of part A or B of a safety authorisation, part A or B of a safety certificate or an operational safety certificate shall be documented by a directive of the Director General of the Consumer Protection and Technical Regulatory Authority. Part A and B of a safety authorisation, part A and B of a safety certificate and an operational safety certificate and any amendment or renewal thereof enter into force on the date indicated in the directive. A copy of the directive and Part A or B of the safety authorisation, part A or B of the safety certificate or the operational safety certificate shall be delivered to the applicant by post within three working days after the signing of the directive, or issued to the applicant against a signature, depending on which of the above two options the applicant indicated in the application. The Consumer Protection and Technical Regulatory Authority shall notify the Competition Authority immediately of the issue, amendment or renewal of part A or B of a safety authorisation, part A or B of a safety certificate or an operational safety certificate.

(6) The format for an application for a safety certificate, the format of part B of a safety certificate and the requirements for completion of the safety certificate form have been established by Commission Regulation (EC) No 653/2007. The format of part A of a safety certificate has been established in Annex VI to Commission Regulation (EU) No 445/2011.

(7) Parts A and B of a safety authorisation and the operational safety certificate shall set out:
1) the name and commercial registry code of an undertaking;
2) the issuer of part A or B of the safety authorisation or the operational safety certificate;
3) the date of issue, amendment or renewal of part A or B of the safety authorisation;
4) a reference to the directive by which the decision on the issue, amendment or renewal of part A or B of the safety authorisation or the operational safety certificate was documented;
5) the term of validity of part A or B of the safety authorisation or the operational safety certificate;
(6) the area of activity for which the operational safety certificate is issued.

(8) Upon amendment or renewal of part A or B of the safety authorisation or the operational safety certificate, new documents are prepared and issued to an undertaking.

(9) The procedure for application for and preparation of the safety authorisation and operational safety certificate shall be established by a regulation of the minister responsible for the area. [RT I, 13.03.2014, 1 - entry into force 01.04.2014]

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

[RT I, 13.03.2014, 1 - entry into force 01.04.2014]

1) The Consumer Protection and Technical Regulatory Authority refuses to issue or renew part A of a safety authorisation or part A of a safety certificate if the safety management system of the undertaking fails to comply with the requirements of this Act and legislation issued on the basis thereof or if the undertaking has submitted incorrect or incomplete information upon processing of the application.

2) The Consumer Protection and Technical Regulatory Authority refuses to issue or renew part B of a safety authorisation if the railway infrastructure manager does not have a valid operating licence or a valid part A of the safety authorisation, if the railway infrastructure, railway traffic management or staff of the undertaking do not comply with the established requirements, the undertaking is unable to comply with the requirements of railway safety on other grounds or the railway infrastructure manager has submitted incorrect or incomplete information upon processing of the application.

3) The Consumer Protection and Technical Regulatory Authority refuses to issue or renew part B of a safety certificate if the undertaking does not have a valid operating licence or a valid part A of the safety certificate, if the railway vehicles or staff of the undertaking do not comply with the established requirements, the undertaking is unable to comply with the requirements of railway safety on other grounds or the undertaking has submitted incorrect or incomplete information upon processing of the application.

4) The Consumer Protection and Technical Regulatory Authority refuses to issue or renew an operational safety certificate if the undertaking does not have a valid liability insurance contract or if the railway infrastructure, railway traffic management, railway vehicles or staff of the undertaking do not comply with the established requirements or the undertaking is unable to comply with the requirements of railway safety on other grounds or if the undertaking has submitted incorrect or incomplete information upon processing of the application.

5) The Consumer Protection and Technical Regulatory Authority has the right to revoke part A or B of a safety authorisation, part A or B of a safety certificate or an operational safety certificate if the railway infrastructure, railway traffic management, railway vehicles or staff of the undertaking do not comply with the established requirements or the undertaking has repeatedly or significantly violated the requirements of this Act or regulations established on the basis thereof or the undertaking has not operated in the area of activity for which the safety certificate was issued within one year after the issue of the safety certificate.

6) Prior to deciding to refuse to issue or renew a safety certificate, or prior to deciding to revoke part A or B of a safety authorisation, part A or B of a safety certificate or an operational safety certificate, the Consumer Protection and Technical Regulatory Authority shall grant the undertaking a reasonable term for elimination of the circumstances underlying the refusal to renew or revocation. If the undertaking fails to eliminate the deficiencies within the set term, the Consumer Protection and Technical Regulatory Authority has the right to refuse to issue or renew or revoke part A or B of the safety authorisation, part A or B of the safety certificate or the operational safety certificate.

7) Refusal to issue or renew and revocation of part A or B of a safety authorisation, part A or B of a safety certificate or an operational safety certificate shall be documented by a directive of the Director General of the Consumer Protection and Technical Regulatory Authority. A copy of the directive shall be delivered to the undertaking by post within three working days after the signing of the directive and the directive enters into force after its delivery to the undertaking. If the directive cannot be delivered within a reasonable period of time, the directive enters into force upon publication of a corresponding notice in Ametlikud Teadaanded.

8) The Consumer Protection and Technical Regulatory Authority shall immediately notify the Competition Authority of the refusal to issue or renew or revocation of part A or B or a safety authorisation, part A or B of a safety certificate or an operational safety certificate and present a corresponding notice for publication in Ametlikud Teadaanded.

9) The Consumer Protection and Technical Regulatory Authority shall notify the European Railway Agency of the issue, renewal, revocation and refusal to issue part A of a safety certificate within one month, setting out the name and address of the undertaking, the date of making the decision, the term of validity of part A of the safety certificate, the area of activity for which part A of the safety certificate is issued, and in the case of revocation, the reason for the decision. If the Consumer Protection and Technical Regulatory Authority revokes part B of a safety certificate, it shall immediately notify the safety authority that has issued part A of this safety certificate.
Chapter 3
PERFORMANCE OF CONSTRUCTION WORK ON RAILWAYS

Division 1
Requirements for Undertakings Engaged in Performance of Construction Work on Railways

§ 24.–§ 27. [Repealed - RT I, 23.03.2015, 3 - entry into force 01.07.2015]

§ 27.
1. Secondary conditions of operating licence for performance of construction work on railways

[Repealed - RT I, 23.03.2015, 3 - entry into force 01.07.2015]

§ 28.–§ 30. [Repealed - RT I 2004, 18, 131 - entry into force 15.04.2004]

Division 2
Requirements for Performance of Construction Work on Railways

§ 31.–§ 33. [Repealed - RT I, 23.03.2015, 3 - entry into force 01.07.2015]

Chapter 4
RAILWAY TRAFFIC AND SAFETY

§ 34. Ensuring of safety

(1) Railway infrastructure managers and other possessors of railway infrastructure shall ensure safe traffic within their railway infrastructures and maintain the working order of the infrastructures such that safety is ensured. Railway undertakings and other possessors of railway vehicles shall ensure the safety of rail transport, and the compliance of the railway vehicles used by them with safety, maintenance and other requirements currently in force. Such persons shall comply with the requirements and rules established according to subsection (2) of this section, and with all the rules and requirements related to environmental safety, fire safety, occupational safety, occupational health and public health protection.

[RT I, 04.07.2011, 3 - entry into force 14.07.2011]

(2) Technical requirements and operating rules for railway infrastructure and railway vehicles, railway traffic rules and requirements for railway maintenance, and requirements for rail transport shall be provided for in the rules for technical use of railways established by the minister responsible for the area.

(3) Speed limits to ensure the safety of railway traffic shall be established by the railway infrastructure manager or other owner or possessor of a railway. If the established speed limits do not ensure safe 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 other owner or possessor of a railway.

[RT I 2007, 66, 408 - entry into force 01.01.2008]

(4) The state of health of locomotive drivers, assistant locomotive drivers, drivers of special railway vehicles, passenger train attendants, employees responsible for railway safety or railway traffic control, including 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) shall comply with the established health requirements. The health requirements shall ensure that the rail workers’ state of health allows them to safely perform their duties. The health requirements for rail workers, the analyses required at prior and routine medical examinations, the frequency of medical examinations and the procedure for conducting prior and routine medical examinations shall be established by a regulation of the Government of the Republic.

[RT I, 27.02.2015, 1 - entry into force 09.03.2015]
(5) Railway infrastructure managers and other possessors of railway infrastructure are required to submit, for each calendar year, a report on the inspection of the compliance of the management of railway infrastructure and railway traffic with the requirements to the Consumer Protection and Technical Regulatory Authority. Railway undertakings and other possessors of railway vehicles registered or subject to registration in the railway traffic register and used for railway traffic are required to submit, for each calendar year, a report on the inspection of the compliance of the railway vehicles with the requirements to the Consumer Protection and Technical Regulatory Authority. IM/RUs of Member States of the European Union or other foreign countries shall submit this report only concerning the operations carried out in Estonia.
[RT I, 13.03.2014, 1 - entry into force 01.04.2014]

(6) 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 subsection (5) of this section, and the compliance of the railway infrastructure, railway traffic management or railway vehicles with the established requirements, and the IM/RUs and other possessors of railway infrastructure or railway vehicles shall enable such verification at any time.
[RT I 2007, 66, 408 - entry into force 01.01.2008]

(7) Requirements for the reports on inspection of the compliance of railway infrastructure, railway traffic management, railway vehicles 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 the minister responsible for the area.
[RT I, 13.03.2014, 1 - entry into force 01.04.2014]

(7.1) In the case of potential or probable deterioration in the level of safety, the Consumer Protection and Technical Regulatory Authority shall send information to the European Commission, proceeding from the requirements established in the Commission Decision 2009/460/EC on the adoption of a common safety method for assessment of achievement of safety targets, as referred to in Article 6 of Directive 2004/49/EC of the European Parliament and of the Council (OJ L 150, 13.06.2009, p. 11–19).
[RT I, 04.07.2011, 3 - entry into force 14.07.2011]

(8) 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 established in the rules for technical use of railways pursuant to subsection (2) of this section, and with other requirements arising from this Act and other Acts, and set a reasonable term for compliance therewith.
[RT I 2007, 66, 408 - entry into force 01.01.2008]

(9) 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 Consumer Protection and Technical Regulatory 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.
[RT I 2007, 66, 408 - entry into force 01.01.2008]

(10) 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 all measures to ensure the safety of railway traffic.

(11) 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, a duly authorised official of 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.
[RT I 2007, 66, 408 - entry into force 01.01.2008]

(11.1) If this is necessary because of danger to persons, property or the environment, an official of the Consumer Protection and Technical Regulatory Authority exercising state supervision may suspend railway traffic to the extent necessary for avoiding the danger.
[RT I 2007, 66, 408 - entry into force 01.01.2008]

(12) Railway undertakings in violation of requirements provided for in legislation are not compensated for any damages which may be caused thereto as a result of application of the measures set out in subsections (10)–(11) of this section.
[RT I 2007, 14, 70 - entry into force 02.03.2007]

(13) By 30 September each year, the Consumer Protection and Technical Regulatory Authority shall publish an annual report on its website, where it provides an overview of the development of railway safety in the previous calendar year, the procedure for processing safety certificates and certification of maintenance of railway vehicles, significant changes in the legislation concerning railway safety, the results of supervision of

(14) 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 co-operation shall cover in particular the procedure related to safety certificates as well as facilitation and co-ordination of international railway traffic. [RT I, 13.03.2014, 1 - entry into force 01.04.2014]

§ 34. Safety management system of IM/RUs

(1) An IM/RU shall establish a safety management system in the undertaking and ensure its implementation. A safety management system shall be established in writing; records shall also be kept of implementation of the safety management system in all its essential parts.

(2) When establishing a safety management system, an IM/RU shall proceed from the aim to ensure the management of all risks related to its railway operation, taking into consideration, inter alia, the risks related to maintenance, delivery of materials and use of subcontractors, and in the event of lack of appropriate domestic 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. An IM/RU shall implement a safety management system as efficiently as possible. [RT I, 13.03.2014, 1 - entry into force 01.04.2014]

(3) A safety management system includes:
1) the railway safety policy of an undertaking, including railway safety targets, established by the managing body of the IM/RU;
2) the measures to be applied to implement the railway safety policy and achieve the railway safety targets, including quality and quantity targets of an organisation for constant ensuring and improving of safety, as well as plans and procedures for the achievement of such targets; [RT I, 13.03.2014, 1 - entry into force 01.04.2014]
3) the measures to be applied to ensure compliance with railway safety requirements and other requirements established in the area of railways by Acts or regulations;
4) the undertaking's internal distribution of liability to ensure safety within the organisation;
5) the procedure for assessment of risks related to ensuring safety in the undertaking, taking into consideration, inter alia, changes in the conditions of operation and risks arising from new technologies or materials; [RT I, 13.03.2014, 1 - entry into force 01.04.2014]
6) the organisation of training and education on ensuring safety in the undertaking;
7) the procedure for recording and sending information on safety in the undertaking as well as the procedure for the exchange of information with competent authorities and other IM/RUs;
8) the determination of positions in the undertaking's organisation, where people employed therein are liable for notifying competent authorities immediately in the event of railway collisions or railway incidents;
9) the undertaking's action plan in the case of an accident, serious accident or incident, which also ensures cooperation with rescue service agencies, other competent authorities and IM/RUs to the extent necessary; [RT I, 13.03.2014, 1 - entry into force 01.04.2014]
10) the methods for assessment of the safety management system and its implementation, including organisation of an internal safety audit once each year, and the measures for improvement based on the assessment. [RT I, 13.03.2014, 1 - entry into force 01.04.2014]

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

(5) An IM/RU shall promptly submit the safety management system as well as any amendments or modifications thereto to the Consumer Protection and Technical Regulatory Authority for approval. [RT I 2007, 66, 408 - entry into force 01.01.2008]

(6) By 1 June each year, a railway infrastructure manager and railway undertaking shall submit a safety report for the previous calendar year concerning the following to the Consumer Protection and Technical Regulatory Authority:
1) a review on achievement and performance of the undertaking's railway safety targets;
2) development of domestic 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;
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. [RT I, 13.03.2014, 1 - entry into force 01.04.2014]
§ 35. Operating rules of railway infrastructure managers

(1) A railway infrastructure manager shall manage a public railway on the basis of the operating rules of the railway infrastructure manager. Conditions for maintenance of railway infrastructure, railway traffic management and grant of use of the railway infrastructure to other persons shall be established by the operating rules.

(2) A railway infrastructure manager shall submit the operating rules specified in subsection (1) of this section and amendments thereto to the Consumer Protection and Technical Regulatory Authority for approval. The Consumer Protection and Technical Regulatory Authority shall notify the Competition Authority of the operating rules and amendments thereto. The Consumer Protection and Technical Regulatory Authority shall decide on grant of approval within 30 days after the day on which the railway infrastructure manager submits an application to this effect.

[RT I 2007, 66, 408 - entry into force 01.01.2008]

(3) The Consumer Protection and Technical Regulatory Authority has the right to refuse to approve the operating rules or amendments thereto, and request the amendment thereof, or declare the rules invalid if they are contrary to law or the rules for technical use of railways specified in subsection 34 (2) of this Act.

[RT I 2007, 66, 408 - entry into force 01.01.2008]

(4) A railway infrastructure manager shall publish the operating rules specified in subsection (1) of this section or amendments thereto on its website or a publication approved by the Competition Authority before entry into force of the rules or amendments.

[RT I 2007, 66, 408 - entry into force 01.01.2008]

(5) The operating rules or amendments thereto enter into force after approval thereof by the Consumer Protection and Technical Regulatory Authority but not earlier than 45 days after the day on which the operating rules and amendments thereto are published.

[RT I 2007, 66, 408 - entry into force 01.01.2008]

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

(1) An employee of a railway infrastructure manager responsible for railway safety and railway traffic control specified in subsection 34 (4) of this Act shall have appropriate competence for the performance of the performed work. The person's competence shall be evidenced by the appropriate profession within the meaning of the Professions Act. An employee of a railway infrastructure manager who is responsible for railway safety and railway traffic control is granted a profession for a period of five years.

(1.1) Persons who have acquired foreign professional qualifications may also act as employees responsible for railway safety and railway traffic control 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.

[RT I, 30.12.2015, 1 - entry into force 18.01.2016]

(2) 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 construction manager, railway track engineer, railway protection equipment engineer or railway protection equipment construction manager and who is responsible for railway safety. A competent person responsible for railway safety may be appointed on the basis of a contract entered into between a railway infrastructure manager and the owner or possessor of the railway infrastructure. The contract shall prescribe the procedure for ensuring and maintenance of railway safety of railway civil engineering works and the bearing of costs.

[RT I, 13.03.2014, 1 - entry into force 01.04.2014]

§ 37. Railway protection zone

[Repealed - RT I, 23.03.2015, 3 - entry into force 01.07.2015]

§ 38. Railway crossings

(1) Vehicles, pedestrians and driven cattle shall cross railways only by railway level crossings prescribed and marked for that purpose, and pedestrians shall cross railways by pedestrian crossings pursuant to the procedure provided for in the Traffic Act.

(2) The railway infrastructure manager or other owner or possessor of railways is required to ensure the maintenance of railway 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 for 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. The owner of the road and the railway infrastructure manager or other owner or possessor of railways shall enter into a contract which sets out the technical details of winter maintenance work.

[RT I, 24.03.2016, 1 - entry into force 01.04.2016]
(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 the maintenance of such railway crossing, installation of traffic control devices and railway safety on the land under railway civil engineering works shall be ensured by the railway infrastructure manager who is managing a public railway and in the case the railway crossing does not include a public railway, performance of such work shall be ensured by the owner or possessor of the railway with the highest traffic intensity. Such person has the right to demand proportionate compensation by the other owners or possessors of railways of the costs incurred upon ensuring the maintenance of the railway crossing, installation of traffic control devices and railway safety on the land under railway civil engineering works.

[RT I, 13.03.2014, 1 - entry into force 01.04.2014]

§ 39. Temporary restriction or closure of railway traffic

(1) In the cases arising from the law, railway traffic on public railways may be substantially restricted or temporarily closed by the railway infrastructure manager for up to one twenty-four hour period. Railway traffic on public railways may be substantially restricted or temporarily closed for more than one twenty-four hour period pursuant to the procedure established by the Government of the Republic.

(2) Temporary closure or substantial restriction of railway traffic shall be justified and unavoidable. A railway infrastructure manager is required to obtain an approval of the Consumer Protection and Technical Regulatory Authority for the restriction or closure of railway traffic. A railway infrastructure manager shall promptly notify the Consumer Protection and Technical Regulatory Authority of any unforeseeable restriction or closure of railway traffic and its reasons.

[RT I 2007, 66, 408 - entry into force 01.01.2008]

(3) Railway traffic may be restricted or closed if it is necessary:
1) for the performance of rail maintenance work;
2) for the elimination of imminent danger to people, property or the environment caused due to the technical state of railway infrastructure or railway vehicles;
3) for the removal of an extraordinary traffic obstruction caused by an accident, a traffic accident or natural disaster, sudden change in weather conditions or other circumstances;
4) in other justified and unavoidable cases.

(4) If railway traffic endangers people, property or the environment, an authorised official of the Consumer Protection and Technical Regulatory Authority has the right to issue a precept to the railway infrastructure manager, or other owner or possessor of the railway for the closure or substantial restriction of railway traffic.

[RT I 2007, 66, 408 - entry into force 01.01.2008]

(5) In case of a railway traffic disturbance caused by 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.


(6) If the disturbance specified in subsection (5) 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. Appropriate railway infrastructure managers shall cooperate to restore the cross-border railway traffic to normal.


§ 40. Cases affecting railway safety

[RT I, 13.03.2014, 1 - entry into force 01.04.2014]

(1) The cases affecting railway safety are accident, serious accident and incident.

[RT I, 13.03.2014, 1 - entry into force 01.04.2014]

(2) Accident means for the purposes of this Act an unintentional or unexpected event or series of events in consequence of which damage is caused, such as collision of a train with another train or shunting railway vehicles, collision of a train with an obstruction, derailment of a train, an accident occurring at the railway crossing, railway vehicles hitting a person, fire of railway vehicles and other such accidents in consequence of which damage is caused.

[RT I, 13.03.2014, 1 - entry into force 01.04.2014]

(3) Serious accident means for the purposes of this Act collision or derailment of a train which causes death of a person or serious physical harm to at least five people 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 such accidents which clearly affect railway safety.
(4) Incident means for the purposes of this Act an event related to the use of a train which is not an accident or serious accident, but which affects the safety of use of a train, such as breaking of a rail, deformation of a rail track, obstructions due to incorrect railway traffic light signals, passing of a railway traffic light signal in an emergency and breaking of a wheel or axle of a running railway vehicle.

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

(6) In the case of an accident, serious accident or incident, the railway infrastructure manager and other possessors of railway infrastructure have the obligation to remedy the effects of the accident, serious accident or incident, and to restore railway traffic as quickly as possible. A railway infrastructure manager or other owner or possessor of railway infrastructure shall 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 an accident or serious accident, the state and local governments shall provide, through their agencies, all possible assistance to remedy the effects 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 accident, serious railway accident or incident, the Consumer Protection and Technical Regulatory Authority may demand that the railway infrastructure manager or the possessor of non-public railway 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 required additional measures.

§ 41. Notification of Consumer Protection and Technical Regulatory Authority

(1) Railway infrastructure managers and other possessors of railway infrastructure shall immediately notify the Consumer Protection and Technical Regulatory Authority of an accident and serious accident. Initial notice shall be given of such facts through any disclosed means of communication, followed by a written notice.

(2) A railway infrastructure manager or other possessor of railway infrastructure shall notify the Consumer Protection and Technical Regulatory Authority of an incident by a written report which shall be submitted to the Consumer Protection and Technical Regulatory Authority after the causes of the incident and other circumstances have been investigated but not later than within five working days after the occurrence of the incident.

(4) A railway infrastructure manager or other possessor of railway infrastructure and a railway undertaking or other possessor of railway vehicles shall submit the data of safety indicators for the previous calendar year to the Consumer Protection and Technical Regulatory Authority by 1 June.

(7) The procedure for notification of accidents, serious accidents and incidents and the formats of the written notice and report shall be established by a regulation of the minister responsible for the area.
§ 42. Safety investigation of accidents, serious accidents and incidents

[RT I, 13.03.2014, 1 - entry into force 01.04.2014]

(1) The safety investigation of accidents, serious accidents and incidents (hereinafter safety investigation) shall be organised by the Safety Investigation Bureau, which is a structural unit of the Ministry of Economic Affairs and Communications. 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.

[RT I, 13.03.2014, 1 - entry into force 01.04.2014]

(2) 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 involved in a safety investigation shall participate in the safety investigation under the management and supervision of the official conducting safety investigation. Authorities associated with a safety investigation are required to provide the Safety Investigation Bureau with necessary assistance within the limits of their competence.

[RT I, 20.12.2011, 3 - entry into force 01.01.2012]

(3) The main objective of safety investigation of accidents, serious accidents and incidents shall be to determine the causes of the case and to issue recommendations in order to prevent such accidents, serious accidents or incidents in the future and to improve railway safety and not in order to point to the party at fault or the liability.

[RT I, 13.03.2014, 1 - entry into force 01.04.2014]

(31) A railway infrastructure manager or other possessor of railway infrastructure and railway undertaking, and the Consumer Protection and Technical Regulatory Authority if learnt during supervisory operations, shall notify the Safety Investigation Bureau immediately of occurrence of an accident, serious accident or incident through any disclosed means of communication. Additional information concerning an accident or serious accident shall be provided to the Safety Investigation Bureau by means of a written notice within three working days after the occurrence of the case. Additional information concerning an incident shall be provided in writing by means of a report within three working days after the Safety Investigation Bureau has requested such information.

[RT I, 27.02.2015, 1 - entry into force 09.03.2015]]

(4) The Safety Investigation Bureau is required to organise a safety investigation in the case of a serious accident.

[RT I, 13.03.2014, 1 - entry into force 01.04.2014]

(5) The Safety Investigation Bureau has the right to organise a safety investigation in the case of an accident or incident if the occurred circumstances caused or circumstances similar to such circumstances could have caused a serious accident, including serious physical harm to at least five people, death of at least one person, or in the case of a technical failure in a subsystem or interoperability constituent of the trans-European conventional or high-speed rail system. Upon deciding, the Safety Investigation Bureau shall take into account the severity of the accident or incident from the Estonian and trans-European viewpoint and other relevant circumstances. Upon assessment of an accident or incident, the Safety Investigation Bureau shall take into account any requests submitted by a safety investigation authority of another Member State of the European Union, the Consumer Protection and Technical Regulatory Authority, railway infrastructure managers and railway undertakings.

[RT I, 13.03.2014, 1 - entry into force 01.04.2014]

(6) An official conducting safety investigation of an accident, serious accident or incident has the right:

[RT I, 13.03.2014, 1 - entry into force 01.04.2014]

1) to have immediate access to the railway vehicles involved in the accident, serious accident or incident, railway infrastructure as well as traffic control and signalling devices;

[RT I, 13.03.2014, 1 - entry into force 01.04.2014]

2) to demand the restriction of access of unauthorised persons to the scene of the collision and prohibit the moving, removing and destruction of objects at the scene of the collision;

[RT I, 13.03.2014, 1 - entry into force 01.04.2014]

3) to ensure prompt compiling of a list of evidence and controlled removal of wrecks, railway vehicles, infrastructure devices or components for investigation or analysis;

[RT I, 13.03.2014, 1 - entry into force 01.04.2014]

4) to have immediate access to the check-in recording devices and other devices and recordings thereof and to take control of them;

[RT I, 13.03.2014, 1 - entry into force 01.04.2014]

5) to obtain immediately the examination results of the bodies of casualties and the results of analyses of samples taken from the bodies of casualties;

[RT I, 13.03.2014, 1 - entry into force 01.04.2014]

6) to interrogate witnesses and persons who may have relevant information for the safety investigation and demand the confirmation or submission of information necessary for safety investigation;

[RT I, 13.03.2014, 1 - entry into force 01.04.2014]

7) to have access to all the relevant information and documents independently or in cooperation with the investigation authority conducting pre-trial proceedings in criminal matters;

[RT I, 13.03.2014, 1 - entry into force 01.04.2014]

8) to have immediate access to the statements of people involved in the case and the results of analyses of samples taken from such people.
(6) IM/RUs and third parties are required to provide relevant information in their possession if requested by the Safety Investigation Bureau. A person is required to appear when summoned by the Safety Investigation Bureau and give statements about the circumstances known to them.

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

(8) The Safety Investigation Bureau shall decide on commencement of a safety investigation no later than one week after receipt of a notice on the accident, serious accident or incident. The Safety Investigation Bureau shall notify the European Railway Agency of deciding on commencement of a safety investigation within one week thereafter. The notice shall set out the date, time and place of the cases of death or injuries, the type and consequences of the case as well as the estimated material damage.

(9) If the place of the scene of the accident, serious accident or incident in the Member States cannot be determined or if it occurred at or near boundary constructions between Estonia and another Member State of the European Union, the Estonian 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.

(10) The investigation bodies of another Member State of the European Union shall be invited to participate in a safety investigation if the collision involves an IM/RU established and licensed in that Member State. The appointment of a body conducting a safety investigation shall be regulated with third countries by separate agreements.

(11) Where necessary, the Safety Investigation Bureau may request the assistance of safety investigation authorities of other countries and the European Railway Agency as regards special expertise or for carrying out technical checks and analyses or for giving opinions.

(12) The procedure for safety investigation of accidents, serious accidents and incidents shall be established by a regulation of the minister responsible for the area.
(13) The procedure for notification of accidents, serious accidents and incidents and the formats of the written notice and report shall be established by a regulation of the minister responsible for the area.
[RT I, 13.03.2014, 1 - entry into force 01.04.2014]

§ 43. Safety investigation reports

[RT I, 20.12.2011, 3 - entry into force 01.01.2012]

(1) The Safety Investigation Bureau shall prepare a written safety investigation report about the results of a safety investigation within the shortest possible period of time, but not later than within 12 months after the case, and disclose it immediately. The safety investigation report shall be forwarded to all the concerned railway infrastructure managers, railway undertakings, safety investigation authorities of other Member States of the European Union, casualties and their relatives, the owners and producers of damaged property, the Rescue Board, representatives of the employees and passengers and the European Railway Agency.
[RT I, 13.03.2014, 1 - entry into force 01.04.2014]

(2) A safety investigation report includes a summary, facts about the case, information on investigations and approaches, an analysis and conclusions, applied measures and recommendations presented by the Safety Investigation Bureau in connection with the accident, serious accident or incident depending on the severity of the case.
[RT I, 13.03.2014, 1 - entry into force 01.04.2014]

(3) The Consumer Protection and Technical Regulatory Authority and the authorities, undertakings and organisations whom the recommendations of the Safety Investigation Bureau concern shall present a report to the Safety Investigation Bureau by 1 April each year concerning the measures taken or planned to be taken on the basis of the recommendations. The Safety Investigation Bureau may present a copy of the report to other authorities.
[RT I, 13.03.2014, 1 - entry into force 01.04.2014]

(4) By 30 September each year, the Safety Investigation Bureau shall publish on its website an annual report which presents an overview of the accidents, serious accidents and incidents investigated during the previous calendar year and sets out railway traffic safety measures taken on the basis of the recommendations. The Safety Investigation Bureau shall send a copy of the annual report to the European Railway Agency.
[RT I, 13.03.2014, 1 - entry into force 01.04.2014]

Chapter 5
DRIVING OF RAILWAY VEHICLES

§ 44. Right to drive railway vehicles

(1) Railway vehicles used for rail transport are driven by a locomotive crew which consists of two members: the locomotive driver and the assistant locomotive driver. The locomotive driver may drive railway vehicles used for rail transport without the presence of an assistant locomotive 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 locomotive drivers and the locomotive has been fitted with a device which enables the train to be stopped if the locomotive driver is unable to drive the locomotive.

(2) The railway undertaking or other owner or possessor of railway vehicles shall submit the draft for the rules on driving railway vehicles without the presence of assistant locomotive drivers specified in subsection (1) of this section together with a safety analysis to the Consumer Protection and Technical Regulatory Authority for prior approval. The Consumer Protection and Technical Regulatory Authority shall refuse to approve the rules on driving railway vehicles without the presence of assistant locomotive drivers if the rules do not guarantee safety when driving railway vehicles without the presence of assistant locomotive drivers. The rules enter into force after approval thereof by the Consumer Protection and Technical Regulatory Authority.
[RT I 2007, 66, 408 - entry into force 01.01.2008]

(2) A person may work as a locomotive driver if the person holds a valid locomotive driver's licence issued in Estonia or another Member State of the European Union (hereinafter locomotive driver's licence) and a complementary certificate (hereinafter certificate) issued by an IM/RU operating in Estonia which indicates the part 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.
[RT I, 24.03.2016, 1 - entry into force 01.04.2016]

(3) A person may work as a locomotive driver or assistant locomotive driver on the basis of a locomotive driver's licence issued outside the European Union on railway vehicles running from the state border until the railway frontier station in Estonia if this has been agreed on between Estonia and the foreign country.
(31) A railway undertaking may allow a locomotive driver without a required certificate, notifying the railway infrastructure manager thereof beforehand, to drive railway vehicles on a specific railway section provided that the person is being instructed by another locomotive driver who holds a certificate allowing the latter to drive railway vehicles on this railway section, in the following exceptional 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 single railway capacity intended for specific purposes for rail transport on historical railway vehicles;

[RT I, 13.03.2014, 1 - entry into force 01.04.2014]
3) upon use of single railway capacity intended for specific purposes for transport of goods, with the consent of the railway infrastructure manager;

[RT I, 13.03.2014, 1 - entry into force 01.04.2014]
4) for the delivery or demonstration of new railway vehicles;
5) for the training or examining of locomotive 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.

[RT I, 04.07.2011, 3 - entry into force 01.07.2013]

(32) A person is allowed to take examinations for a locomotive driver's licence if the person has completed general training for locomotive drivers.

[RT I, 27.02.2015, 1 - entry into force 09.03.2015]

(33) A person applying for the right to drive a type of locomotive for the first time must have an effective locomotive driver's licence and a length of service as an assistant locomotive driver on this type of locomotive, concerning which the person applies for the right to drive, of at least four months prior to applying for the right to drive this type of locomotive.

[RT I, 27.02.2015, 1 - entry into force 09.03.2015]

(34) When a locomotive driver applies additionally for the right to drive another type of locomotive, the person must, prior to applying for the right to drive another type of locomotive, have a length of service as an assistant locomotive driver on the respective type of locomotive of at least two months and prior length of service as a locomotive driver of at least six months.

[RT I, 04.07.2011, 3 - entry into force 14.07.2011]

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

[RT I, 27.02.2015, 1 - entry into force 09.03.2015]

(36) In order to drive railway vehicles adapted for operation without an assistant locomotive driver, the person applying for the right to drive a type of locomotive for such railway vehicles for the first time must have at least four months of experience in driving railway vehicles as a trainee under the supervision of a locomotive driver.

[RT I, 13.03.2014, 1 - entry into force 01.04.2014]

(4) Assistant locomotive drivers and drivers of special railway vehicles shall have professional qualifications within the meaning of the Professional Qualifications Act. Assistant locomotive drivers and drivers of special railway vehicles are granted professional qualifications for a period of five years.

(41) Persons who have acquired foreign professional qualifications may also act as assistant locomotive drivers or drivers of special railway vehicles 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.

[RT I, 30.12.2015, 1 - entry into force 18.01.2016]

(5) Railway undertakings and other possessors of railway vehicles shall prohibit persons who have consumed alcohol, narcotic, psychotropic or other psychotoxic substances from performing the duties of a locomotive driver, driver of special railway vehicles or assistant locomotive driver.

(6) Railway infrastructure managers have the right to remove a locomotive driver or driver of special railway vehicles from driving the railway vehicles, or remove an assistant locomotive driver from the performance of his or her duties if there is good reason to believe that such person has consumed alcohol, 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.
§ 45. Application for locomotive driver's licence and renewal of locomotive driver's licence

(1) The issue of a locomotive driver's licence and the renewal thereof are decided by the Consumer Protection and Technical Regulatory Authority. A locomotive driver's licence is prepared and issued to a person by the Road Administration on the basis of a decision of the Consumer Protection and Technical Regulatory Authority.

(1') A locomotive driver's licence is issued to a person, who:
1) is at least 20 years of age;
2) has acquired basic education and has completed level 3 vocational training specified in Council Decision 85/368/EEC on the comparability of vocational training qualifications between the Member States of the European Community (OJ L 199, 31.7.1985, p. 56–59) or general training for locomotive drivers on the basis of secondary education;
3) has presented a certificate on having passed a medical examination provided for in subsection 34 (4) of this Act;
4) has passed an examination for locomotive drivers.

(2) To apply for a locomotive driver's licence, a person shall pass a theory examination for locomotive drivers at the Road Administration (hereinafter examination for locomotive drivers).

(3) A locomotive driver's licence shall be valid for ten years. A locomotive driver's licence shall be renewed prior to the expiry thereof. In order to have a locomotive driver's licence extended, a locomotive driver shall pass an examination for locomotive drivers at the Road Administration.

(5) A person shall pay the state fee before submission of an application for issue of a locomotive driver's licence, renewal or receipt of a copy thereof.

(6) The Consumer Protection and Technical Regulatory Authority shall refuse to issue or renew a locomotive driver's licence in the following cases:
1) the applicant fails to pass examinations for locomotive drivers with a required result;
2) the applicant has submitted incorrect information concerning himself or herself in the application;
3) the applicant has not paid the state fee;
4) the applicant has been deprived of the right to drive pursuant to the procedure provided by law and his or her right to drive has not been restored;
5) the applicant's right to drive has been suspended pursuant to the procedure provided by law and his or her right to drive has not been restored.

(7) The rules for the issue, renewal and issue of copies of locomotive driver's licences, the format of locomotive driver's licences and the procedure for conducting examinations of locomotive drivers shall be established by the minister responsible for the area.

§ 45'. Application for certificate and renewal thereof

A certificate is issued and renewed by the IM/RU that has employed or contracted the locomotive driver. The format of the certificate is established in Commission Regulation No 36/2010 on Community models for train driving licences, complementary certificates, certified copies of complementary certificates and application

[RT I, 13.03.2014, 1 - entry into force 01.04.2014]

(2) To obtain a certificate, a locomotive driver must have completed the required training and passed an examination for the certificate. Upon issuing a certificate to a locomotive driver, the IM/RU shall take account of the information of an earlier certificate of the locomotive driver. The certificate is valid only for the type of locomotive and in the operational area specified thereon. To obtain a certificate, a locomotive driver must:

[RT I, 27.02.2015, 1 - entry into force 09.03.2015]
1) have a locomotive 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 for;
4) have thorough knowledge about the operational area, for the driving of where the certificate is applied for;
5) have language skills on the level required for operation in rail traffic.

(3) The IM/RU that has employed or contracted a locomotive driver shall enter one or both of the following categories on the certificate:
1) category A – shunting locomotives, work trains, special railway vehicles and other locomotives when they are used for shunting;
2) category B – railway vehicles used for the transport of cargo or passengers.

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

(5) In order to keep the certificate valid, the locomotive driver must undergo regular in-service training and an interim inspection pursuant to the procedure established by the IM/RU in the safety management system of the IM/RU. The training and interim inspection of the locomotive driver as well as the skills of the locomotive driver upon receipt of the certificate shall comply with the professional knowledge and requirements established for locomotive drivers.

(6) An IM/RU shall, immediately upon issue or amendment of a certificate, enter the information on the certificate in the railway traffic register and, upon suspension or revocation of a certificate, make a corresponding notation in the railway traffic register.

(7) An IM/RU shall suspend or revoke a certificate if:
1) a locomotive driver fails, without good reason, to attend in-service training;
2) a locomotive driver fails to pass the interim inspection specified in subsection 452 (5) of this Act;
3) a locomotive driver has been away from work for longer than three months;
4) an employment contract or other similar contract between a locomotive driver and the IM/RU is terminated.

(8) The procedure for disputing the issue, amendment, suspension or revocation of certificates shall be established by an IM/RU in its safety management system. If a locomotive driver is not satisfied with the decision made by the IM/RU after disputing the issue, amendment, suspension or revocation of a certificate, he or she has the right to refer a complaint to the Consumer Protection and Technical Regulatory Authority. 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 either satisfy the complaint, or issue a precept for elimination of the violation.
[RT I, 04.07.2011, 3 - entry into force 01.07.2013]

§ 45. Training and assessment of knowledge of locomotive drivers

(1) An IM/RU is responsible for training the locomotive drivers employed by it. The training of locomotive drivers is conducted by means of training to acquire new skills or a profession or by means of in-service training to develop the acquired profession. Training is either general training for locomotive drivers or training to obtain a certificate and in-service training of locomotive drivers is regular in-service training to keep the certificate effective or other additional training.
[RT I, 27.02.2015, 1 - entry into force 09.03.2015]

(2) The training of locomotive 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 (EU) No 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). Applications for operating licences shall be adjudicated by the Ministry of Education and Research within three months. Compliance with the requirements specified in this section shall be established by the Consumer Protection and Technical Regulatory Authority by a preliminary administrative act. An applicant shall present the following information and documents upon applying for an operating licence:
1) confirmation that the conducted training for locomotive drivers complies with the requirements of independence and impartiality established in Article 3 of Commission Decision (EU) No 2011/765/EU;
2) information and documents that prove compliance with the requirements established in Article 4(2) of Commission Decision (EU) No 2011/765/EU.
[RT I, 23.03.2015, 5 - entry into force 01.07.2015]

(3) In-service training of locomotive drivers shall be conducted at least once every three years. Upon planning in-service training account shall be taken of the education and work experience of locomotive drivers and the need to develop their knowledge and skills for the continued due performance of their duties.

(4) The knowledge and skills of locomotive drivers are evaluated after the completion of general training for locomotive drivers for the purpose of obtaining a locomotive driver's licence by examinations for a locomotive driver's licence, after the completion of training for the purpose of obtaining a certificate by examinations for a certificate and for the purpose of keeping the certificate effective, by an interim inspection. Examinations for a certificate and interim inspections shall be conducted by an examiner recognised by the Consumer Protection and Technical Regulatory Authority.
[RT I, 27.02.2015, 1 - entry into force 09.03.2015]

(5) Periodic checks shall be conducted once every three years to evaluate the knowledge of a locomotive driver about railway vehicles and the operational area as well as language skills if the language determined by the railway infrastructure manager for communication on railway infrastructure is not the mother tongue of the person. The evaluation may be organised in several parts. A periodic check concerning the knowledge of the operational area and language skills shall also be conducted if a locomotive driver has been away from work for one year or longer and wishes to return to work.
[RT I, 24.03.2016, 1 - entry into force 01.04.2016]

(6) The purpose of the evaluation of knowledge is to ascertain the work-related knowledge and skills of locomotive drivers. If necessary, locomotive drivers shall be provided with additional training to acquire knowledge and skills.

(7) The examiner shall notify the Consumer Protection and Technical Regulatory Authority of the time and place of the evaluation of knowledge and the assessed topic at least ten working days before conducting the evaluation.
[RT I, 27.02.2015, 1 - entry into force 09.03.2015]

(8) The passing of training is evidenced by a certificate or statement issued by the training provider and the evaluation of knowledge is evidenced by a certificate or statement issued by the examiner.

(9) The procedure for contesting the results of the assessment of knowledge shall be established by the IM/RU in its safety management system. If a locomotive driver is not satisfied with the decision made by the IM/RU after contesting the results of the assessment of knowledge, he or she has the right to refer a complaint to the Consumer Protection and Technical Regulatory Authority. 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 fail to satisfy the complaint, or issue a precept for elimination of the violation.
[RT I, 04.07.2011, 3 - entry into force 01.07.2013]

(10) The requirements on the knowledge and skills of locomotive drivers and the contents of general training and the requirements on the knowledge and skills of locomotive drivers for the purpose of obtaining a certificate shall be established by a regulation of the minister responsible for the area.
[RT I, 27.02.2015, 1 - entry into force 01.07.2015]

(11) At least every five years the Ministry of Economic Affairs and Communications shall organise an independent assessment of the procedures for the acquisition and assessment of professional knowledge and competences, and of the system for the issuing of locomotive driver's licences and certificates. The results of the assessment shall be forwarded to the appropriate authorities and, if necessary, measures shall be taken to remedy any shortcomings that have appeared during the assessment.
[RT I, 24.03.2016, 1 - entry into force 01.04.2016]

§ 46. Requirements for knowledge and skills of locomotive drivers

(1) A locomotive driver must have knowledge in:
1) the rules for technical use of railways;
2) fire safety requirements and fire-fighting equipment;
3) environmental protection requirements and requirements for avoiding environmental pollution;
4) occupational health, occupational safety and health protection 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 communication equipment of locomotives;
9) practical detection and removal of failures in the locomotive while running;
10) the rules for railway vehicle maintenance and repair.

(2) A locomotive driver 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. A railway infrastructure manager or other owner or possessor of railways on whose railway a locomotive driver is driving shall take appropriate measures in order to guarantee adherence to such requirements. The corresponding measures shall be established by a railway infrastructure manager in the conditions of its operating rules, on the basis of which railway undertakings are granted the use of railway infrastructure (requirements for driving experience of locomotive drivers).

(3) In order to guarantee adherence to the requirements provided in subsection (2) of this section, a railway infrastructure manager is required to organise, for a reasonable charge, driving instruction and driving practice for the locomotive drivers and locomotive crews of the railway undertakings to whom it has granted railway capacity or who have applied for the grant of a railway capacity or for the issue of a safety certificate.

§ 46. Requirements on examiners and recognition of examiners

(1) An examiner shall have a valid locomotive driver's licence, a procedure for the holding of the examinations and an examiner's certificate issued by the Consumer Protection and Technical Regulatory Authority. An examiner shall have at least four years of experience in driving the appropriate railway vehicles.

(2) The procedure for recognition of examiners and the requirements on the examination procedure shall be established by a regulation of the minister responsible for the area.

§ 47. Temporary removal from driving railway vehicles

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

(2) If a person fails to submit, at the moment of inspection, a document which certifies the right to drive railway vehicles, the supervisory official shall issue a precept to the person to submit such document to the supervisory official who issued the precept within five days after the day on which the precept is issued.

(3) Upon failure to comply with the precept, the supervisory official may impose penalty payment pursuant to the procedure provided for in the Substitutive Enforcement and Penalty Payment Act. The upper limit for a penalty payment is 640 euros.

§ 48. Deprivation and suspension of right to drive railway vehicles

(1) A person whose state of health does not comply with the established requirements or whose medical certificate is not valid shall be deprived, on the basis of a decision of a medical committee, of the right to drive railway vehicles, including special railway vehicles or to work as an assistant locomotive driver, or such right shall be suspended.

(2) Depending on the nature and severity of the violation, a person who violates railway traffic requirements may be deprived of the right to drive railway vehicles or such right may be suspended only pursuant to the procedure provided by law.

(21) If the Consumer Protection and Technical Regulatory Authority finds that a locomotive driver to whom a locomotive driver's licence has been issued by a competent authority of another Member State no longer fulfils the requirements for locomotive 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.

(22) If a competent authority of another Member State presents a reasoned request to the Consumer Protection and Technical Regulatory Authority concerning a locomotive 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.

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

[RT I, 24.03.2016, 1 - entry into force 01.04.2016]

(2) The Consumer Protection and Technical Regulatory Authority may prohibit a locomotive driver from driving trains in the territory of the Republic of Estonia until a decision is made concerning the locomotive driver's licence or a report is presented concerning the certificate. The European Commission and other competent authorities shall be notified of such decision.

[RT I, 24.03.2016, 1 - entry into force 01.04.2016]

(2) If the Consumer Protection and Technical Regulatory Authority finds that a locomotive driver endangers railway traffic, it shall request the railway infrastructure manager to stop the train and shall prohibit the locomotive driver from driving the training in the territory of the Republic of Estonia until it finds that the locomotive driver no longer endangers train traffic. The European Commission and other competent authorities shall be notified of such decision.

[RT I, 24.03.2016, 1 - entry into force 01.04.2016]

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

[RT I, 24.03.2016, 1 - entry into force 01.04.2016]

(3) A locomotive driver who has been deprived of the right to drive or whose right to drive has been suspended shall immediately return the locomotive driver's licence to the Consumer Protection and Technical Regulatory Authority.

[RT I 2007, 66, 408 - entry into force 01.01.2008]

(4) Suspension of the right to drive railway vehicles means prohibiting a person from driving railway vehicles or working as an assistant locomotive driver during the period specified in subsection (5) of this section.

(5) The right to drive railway vehicles shall be suspended:
1) for the period of conduct of proceedings in a matter of a misdemeanour provided for in §§ 88 or 90–94 of this Act;
2) for the period of up to 24 months on entry into force of a decision imposing a punishment on a person for a misdemeanour provided for in §§ 88 or 90–94 of this Act;
3) until the time that a person passes the examination for locomotive drivers or, in the case specified in subsection 49 (3) of this Act, the examination for locomotive drivers and the practical driving test, if the person has failed the examination for locomotive drivers required for renewal of the locomotive driver's licence;
4) on the basis of a decision of a medical committee if the person's state of health does not comply with the established requirements;
5) if the person's medical certificate is not valid.

[RT I 2007, 14, 70 - entry into force 02.03.2007]

(6) A decision to suspend a person's right to drive railway vehicles shall set out the following:
1) the date and place of making the decision;
2) the given name, surname and position of the person who makes the decision and the name and address of the authority;
3) the given name, surname and residence of the locomotive driver, driver of special railway vehicles, or assistant locomotive driver;
4) essential information entered in the locomotive driver's licence or the professional certificate of a driver of special railway vehicles or assistant locomotive driver;
5) the bases of and the term for suspension of the right to drive;
6) the procedure for appeal against the decision;
7) the signature of the person who prepares the decision.

(7) The decision shall be made in two original copies of which the first shall be given to the person immediately after the decision is signed. The person shall sign the other original copy of the decision and set out the date of receipt of the decision.

(8) The right to drive railway vehicles is suspended as of the moment of making the decision.

(9) The courts and the Consumer Protection and Technical Regulatory Authority have the right to suspend the right to drive railway vehicles.
§ 49. Restoration of right to drive railway vehicles

(1) If a person's right to drive railway vehicles has been suspended or the person has been deprived of the right to drive railway vehicles for longer than six months, but not longer than 12 months, the right to drive is restored after passing an examination for locomotive drivers.

(2) If a person's right to drive railway vehicles has been suspended or the person has been deprived of the right to drive railway vehicles for longer than 12 months, the right to drive is restored after passing an examination for locomotive drivers and a practical driving test.

(3) If the right to drive railway vehicles has been suspended on the basis of clause 48 (5) 3) of this Act, the right to drive is restored if the person passes an examination for locomotive drivers within 12 months after the date of expiry of the term for renewal of the locomotive driver's licence. If more than 12 months have passed from the date of expiry of the term for renewal, the right to drive is restored if the person passes an examination for locomotive drivers and a practical driving test.

(4) If a person's right to drive special railway vehicles or to work as an assistant locomotive driver has been suspended or the person has been deprived of the right to drive special railway vehicles for longer than 12 months, the right to drive is restored if the person passes the examination for attestation of professional qualifications at the body for the award of professional qualifications.

Chapter 5
RAILWAY INFRASTRUCTURE MANAGER

§ 491. Liability and independence of railway infrastructure manager

(1) A railway infrastructure manager shall be responsible for the performance of the functions specified in clause 3 12) 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 493 (1) of this Act, from any other entity within the undertaking.

(3) Other legal entities within a vertically integrated undertaking specified in subsection 493 (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 3 12).

(4) 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 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.

(5) Members of the management board of a vertically integrated undertaking specified in subsection 493 (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 the particular railway undertaking, except for bonuses related to the overall functioning of the railway system.

(6) Where information systems are common to different entities within a vertically integrated undertaking specified in subsection 493 (1) of this Act, access to sensitive information relating to essential functions shall be restricted to authorised employees of the railway infrastructure manager.

(7) Sensitive information specified in subsection (6) of this section shall not be passed on to other entities within the vertically integrated undertaking.

[RT I 2007, 66, 408 - entry into force 01.01.2008]

[RT I, 04.07.2011, 3 - entry into force 01.07.2013]

[RT I, 04.07.2011, 3 - entry into force 01.07.2013]

[RT I, 13.03.2014, 1 - entry into force 01.04.2014]

[RT I, 24.03.2016, 1 - entry into force 01.04.2016]

§ 49. Financing of railway infrastructure manager managing public railway

(1) The Ministry of Economic Affairs and Communications shall prepare an indicative action plan for the development of public railway infrastructure with the purpose of 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 infrastructure while providing financial balance and financial means for these objectives to be achieved. The business plan must conform to the contract specified in § 50 of this Act if such contract has been entered into.

(4) The 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 railway, consisting of infrastructure user fees, profit from other commercial activities and funds allocated by the state or other persons, and railway infrastructure expenditure would be balanced in terms of a five-year period.

§ 49g. Vertically integrated undertakings

(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 operates rail transport services on the railway infrastructure manager's network;
   2) who is controlled by at least one railway undertaking that operates rail transport services on the railway infrastructure manager's network;
   3) who controls at least one railway undertaking that operates rail transport services on the railway infrastructure manager's 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.

§ 49h. Performance of essential functions of management of railway infrastructure of railway infrastructure manager

(1) In order to ensure the independence of performance of essential functions of management of railway infrastructure, 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 under 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.


§ 49i. Impartiality of railway infrastructure manager in respect of traffic management and maintenance planning

(1) A railway infrastructure manager shall perform the functions related to traffic management and maintenance planning in a transparent and non-discriminatory manner and shall ensure that the persons in charge of taking decisions in respect of those functions are not affected by any conflict of interest.
(2) A railway undertaking, in case of a disruption 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 for the railway undertakings concerned in a transparent and non-discriminatory manner.

(3) In case of long-term planning of major maintenance and/or 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.


§ 496. Sharing of functions of railway infrastructure manager

(1) Provided that no conflicts of interest exist and that the confidentiality of commercially sensitive information is ensured, a railway infrastructure manager may:

1) outsource such functions specified in clause 3 12) of this Act which are not the essential functions of management of railway infrastructure 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 within a vertically integrated undertaking 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 §§ 491, 493, 495 and 497 of this Act;

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 3 12) of this Act and bear ultimate responsibility for their performance.

(3) The functions of management of railway infrastructure specified in clause 3 12) 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 494(3)–(6) and §§ 494, 495 and 497 of this Act and assume full responsibility for the exercise of the functions concerned.

(4) A railway infrastructure manager may, under the supervision of the Competition Authority, for the purpose of sharing its functions, enter into co-operation 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 agreements.

(5) The Competition Authority shall monitor the entry into and performance of the agreements specified in subsection (4) of this section and in justified cases advise that they be amended or terminated.


§ 497. 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 and which exercise control over both the railway infrastructure manager and a railway undertaking.

(3) It is not permitted for railway infrastructure managers 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 entity concerned.

(5) Any services offered by other legal entities of a vertically integrated undertaking to the infrastructure manager shall be provided on the basis of contracts and be paid either at market prices or at prices which reflect the cost of production and reasonable profit.

(6) The debt obligations of a railway infrastructure manager shall be kept clearly separate from the debt obligations of other legal entities within a 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 the compliance with 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. [RT I, 29.11.2018, 1 - entry into force 25.12.2018]

§ 49. Railway infrastructure manager’s guidelines for interaction

(1) A railway infrastructure manager shall compile 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 53 (1) of this Act. If necessary, representatives of rail transport users and state, regional and local authorities 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 applications specified in subsection 53 (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 50(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 § 51 1 of this Act;
4) issues of intermodality and interoperability;
5) other issues related to access to railway infrastructure, the conditions for its use 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 annually and publish on its website an overview of the activities undertaken pursuant to this section.

(6) Consultation under this section shall not restrict the right of the applicants specified in subsection 53 (1) of this Act to file appeals with the Competition Authority or the rights of the Competition Authority specified in §§ 64 and 641 of this Act. [RT I, 29.11.2018, 1 - entry into force 25.12.2018]

Chapter 6
ACCESS TO PUBLIC RAILWAY AND DISTRIBUTION OF RAILWAY CAPACITY

§ 50. Access to public railway

(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 the railway infrastructure. [RT I, 13.03.2014, 1 - entry into force 01.04.2014]

(11) The right specified in subsection (1) of this section shall also include access to infrastructure connecting maritime and inland ports and the service facilities specified in subsection 58(3) of this Act, and to infrastructure serving or potentially serving more than one final customer. [RT I, 24.03.2016, 1 - entry into force 01.04.2016]

(2) 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. First priority applies to railway undertakings engaging in public transport of passengers in international direct connection according to international agreements who comply with the terms and conditions of such agreements. [RT I, 24.03.2016, 1 - entry into force 01.04.2016]

(3) 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 railway infrastructure managers of the need to use domestic public transport of passengers by the end of the term provided for in
subsection 52 (1) of this Act. For domestic public transport of passengers, public service contracts shall be concluded with railway undertakings pursuant to the procedure provided for in the Public Transport Act.

[RT I, 24.03.2016, 1 - entry into force 01.04.2016]

(4) In order to be granted first or second priority provided for in subsection (2) or (3) of this section, railway undertakings must have been designated, at their request, as railway undertakings engaging in public transport of passengers pursuant to the procedure established on the basis of subsection 9 (2) of this Act.

[RT I, 13.03.2014, 1 - entry into force 01.04.2014]

(5) In order to organise operation on train paths which run through more than one railway network, railway infrastructure managers 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, railway infrastructure managers shall co-operate with the bodies of other states authorised to distribute capacity.

[RT I 2007, 66, 408 - entry into force 01.01.2008]

§ 50. The competent authority and a railway infrastructure manager shall conclude, if necessary, a contract for a term of at least five years which aim is to reduce the costs of providing infrastructure and user fees, with due regard to safety and to improving the quality of the service.

(1) The contract specified in subsection (1) of this section must be concluded if funds are allocated from the state budget to a railway infrastructure manager for ensuring the balance specified in subsection 49 (2) of this Act.

(3) Upon concluding the contract specified in subsection (1) of this section the competent authority 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 authority 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 infrastructure and service facilities, covering all aspects of 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, 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 published 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 methodology for determining user fees established pursuant to subsection 59 (8) 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 clause 34 (3) 9 of this Act, conditions for early termination of the contract specified in subsection (1) of this section due to irregularities and emergencies and informing of the users of the appropriate railway infrastructure;

9) remedial measures to be taken in exceptional circumstances affecting the availability of public funding and if either of the parties is in breach of its contractual obligations;

10) the conditions and procedures for renegotiation and termination of the contract.

[RT I, 24.03.2016, 1 - entry into force 01.04.2016]

§ 50. Cross-border agreement

(1) Cross-border agreement means any agreement between two or more European Union Member States or between European Union Member States and third countries 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 concluding and revising 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 enter into negotiations for the purpose of concluding or revising 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.
[RT I, 24.03.2016, 1 - entry into force 01.04.2016]

§ 51. Disclosure 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 timetabling period, a railway network statement conforming to § 51 of this Act in at least two official languages of the European Union. A railway infrastructure manager shall make the railway network statement available to interested persons on paper at the address approved by the Competition Authority and free of charge on its web portal not later than four months prior to the due date provided for in subsection 52 (1) of this Act. A railway infrastructure manager is required to update the information set out in the railway network statement, and amend it as necessary.
[RT I, 24.03.2016, 1 - entry into force 01.04.2016]

(1) A railway infrastructure manager shall submit all amendments to be made in the notice concerning railway network in connection with determination of user fees for railway infrastructure and in the cases provided in subsection 63 (11) of this Act to the Director General of the Consumer Protection and Technical Regulatory Authority for approval. The approval of the amendment or refusal to approve the amendment shall be decided by the Director General of the Consumer Protection and Technical Regulatory Authority or an official authorised thereby immediately.
[RT I, 13.03.2014, 1 - entry into force 01.04.2014]

(2) The volume of the capacity to be distributed 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 (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.

(3) [Repealed - RT I, 24.03.2016, 1 - entry into force 01.04.2016]

(4) A railway infrastructure manager has the right to collect a reasonable charge for issue of a railway network statement which shall not exceed the costs of printing and making the information available. A railway network statement shall be issued to the Consumer Protection and Technical Regulatory Authority and the Competition Authority free of charge.
[RT I 2007, 66, 408 - entry into force 01.01.2008]

(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. If incomplete or incorrect information is discovered in a railway network statement or the network statement has not been prepared in compliance with the requirements provided by this Act, the Consumer Protection and Technical Regulatory Authority and the Competition Authority have the right to issue a precept to the railway infrastructure manager for elimination of the deficiencies.
[RT I 2007, 66, 408 - entry into force 01.01.2008]

(6) A railway infrastructure manager is required to enter the amendments made pursuant to a precept specified in subsection (5) of this section in the railway network statement not later than within five days after receipt of the precept and, within the same term and at the railway infrastructure manager's expense, forward such amendments to all persons who, by such time, have received the notice concerning railway network.

§ 511. 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 capacity requests. A model agreement for entering into framework agreements between an infrastructure manager and an applicant for capacity in accordance with subsections 54 (3) and (4) of this Act shall be added to the railway network statement.

(2) The first section includes 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 under § 67 of this Act or a reference shall be made to such register.
[RT I, 16.05.2017, 1 - entry into force 19.05.2017]
(3) The second section includes appropriate details on the principles for determining user fees, information on the amount of user fees as well as other appropriate information concerning access applying to the services provided in the services facilities specified in § 58 and subsection 58²(1) of this Act provided by the railway infrastructure manager. In addition, detailed information shall be provided on 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 changes in user fees already decided upon or foreseen in the next five years, if available.

(4) The third section includes the principles and criteria for capacity allocation, 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 capacity allocation procedure:
1) the procedures for application for capacity;
2) the requirements for applicants for capacity;
3) the schedule for the application and allocation processes and the procedures which shall be followed to request information on the scheduling and the procedures 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 congestion and the priority criteria for capacity allocation which shall take account of the importance of a service to society relative to any other service which will be excluded;
6) details of 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 capacity.

(5) The fourth section includes information concerning the procedure for application for the operating licence specified in § 12 of this Act and for application for the safety certificate specified in § 21¹ 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) The fifth section includes information about procedures for dispute resolution and appeal relating to matters of access to railway infrastructure and services and to the performance scheme referred to in subsection 59 (1¹) of this Act.

(7) The sixth section includes information concerning access to and determination of user fees for the service facilities specified in subsection 58²(3) of this Act if the operator of the service facility is not a railway infrastructure manager. 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 publish in the railway network statement and shall review at least every five years a list of market segments in which persons are subjected to a mark-up conforming to subsection 59 (3¹) of this Act.
[RT I, 24.03.2016, 1 - entry into force 01.04.2016]

§ 52. Time-scheme for distribution of capacity

(1) A railway infrastructure manager shall determine and disclose in the railway network statement for each timetabling period the due date, which shall not be earlier than 12 months prior to the beginning of the respective timetabling period, for the submission of applications for the distribution of capacity.
[RT I, 27.02.2015, 1 - entry into force 09.03.2015]

(1¹) A railway infrastructure manager shall ensure that initial international train paths have been established in cooperation with other appropriate railway infrastructure managers no later than 11 months prior to the beginning of the timetabling period and these shall be observed during further proceedings to the highest possible extent.
[RT I, 27.02.2015, 1 - entry into force 09.03.2015]

(2) [Repealed - RT I, 24.03.2016, 1 - entry into force 01.04.2016]

(2¹) A decision on the distribution of railway capacity for a timetabling period shall be made no later than two months after the due date provided in subsection (1) of this section.
[RT I, 27.02.2015, 1 - entry into force 09.03.2015]
(3) A railway infrastructure manager shall prepare a draft timetable and disclose it on its website no later than four months after the due date provided in subsection (1) of this section.
[RT I, 27.02.2015, 1 - entry into force 09.03.2015]

(3) A railway infrastructure manager shall prepare a draft timetable and disclose it on its website no later than four months after the due date provided in subsection (1) of this section.
[RT I, 27.02.2015, 1 - entry into force 09.03.2015]

(3) 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.
[RT I, 24.03.2016, 1 - entry into force 01.04.2016]

(4) A timetable shall be approved no later than two months prior to the beginning of the timetabling period.
[RT I, 27.02.2015, 1 - entry into force 09.03.2015]

(4) A timetable shall be approved no later than two months prior to the beginning of the timetabling period.
[RT I, 27.02.2015, 1 - entry into force 09.03.2015]

(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.
[RT I, 13.03.2014, 1 - entry into force 01.04.2014]

(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 not later than five days after receipt of the precept and, within the same term and at the railway infrastructure manager's expense, forward such amendments to the persons having applied for capacity.
[RT I, 13.03.2014, 1 - entry into force 01.04.2014]

§ 53. Applicants for capacity

(1) Capacity may be applied for by railway undertakings who hold an operating licence for rail transport of passengers or goods and a safety certificate, international groupings of railway undertakings, competent authorities complying with Regulation (EC) No 1370/2007 of the European Parliament and of the Council on public passenger transport services by rail and by road and repealing Council Regulations (EEC) Nos 1191/69 and 1107/70 (OJ L 315, 3.12.2007, p. 1–13) as well as shippers, freight forwarders and combined transport operators with a public-service or commercial interest in procuring infrastructure capacity. Railway infrastructure managers have the right to apply for capacity in the case provided for in subsection 55 (2) of this Act.
[RT I, 24.03.2016, 1 - entry into force 01.04.2016]

(2) If an application is reviewed by the Consumer Protection and Technical Regulatory Authority pursuant to the procedure provided by this Act, the applicant for capacity shall pay the state fee for filing an application for capacity.
[RT I 2010, 8, 38 - entry into force 27.02.2010]

§ 53. Applying for capacity in another Member State

If an applicant specified in subsection 53 (1) of this Act intends to apply for capacity in order to provide rail transport services for 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 timetabling period, for which it applies for capacity.

§ 54. Timetable and timetabling period

(1) A timetable shall be established once per calendar year.
[RT I, 27.02.2015, 1 - entry into force 09.03.2015]

(1) A timetable shall be established once per calendar year.
[RT I, 27.02.2015, 1 - entry into force 09.03.2015]

(1) An adopted timetable may be amended only with the consent of the person to whom relevant capacity was allocated. An adopted timetable may be amended unilaterally in the part which relates to the allocation of undistributed capacity or renouncing of capacity if this is grounded and unavoidable.
[RT I, 24.03.2016, 1 - entry into force 01.04.2016]

(2) Railway infrastructure capacity shall be distributed based on a timetabling period which begins on the second Sunday in December. Railway infrastructure managers may agree on other dates of beginning or end of a timetabling period notifying the European Commission thereof if it affects international train traffic.
[RT I, 27.02.2015, 1 - entry into force 09.03.2015]
(3) A railway infrastructure manager may enter into a framework agreement for the use of railway capacity with an applicant for railway capacity for a term of up to five consecutive timetabling periods, setting out the obligations and rights of the parties in relation to the capacity and fees for a period longer than one timetabling period, whereas railway capacity shall be specified separately for each timetabling period in accordance with the provisions of the framework agreement. Framework agreements shall be renewable for periods equal to their original duration. The 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.

[RT I, 24.03.2016, 1 - entry into force 01.04.2016]

(4) Upon entering into framework agreements, a railway infrastructure manager may agree to a shorter or longer term than provided for in subsection (3) of this section. A railway infrastructure manager may enter into a contract for a longer term than provided for in subsection (3) of this section, which shall however not be longer than ten consecutive timetabling periods, only if the applicant for capacity presents a public service contract concluded for the entire term of the framework agreement or a corresponding contract with the owner of transported goods or has made long-term investments for rail transport and is able to present proof of such investments or if the applicant undertakes in writing to make long-term investments for rail transport and provides a written schedule for making such investments.

[RT I, 24.03.2016, 1 - entry into force 01.04.2016]

(5) It must be possible to amend the framework agreements specified in subsections (3) and (4) of this section if necessary and these shall not preclude the possibility of use of the capacity by other applicants for capacity.

[RT I, 24.03.2016, 1 - entry into force 01.04.2016]

(6) Before entering into the framework agreements specified in subsections (3) and (4) of this sections, 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 for in subsection (5) of this section or if entering into a framework agreement for a longer term than provided for in subsection (3) of this section is not justified in accordance with subsection (4) of this section or if the investments provided as a justification are not proven or adequate. In order to decide on approval of the framework agreement, the Competition Authority has the right to request additional information, clarifications and documents from the railway infrastructure manager.

[RT I, 24.03.2016, 1 - entry into force 01.04.2016]

(7) [Repealed - RT I, 24.03.2016, 1 - entry into force 01.04.2016]

§ 55. Capacity allocation and coordination process

(1) Railway infrastructure managers are required to satisfy, to the widest possible extent, applications for railway capacity submitted by railway undertakings, including the applications for train paths which run through more than one railway network. Prior to allocation of train paths running through more than one railway network, the relevant bodies authorised to allocate capacity shall co-ordinate their activity such that capacity may be allocated between the railway undertakings at the best possible terms and conditions.

(2) A railway undertaking 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 bodies authorised to distribute capacity.

(2 ¹) 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.

[RT I, 13.03.2014, 1 - entry into force 01.04.2014]

(3) After reviewing the applications, a railway infrastructure manager shall prepare a draft timetable which shall be made available to persons interested at the address provided in subsection 51 (1) of this Act. Interested persons have the right to present, within 30 days after the day on which a draft timetable is made available to the public, their opinions which shall be taken into consideration by the railway infrastructure manager as far as possible.

(4) 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.

[RT I 2010, 8, 38 - entry into force 27.02.2010]

(5) A coordination process for capacity allocation means the activity of the 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 a proposal for allocation of capacity to them suggesting reasonable limitations. In making the proposal, the railway infrastructure undertaking shall evaluate the possible repercussions of such proposal to the business of the applicants.

(51) 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 conforming to subsection (4) 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 (5) of this section;
4) full details of the criteria being used in the capacity-allocation process.

[RT I, 24.03.2016, 1 - entry into force 01.04.2016]

(52) Upon making the information specified in subsection (51) of this section available, applicants for capacity shall not be disclosed unless they have consented thereto.

[RT I, 24.03.2016, 1 - entry into force 01.04.2016]

(6) If applicants fail to come to an understanding, the railway infrastructure manager has the right to make a co-ordinating 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 co-ordination decision on its website. A co-ordinating decision shall be made within ten working days after the day on which the notice concerning preparation of the co-ordinating decision is published.

(7) In organising a co-ordination procedure and making a co-ordinating decision, a railway infrastructure manager is required to observe the procedure and principles for coordination process expressed in the railway network statement.

(8) Coordination process shall be organised in such manner that possible depletion of railway infrastructure capacity provided for in subsection 56 (1) of this Act could be foreseen at least ten months before the beginning of the next timetabling period.

§ 56. Depletion of railway infrastructure capacity

(1) If it becomes evident in the course of coordination process for capacity allocation 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 cargo volumes transported and to be transported thereon and growth in the demand for the offered rail transport.

[RT I, 13.03.2014, 1 - entry into force 01.04.2014]

(2) In the event of capacity depletion upon allocation thereof, 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 allocation of capacity in the event of capacity depletion in the railway network statement, and the railway infrastructure manager is required comply with such criteria and procedure.

(4) In the event of capacity depletion, capacity shall be allocated such that the maximum possible number of IM/RUs 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 59 (3) 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. In organisation of an auction for fees for capacity depletion, a railway infrastructure manager shall take into consideration the principle provided in subsection (4) of this section.

[RT I, 16.05.2017, 1 - entry into force 19.05.2017]
(6) In justified cases of capacity depletion, the 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. Selected criteria must be described and justified beforehand in the railway network statement and must conform to the principles provided for in subsection (4).

(7) A railway infrastructure manager shall use the access fees provided for 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 plan for increasing railway infrastructure capacity provided for in § 57 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.

[RT I 2007, 66, 408 - entry into force 01.01.2008]

(8) A railway infrastructure manager loses the right to collect the fee for capacity depletion specified in subsection (5) of this section from railway undertakings if the railway infrastructure manager fails to prepare the plan for increasing railway infrastructure capacity provided in § 57 of this Act by the required due date or fails to commence with the application of the measures set forth in the plan for increasing railway infrastructure capacity approved by the Consumer Protection and Technical Regulatory Authority, unless the railway infrastructure manager was unable to apply the measures set forth in the plan for increasing railway infrastructure capacity due to reasons independent of the railway infrastructure manager or the possible solutions were not feasible economically or financially.

[RT I, 16.05.2017, 1 - entry into force 19.05.2017]

(9) The railway network statement shall include, for the event of the circumstances specified in subsection (8) of this section, criteria and procedure for capacity allocation 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 for in subsection (4) of this section.

§ 57. Plan for increasing railway infrastructure capacity

(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.

(1') The capacity analysis shall take account of the infrastructure, the working order thereon, the nature of the types of services to be rendered 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, alterations in the speed and infrastructure improvements..

[RT I, 16.05.2017, 1 - entry into force 19.05.2017]

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

[RT I 2007, 66, 408 - entry into force 01.01.2008]

(3) A plan for increasing railway infrastructure capacity shall contain the following information:
1) reasons for capacity depletion;
2) expected developments in railway traffic at the time of implementation of the plan for increasing capacity;
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 applied for increase of capacity and a schedule for implementation thereof.

(4) The Consumer Protection and Technical Regulatory Authority has the right to refuse to approve a plan for increasing railway infrastructure capacity if the plan does not comply with the requirements provided for in subsection (3) of this section, and to set, by way of precept, the railway infrastructure manager a term for elimination of the deficiencies.

[RT I 2007, 66, 408 - entry into force 01.01.2008]

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

[RT I 2007, 66, 408 - entry into force 01.01.2008]

(6) If a railway infrastructure manager has not made the capacity analysis provided for in subsection (1) of this section within the term and has not applied reasonable efforts to increase railway infrastructure capacity on the basis of the results of the capacity analysis, the Consumer Protection and Technical Regulatory Authority has
§ 58. Basic services and extra services ensuring access and access support services

(1) A railway infrastructure manager shall provide all undertakings with the following basic services ensuring access defined as follows:

1) the review of applications for capacity means the compiling of a draft timetable by the person allocating railway infrastructure capacity on the basis of submitted applications taking into consideration the capacity volume subject to allocation and the preferences established in subsection 50 (2) 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, procedure in the case of depletion of capacity and approval of the timetable;
2) the grant of use of allocated railway capacity means the enabling of access to the railway infrastructure to the extent of the obtained railway capacity and the enabling of the use of railway capacity pursuant to the procedure provided for in the contract for the use of railway infrastructure, having regard to the provisions of this Act;
3) the review of applications for capacity means the compiling of a draft timetable by the person allocating railway infrastructure capacity on the basis of submitted applications taking into consideration the capacity volume subject to allocation and the preferences established in subsection 50 (2) 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, procedure in the case of depletion of capacity and approval of the timetable;
4) the grant of use of allocated railway capacity means the enabling of access to the railway infrastructure to the extent of the obtained railway capacity and the enabling of the use of railway capacity pursuant to the procedure provided for in the contract for the use of railway infrastructure, having regard to the provisions of this Act;
5) 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;
6) 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;
7) assistance in running special trains on the basis of a special contract.

(2) A railway infrastructure manager shall offer additional services ensuring access if an undertaking is unable to use other options. The 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 special trains on the basis of a special contract.
5) technical inspection of railway vehicles 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 the railway vehicles.  
[RT I 2010, 8, 38 - entry into force 27.02.2010]

6) ticketing services in passenger stations;  
7) maintenance services supplied in maintenance facilities dedicated to high-speed trains or to other types of railway vehicles requiring specific facilities;  
8) access to telecommunication networks;  
9) provision of additional information.  
[RT I, 24.03.2016, 1 - entry into force 01.04.2016]

§ 58¹. Service facility and operator of service facility

(1) Service facility means for the purposes of this Act a facility specified in subsection (3) of this section, its ground area, building and equipment, which is used, as a whole or in part, to provide appropriate services and the services specified in subsections 58 (2) and (3) of this Act.

(2) Operator of service facility means an undertaking who manages one or more service facilities or provides an appropriate service or the service specified in subsection 58 (2) or (3) of this Act in one or more service facilities specified in subsection (3) of this section to a railway undertaking.

(3) The service facilities are the following buildings:
1) passenger stations, their buildings and other service facilities for passengers, travel information display 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 facilities where such maintenance is provided to high-speed trains or to other types of 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;  
9) refuelling facilities and supply of fuel in these facilities, charges for which shall be shown on the invoices separately.

(4) If an operator of any of the service facilities specified in clauses (3) 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 operator of the service facility must be organised so that it is independent from such undertaking organisationally and in terms of decision-making. The requirement of independence shall be deemed fulfilled if separate structural units have been created for such activities within the company and such units have separate accounting.

(5) If operation of a service facility is ensured by a railway infrastructure manager or if an operator of a service facility is under the direct or indirect control of a railway infrastructure manager, the requirement of independence shall be deemed fulfilled if the corresponding railway infrastructure manager itself is independent from all railway undertakings in terms of its legal form, organisation and decision-making.  
[RT I, 24.03.2016, 1 - entry into force 01.04.2016]

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

(1) Operators of service facilities shall ensure that all railway undertakings have access in a non-discriminatory manner to railway and the service facilities specified in subsection 58¹ (3) of this Act 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 by the operator of the service facility within 30 days after receipt of the application. In justified cases and upon the receipt of a corresponding request, the Competition Authority may determine 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. Submission of an application for access shall not oblige the operator of a service facility to make investments in order to accommodate all requests by railway undertakings.

(4) If an operator of a service facility is an IM/RU specified in subsection 58¹ (4) or (5) of this Act, the operator of the service facility shall justify its decision of rejection in writing and indicate which viable alternatives exist in other facilities.

(5) If an operator of a service facility finds that different applications overlap, it shall try to satisfy all the applications to the greatest extent possible. If a viable alternative cannot be found and all the applications related
to the appropriate 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.

(6) If a service facility specified in subsection §81(3) of this Act has not been used for two subsequent years and railway undertakings have expressed their wish to the operator of the service facility or the owner of the service facility to obtain access to the facility and have proven their need for access, the 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.

(7) There is no obligation to publish the notice specified in subsection (6) of this section if the operator of the service facility proves that the railway undertaking cannot use it due to the current reorganisation operations.

§ 59. Contract for use of and user fee for railway infrastructure

(1) A railway undertaking to whom railway capacity is allocated and the railway infrastructure manager shall, by the beginning of a timetabling 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. Such contract shall be concluded in writing. In determining the conditions for use, the nature and duration of the service, the market situation and the degree of depreciation of the railway infrastructure, and the composition, condition and operating velocity of the railway vehicles shall be taken into account.

[RT I, 24.03.2016, 1 - entry into force 01.04.2016]

(1') A performance scheme, which is effective to the extent of the entire network and which aims to stimulate 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 network, compensation for undertakings which suffer from disruption and bonuses that reward better-than-planned performance.

[RT I, 24.03.2016, 1 - entry into force 01.04.2016]

(1‘) The basic principles of the performance scheme specified in subsection (1') of this section are listed in point 2 of Annex VI of Directive 2012/34/EU of the European Parliament and of the Council.


(2) If a railway undertaking who was granted priority in the capacity allocation process and the railway infrastructure manager fail to reach an agreement on the terms and conditions for the use of railway infrastructure for a timetabling period or a calendar year, 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 timetabling period or calendar year until a new agreement is reached. If a railway undertaking to whom priority is granted for the first time fails to reach an agreement with the railway infrastructure manager concerning the terms and conditions for the use of railway infrastructure, the Director General of the Consumer Protection and Technical Regulatory Authority shall determine 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.

[RT I, 13.03.2014, 1 - entry into force 01.04.2014]

(3) The user fee for railway infrastructure for basic services ensuring access and for use of infrastructure connecting service facilities shall consist of the direct costs of the railway infrastructure manager for such services. The methodology for calculating direct costs have been established in the Commission Implementing Regulation (EU) 2015/909 on the modalities for the calculation of the cost that is directly incurred as a result of operating the train service (OJ L 148, 13.6.2015, p. 17–22).

[RT I, 24.03.2016, 1 - entry into force 01.04.2016]

(3’) In addition to the user fee for basic services ensuring access, mark-ups may be established 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. The mark-ups, which must take account of the productivity increases achieved by railway undertakings, together with direct expenses shall not exceed the costs associated with the provision of basic services ensuring access together with reasonable operating profit. The principles for determining mark-ups shall be established by the minister responsible for the area in the methodology for calculation of user fees for railway infrastructure specified in subsection (8) of this section.

[RT I, 24.03.2016, 1 - entry into force 01.04.2016]

(3’) Upon amendment of the principles for determining mark-ups specified in subsection (3’) of this section, a railway infrastructure manager must make these amendments available at least three months before the publication of the railway network statement.
(3) For the carriage of goods to and from third countries, an infrastructure manager may, in order to obtain full recovery of the costs incurred, establish higher user fees which together with direct expenses shall not exceed the costs associated with the provision of basic services ensuring access together with reasonable operating profit.

(4) Basic services ensuring access can be ordered only as a complete set of the types of services listed in subsection 58 (1) of this Act. The user fee for railway infrastructure for basic services ensuring access includes the rendering of all the services listed in subsection 58 (1) of this Act.

(5) If the additional and ancillary services for access specified in subsections 58 (2) and (3) of this Act are provided on a train path only by a single provider, the user fees for additional and ancillary services for access shall not exceed the total costs of providing it. 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.

(6) A railway undertaking is entitled to order the types of additional services ensuring access and access ancillary services [specified in subsections (2) and (3) of § 58 of this Act separately, according to necessity. A separate user fee shall be charged for each type of additional services ensuring access and access ancillary services. If a railway infrastructure manager chooses not to provide a specific additional service ensuring access in the case provided for in subsection 58 (2) of this Act or if a railway infrastructure manager and a railway undertaking fail to reach an agreement on the provision of a specific access ancillary service, no fee shall be charged for such additional service ensuring access or access ancillary service.

(7) The user fee for railway infrastructure for the grant of use of single railway capacity intended for specific purposes consists of the railway infrastructure manager's direct expenses for such service which may be added mark-ups specified in subsection (3) of this section. 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.

(8) Being guided by the provisions of this Act, user fees for railway infrastructure for basic services and additional services ensuring access and access ancillary services and user fees for single railway capacities intended for specific purposes and for use of service facilities as well as mark-ups for basic services ensuring access shall be determined on the basis of the methodology for calculation of user fees for railway infrastructure established by the minister responsible for the area. On account of the fees specified in this subsection railway infrastructure managers and operators of service facilities shall finance their economic operation.

(9) In the case of train traffic crossing more than one railway network of the rail system within the European Union, railway infrastructure managers shall cooperate in order to enable the application of efficient schemes for charging user fees, to co-ordinate the charging of user fees and to implement the performance scheme specified in subsection 59 (11) of this Act.

(10) Railway infrastructure managers and operators of service facilities are required to submit all necessary information concerning the established user fees to the Competition Authority so that the Competition Authority could perform the functions specified in subsection 64 (1) of this Act.

(11) 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.

§ 59. Reservation fee

(1) For capacity that is allocated but not used, a railway infrastructure manager may charge a reservation fee from an applicant for capacity in order to encourage more efficient use of capacity.
(2) If a railway undertaking has regularly failed to use a train path or a part thereof in the railway capacity allocated thereto, a railway infrastructure manager shall demand the fee specified in subsection (1) of this section from the applicant for capacity.

(3) The principles for failure to use allocated capacity shall be published in the railway network statement specified in § 51 of this Act.

[RT I, 24.03.2016, 1 - entry into force 01.04.2016]

§ 60. Use of railway capacity

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

(1') Use by a railway undertaking of railway capacity allocated to the applicant specified in subsection 53 (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 railway capacity.

[RT I, 24.03.2016, 1 - entry into force 01.04.2016]

(2) In the case of capacity depletion, the railway infrastructure manager has the right to withdraw railway capacity from a railway undertaking who has failed to use, within at least one month, the railway 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 railway capacity due to reasons independent of the railway undertaking.

(3) A railway infrastructure manager shall publish a notice concerning withdrawn railway capacity on its website and shall set a term for submission of applications for the withdrawn railway capacity in the notice. Such term shall not be shorter than ten working days. If several applicants wish to be granted withdrawn railway capacity, the provisions of subsections 55 (4)–(7) of this Act apply to the allocation thereof. In the case of capacity depletion, the provisions of subsections 56 (2), (3), (5), (6), (8) and (9) of this Act apply to allocation of withdrawn railway capacity.

§ 61. Allocation of single railway capacities 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 capacities intended for specific purposes. Single railway capacity intended for specific purposes means a reserve capacity of the entire volume of the 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, for instance for test-driving of railway vehicles, transport of railway vehicles to repairs, conducting of practical driving test or organisation of driving practice for locomotive drivers, or

2) for a rail transport operation not specified in the timetable approved for the timetabling period, for instance 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.

[RT I, 13.03.2014, 1 - entry into force 01.04.2014]

(2) 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. In preparation of an annual timetable, a railway infrastructure manager shall take into account the need to satisfy such applications under ordinary conditions as well as in the event of capacity depletion.

(3) If an explanation is provided to reason the objective urgency of the application, a railway infrastructure manager shall, if there is capacity, allocate single railway capacity intended for specific purposes within two twenty-four hour periods after receipt of the application and notify the person having applied for the railway capacity thereof.

[RT I 2010, 8, 38 - entry into force 27.02.2010]

§ 62. Unallocated capacity

A railway infrastructure manager shall provide information on its website concerning railway capacity which has not been allocated due to absence of applications by the end of the term provided for in subsection 52 (1) of this Act or due to other reasons. If a railway infrastructure manager receives an application for such railway capacity, the railway infrastructure manager has the right to satisfy the application immediately.

[RT I 2010, 8, 38 - entry into force 27.02.2010]
§ 63. Consumer Protection and Technical Regulatory Authority as body authorised to allocate capacity

[RT I 2007, 66, 408 - entry into force 01.01.2008]

(1) The Consumer Protection and Technical Regulatory Authority shall decide on the determination of user fees for railway infrastructure and mark-ups on the basis of the methodology for calculation of user fees for railway infrastructure established on the basis of subsection 59 (8) of this Act and the accounting data of the railway infrastructure manager and shall collect user fees. If a railway infrastructure manager is independent from a railway undertaking in terms of legal form, organisation or decision-making, it shall collect user fees itself.

[RT I, 24.03.2016, 1 - entry into force 01.04.2016]

(1) A railway infrastructure manager shall transfer the activities specified in subsection (2) of this section to the Consumer Protection and Technical Regulatory Authority if it is not independent from a railway undertaking as regards the legal form, organisation or decision-making.

[RT I, 13.03.2014, 1 - entry into force 01.04.2014]

(2) In distribution of capacity, the Consumer Protection and Technical Regulatory Authority shall:
1) review the railway network statement prepared by the railway infrastructure manager and decide on approval or refusal to approve the railway network statement;
2) review the draft railway network statement prepared by the railway infrastructure manager and make corrections if necessary in conformity with the requirements established in the legislation;
3) organise the coordination process and make a co-ordinating decision;
4) if necessary, declare capacity to be depleted;
5) organise capacity allocation in the event of capacity depletion and make a decision on capacity allocation in the event of capacity depletion;
6) instruct the railway infrastructure manager in preparation of draft timetables;
7) review the opinions presented on draft timetables and make suggestions to the railway infrastructure manager on taking them into consideration;
8) evaluate timetables and decide on approval of timetables or refusal to approve timetables;
9) [repealed - RT I, 13.03.2014, 1 - entry into force 01.04.2014]
10) review the applications submitted for single railway capacities intended for specific purposes and decide on the allocation of such unallocated railway capacity.

[RT I 2010, 8, 38 - entry into force 27.02.2010]

(3) [Repealed - RT I 2007, 66, 408 - entry into force 01.01.2008]

(4) [Repealed - RT I 2007, 66, 408 - entry into force 01.01.2008]

(5) For allocation of railway capacity to IM/RUs specified in subsection (1) of this section, information concerning allocated railway capacities and details of access to railway infrastructure provided for in subsection 59 (1) of this Act shall be documented in the decision of the Director General of the Consumer Protection and Technical Regulatory Authority or an official authorised thereby.

[RT I, 04.07.2011, 3 - entry into force 14.07.2011]

(6) The decisions made on the basis of subsections (1), (2) and (5) of this section and other essential information regarding capacity allocation shall be immediately forwarded to the railway infrastructure manager.

[RT I, 13.03.2014, 1 - entry into force 01.04.2014]

(6) A railway infrastructure manager shall submit a draft railway network statement to the Consumer Protection and Technical Regulatory Authority for a review one year before the beginning of a timetabling period. If the draft railway network statement does not conform to the requirements established by legislation and needs immediate specification, the Consumer Protection and Technical Regulatory Authority has the right to approve the railway network statement with notations.

[RT I 2010, 8, 38 - entry into force 27.02.2010]

(7) A railway infrastructure manager shall prepare a draft timetable and the timetable to be submitted for approval on the basis of received applications, the instructions and proposals issued by the Consumer Protection and Technical Regulatory Authority, the coordination process carried out by the Consumer Protection and Technical Regulatory Authority and the decisions of the Director General of the Consumer Protection and Technical Regulatory Authority or an official authorised thereby. The Director General of the Consumer Protection and Technical Regulatory Authority or an official authorised thereby has the right to refuse to approve a timetable which does not conform to the decisions passed or has other deficiencies, and to set the railway infrastructure manager a date for elimination of the deficiencies.

[RT I, 04.07.2011, 3 - entry into force 14.07.2011]
Chapter 6
MONITORING OF COMPETITIVE SITUATION IN RAIL SERVICES MARKET AND PROCESSING OF COMPLAINTS

§ 64. 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 legal measures to remove discriminating or otherwise unfair treatment in the rail services market. 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 64(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.

(21) In the framework of cooperation specified in subsection (1) of this section, the Competition Authority shall, together with regulatory bodies of other Member States, develop common principles and practices for use of the decision-making rights granted thereto, including also an agreement on resolution of such disputes which arise from the procedure provided in subsection 64(2) of this Act.

(3) 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 railway market. In the framework of such cooperation the Competition Authority shall give recommendations on the circumstances that may affect competition in the railway market and the Consumer Protection and Technical Regulatory Authority shall give recommendations on the circumstances that may affect safety.

(4) Without prejudice to the independence of the authorities specified in subsection (3) 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.

(5) 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 market.

(6) 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 53 (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.

(7) 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.

(8) The Competition Authority shall monitor compliance with the requirements provided for cash flows specified in subsections (1) and (2), loans specified in subsection (4) and debts specified in subsection (6) of § 49 and loans specified in subsection 115 (10) of this Act.

§ 641. Processing of complaints

(1) An IM/RU shall submit a written complaint to the Competition Authority if it finds that:
1) a railway infrastructure manager has treated the IM/RU in an unfair manner in the approval of the notice concerning railway network, distribution of capacity, organisation of the co-ordination procedure, declaration of capacity to be depleted, preparation of a timetable, organisation of traffic management, planning of renewals, carrying out of maintenance or determination of user fees;

2) the Consumer Protection and Technical Regulatory Authority has treated the IM/RU in a discriminating or otherwise unfair manner in carrying out the acts specified in subsection 63 (2) of this Act;
3) [repealed - RT I, 24.03.2016, 1 - entry into force 01.04.2016]
4) a railway infrastructure manager has, in enabling access to railway infrastructure and services, or an operator of service facilities has, in enabling access to service facilities or charging of user fees, treated the IM/RU in a discriminating or otherwise unfair manner;
5) the fees determined by the Consumer Protection and Technical Regulatory Authority do not comply with the requirements of this Act.
[RT I, 24.03.2016, 1 - entry into force 01.04.2016]
6) a railway infrastructure manager fails to comply with the requirements provided in §§ 49 and 49 to 49° of this Act or has acted in a situation of conflict of interests.

(2) The Competition Authority shall review a complaint, request additional appropriate information if necessary and commence consultations with the parties within one month after receipt of the complaint and 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 by setting a reasonable term therefor.
[RT I, 24.03.2016, 1 - entry into force 01.04.2016]

(2') 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.
[RT I, 24.03.2016, 1 - entry into force 01.04.2016]

(2") If the Competition Authority is being contacted by a regulatory authority of another Member State for the purpose of consultation in connection with the complaint specified in subsection (21) 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 a matter connected with the complaint referred to in subsection (21) or with an investigation.
[RT I, 16.05.2017, 1 - entry into force 19.05.2017]

(2") If matters concerning an international service 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.

(3) If the person who has submitted a complaint to the Competition Authority does not agree with the decision of the Competition Authority, the person has the right of recourse to an administrative court.

(4) If a decision for capacity allocation is contested, railway capacity shall be used pursuant to the contested decision until the dispute is settled.

(5) If a decision of the Consumer Protection and Technical Regulatory Authority specified in clauses 63 (2) 1)–9) of this Act is annulled or declared invalid, the railway undertaking or other possessor of railway vehicles has the right to demand compensation only for direct proprietary damage.
[RT I 2010, 8, 38 - entry into force 27.02.2010]

Chapter 7
RAIL TRANSPORT REQUIREMENTS

§ 65. Transport rules
(1) Railway undertakings shall 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 the transport of passengers or goods based on the types of goods or railway vehicles. Transport rules shall set out, inter alia, the following:
[RT I, 13.03.2014, 1 - entry into force 01.04.2014]
1) the procedure for determination, establishment and amendment of charges;
2) the procedure for notification of amendments of charges;
3) the procedure for the processing of complaints by the users of transport of passengers or goods;
[RT I, 13.03.2014, 1 - entry into force 01.04.2014]
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.
(2) A railway undertaking shall submit the transport rules provided for in subsection (1) of this section or any amendments thereto to the Consumer Protection and Technical Regulatory Authority for approval. The Consumer Protection and Technical Regulatory Authority shall notify the Competition Authority of the transport rules and amendments thereto. The Consumer Protection and Technical Regulatory Authority shall decide to approve or refuse to approve the transport rules or amendments thereto within 30 days after receipt of an application to this effect from a railway undertaking. [RT I 2007, 66, 408 - entry into force 01.01.2008]

(3) The Consumer Protection and Technical Regulatory Authority may refuse to approve transport rules or amendments thereto, or require their amendment or revocation if such rules are contrary to laws, other legislation or good rail transport practices. [RT I 2007, 66, 408 - entry into force 01.01.2008]

(4) A railway undertaking shall publish the transport rules or amendments thereto on its website or in a publication approved by the Competition Authority before entry into force of the rules or amendments. [RT I 2007, 66, 408 - entry into force 01.01.2008]

(5) The transport rules or amendments thereto enter into force after approval thereof by the Consumer Protection and Technical Regulatory Authority but not earlier than 45 days after the day on which the transport rules and amendments thereto are made available to the public. [RT I 2007, 66, 408 - entry into force 01.01.2008]

§ 66. Safety adviser for rail transport of hazardous goods

(1) Rail transport of hazardous goods shall be performed only under the supervision of a safety adviser who meets the requirements set by the Chemicals Act.

(2) Rail transport of hazardous goods shall be carried out in adherence to the requirements of the Regulations Concerning the International Carriage of Dangerous Goods by Rail (RID), which is an Annex to the Convention concerning International Carriage by Rail (COTIF) entered into force in 1980, and the requirements of the Agreement on International Goods Transport by Rail (SMGS).

Chapter 7
INTEROPERABILITY OF RAIL SYSTEMS

[RT I 2005, 38, 298 - entry into force 17.07.2005]

§ 661. Procedure for taking subsystem into use and type-approval

[RT I, 13.03.2014, 1 - entry into force 01.04.2014]

(1) The taking of a subsystem into use means a procedure as a result of which the Consumer Protection and Technical Regulatory Authority confirms that specific railway civil engineering works or railway vehicles ensure interoperability of conventional and high-speed railways and comply with the requirements established on the basis of subsection (5) of this section and, in order to confirm this, the Consumer Protection and Technical Regulatory Authority issues an authorisation for use of the railway civil engineering works and an initial authorisation for placing in service and an additional authorisation for placing in service of railway vehicles.

(2) The type-approval of railway vehicles means a procedure as a result of which the Consumer Protection and Technical Regulatory Authority confirms that the type of railway vehicles complies with the requirements established on the basis of subsection (5) of this section. [RT I, 29.11.2018, 1 - entry into force 25.12.2018]

(3) The Consumer Protection and Technical Regulatory Authority shall not hinder or restrict the taking into use of a structural subsystem which complies 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) during the inspection of conformity to the same requirements under the same conditions of operation demanded by a competent authority of another Member State.

(4) In order to conduct technical expert assessments and tests for type-approval of railway vehicles, the Consumer Protection and Technical Regulatory Authority may demand from the applicant the ordering of such activities from a competent institution conducting expert assessments. The type-approval of railway vehicles and associated activities shall be performed at the expense of the manufacturer of the railway vehicles, the official representative thereof or the importer.
(5) The technical specifications of, requirements for and procedure for introduction of subsystems and interoperability constituents and the procedure for and conditions of type-approval of railway vehicles shall be established by a regulation of the minister responsible for the area.

(6) A state fee shall be paid for the review of applications for the initial authorisation for placing in service and the additional authorisation for placing in service of railway vehicles.

§ 66. Placement of railway vehicles in service

(1) An initial authorisation for placing in service is issued upon initial placing of railway vehicles in service. If the Consumer Protection and Technical Regulatory Authority so decides, an additional authorisation for placing in service shall be applied for in addition to the existing authorisation for placing in service, in particular if due to partial validity of or existence of exceptions in the technical specification for interoperability compliance with the same valid requirements have not been verified yet, including if:

1) railway vehicles are being placed in service for which an authorisation for use has been issued in another Member State of the European Union on the basis of domestic technical requirements, which differ from the current requirements in Estonia;
2) railway vehicles are being placed in service for which an authorisation for use has been issued in another Member State of the European Union on the basis of requirements established in the technical specification for interoperability, concerning which a derogation applies to Estonia;
3) existing railway vehicles are being renovated or reconstructed and the compliance of the changed part of the railway vehicles to the requirements must be verified;
4) the placing of railway vehicles in service changes the overall level of safety of railway traffic.

(2) If the Consumer Protection and Technical Regulatory Authority authorises the placing in service of railway vehicles, the use of the type of such railway vehicles in Estonia is also deemed to be authorised. Upon placing in service of railway vehicles corresponding to the type of railway vehicles already in service in Estonia the Consumer Protection and Technical Regulatory Authority authorises the placing in service of railway vehicles on the basis of a certificate of conformity presented by the applicant without additional technical assessment. If technical requirements have changed after authorising the placing of a type of railway vehicles in service, the Consumer Protection and Technical Regulatory Authority shall decide whether or not the applicant for placing in service must order an additional technical assessment for the type of railway vehicles from a competent institution conducting expert assessments concerning the changed requirements. The results of the additional technical expert assessment will be taken into account only in Estonia upon subsequent placing in service of railway vehicles of such railway vehicles type.

(3) For the issue of an initial authorisation or additional authorisation for placing in service of railway vehicles, the Consumer Protection and Technical Regulatory Authority shall be presented with an application and the documents specified in the regulation established on the basis of subsection 66(5) of this Act.

(4) The Consumer Protection and Technical Regulatory Authority shall make a decision on railway vehicles complying with the technical specification for interoperability within two months after receipt of the application or, if necessary, extend the making of the decision by one month after receipt of the requested additional information or the results of the technical expert assessment from the applicant.

(5) The Consumer Protection and Technical Regulatory Authority shall make a decision on railway vehicles not complying with the technical specification for interoperability within four months after receipt of the application. Upon processing an additional authorisation for placing in service the Consumer Protection and Technical Regulatory Authority may if necessary extend the making of the decision by two months after receipt of the requested additional information, risk analysis or the results of the technical expert assessment from the applicant.

(6) If the Consumer Protection and Technical Regulatory Authority has failed to decide on authorising or not authorising the placing of railway vehicles in service within the time limits specified in subsections (4) and (5) of this section and three months have passed from the end of the time limit for processing, the authorisation for use of railway vehicles is considered granted. In such case the interested party shall notify the European Railway Agency thereof before placing the railway vehicles in service.

(7) The time limit for adjudication of a challenge filed on the basis of the administrative procedure provided in this section is two months from filing the challenge with the Consumer Protection and Technical Regulatory Authority.

[RT I, 13.03.2014, 1 - entry into force 01.04.2014]
§ 66. Conformity assessment body

[RT I, 13.03.2014, 1 - entry into force 01.04.2014]

(1) The certification of compliance of a subsystem and interoperability constituent with the requirements shall be organised by the conformity assessment body within the meaning of the Product Conformity Act.

(2) The Product Conformity Act, with the specifications arising from this Act, applies to the grant to a person of 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.

[RT I, 13.03.2014, 1 - entry into force 01.04.2014]

§ 66. Assessment of conformity of subsystems and interoperability constituents

[RT I, 13.03.2014, 1 - entry into force 01.04.2014]

(1) The conformity of a subsystem to the requirements shall be attested by the conformity assessment body by means of a certificate of conformity granted for the subsystem.

(2) The conformity of an interoperability constituent to the requirements shall be attested by the manufacturer or an authorised representative thereof or the importer in the European Union market by means of a declaration of conformity granted for the interoperability constituent or by the conformity assessment body by means of a certificate of conformity granted for the interoperability constituent.

(3) The procedure for assessment and attestation of conformity of subsystems and interoperability constituents to technical requirements and the technical requirements for subsystems and interoperability constituents and the conditions for compliance therewith shall be established by a regulation of the minister responsible for the area.

[RT I, 13.03.2014, 1 - entry into force 01.04.2014]

Chapter 7

WORKING AND REST TIME CONDITIONS OF MOBILE WORKERS ENGAGED IN INTEROPERABLE CROSS-BORDER SERVICES WITHIN THE LIMITS OF EUROPEAN UNION MEMBER STATES

[RT I, 29.11.2010, 1 - entry into force 09.12.2010]

§ 66. Scope of application

(1) The provisions of this Chapter apply to railway workers who are mobile within the limits of the European Union and are employed in interoperable cross-border services managed by IM/RUs.

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

(3) The provisions of this Chapter do not apply to trains on such cross-border lines, where the starting and terminal points are located on the infrastructure of the same Member State and which use the infrastructure of another Member State without stopping therein.

[RT I, 29.11.2010, 1 - entry into force 09.12.2010]

§ 66. Rest time of locomotive crew during working day

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

(2) A rest time during a working day shall be adequate for having a rest. In the case of delays of trains, adjustments may be made in the rest times during a working day.

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

(4) This section does not apply if there is another locomotive crew.

[RT I, 29.11.2010, 1 - entry into force 09.12.2010]
§ 66. Daily rest time at place of residence

(1) The duration of a daily rest time spent at the place of residence 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 at the place of residence.

(3) A shortened daily rest time cannot be determined between two daily rest times spent outside the place of residence.
[RT I, 29.11.2010, 1 - entry into force 09.12.2010]

§ 66. Daily rest time outside place of residence

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

(2) The daily rest time outside the place of residence shall be followed by the daily rest time at the place of residence.
[RT I, 29.11.2010, 1 - entry into force 09.12.2010]

§ 66. 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 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), which includes a Saturday and Sunday, and
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.
[RT I, 29.11.2010, 1 - entry into force 09.12.2010]

§ 66. Driving time

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

(2) The maximum duration of driving time in a 2-week period may not exceed 80 hours.
[RT I, 29.11.2010, 1 - entry into force 09.12.2010]

§ 66. Recording of working time

The employer shall keep a record of the workers' working time, setting out daily work and rest hours. The records of working time shall be preserved for at least one year.
[RT I, 29.11.2010, 1 - entry into force 09.12.2010]

Chapter 8
RAILWAY TRAFFIC REGISTER

§ 67. Railway traffic register

(1) The main function of the railway traffic register is to keep a record of railway civil engineering works and railway vehicles, locomotive driver's licences and certificates, safety certificates, operational safety certificates and safety authorisations. 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.
[RT I, 13.03.2014, 1 - entry into force 01.04.2014]

(2) 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, 17.02.2011, p. 33–54).
[RT I, 13.03.2014, 1 - entry into force 01.04.2014]

(2 1) 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 to
(2²) 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 repeated placing in service of railway civil engineering works which are not in use, a corresponding notice shall be submitted to the Consumer Protection and Technical Regulatory Authority together with a report on inspection of the compliance of the railway infrastructure to the requirements.

[RT I, 13.03.2014, 1 - entry into force 01.04.2014]

(2³) The Consumer Protection and Technical Regulatory Authority shall refuse to register railway vehicles or railway civil engineering works not complying with the requirements.

[RT I, 13.03.2014, 1 - entry into force 01.04.2014]

(2⁴) The Consumer Protection and Technical Regulatory Authority shall revoke a registration if:
1) the owner or possessor of railway vehicles or railway civil engineering works submits an application for revocation;
2) the building of railway civil engineering works has not been commenced on the basis of a building permit or written consent for railway civil engineering works within two years;
3) the railway civil engineering works placed in service anew as provided for in subsection (2²) of this section do not comply with the requirements.

[RT I, 13.03.2014, 1 - entry into force 01.04.2014]

(3) [Repealed - RT I 2010, 8, 38 - entry into force 27.02.2010]

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

[RT I, 13.03.2014, 1 - entry into force 01.04.2014]

(4¹) 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 mm or 1524 mm, 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 Estoniaand 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.

[RT I, 13.03.2014, 1 - entry into force 01.04.2014]

(5) Types and models of railway vehicles introduced in Estonia for the first time shall be examined and tested prior to their entry into the register in order to attest their compliance with the requirements established for railway vehicles. The Consumer Protection and Technical Regulatory Authority has the right to refuse to register a tested railway vehicle if its type or model does not comply with the established requirements. The Consumer Protection and Technical Regulatory Authority shall determine the testing conditions, including the testing area and the length of the test journey, taking into account the intended purpose of the type or model of the corresponding railway vehicle.

[RT I 2007, 66, 408 - entry into force 01.01.2008]

(6) Prior to submission of an application for registration of railway vehicles or railway civil engineering works, 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. In the application, an applicant shall provide information regarding payment of the state fee.

[RT I, 13.03.2014, 1 - entry into force 01.04.2014]

(7) The railway traffic register and the statutes for the maintenance of the railway traffic register shall be established by the Government of the Republic pursuant to the procedure provided in the Public Information Act.

[RT I 2007, 12, 66 - entry into force 01.01.2008]

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

[RT I 2007, 66, 408 - entry into force 01.01.2008]
(9) The railway traffic register is maintained as a single-level electronic database.

§ 68. 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 locomotive driver's licences and certificates database;
4) the safety certificates, operational safety certificates and safety authorisations database.

(2) Railways, railway bridges and railway viaducts, 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.

(3) Railway vehicles specified in clause 3 8) of this Act used for rail traffic are registered in the railway vehicles database. The following information shall be entered in the railway vehicles database:
1) the railway vehicles number;
2) the technical data, manufacturer and year of manufacture of the railway vehicles;
3) information concerning the owner or other possessor of the railway vehicles;
4) information concerning the unit responsible for maintenance;
5) information concerning precepts issued by the Consumer Protection and Technical Regulatory Authority.

(4) The following information shall be entered in the locomotive driver's licences and certificates database:
1) information concerning the locomotive driver's licence;
2) information concerning the revocation, suspension and restoration of the right to drive;
3) information concerning the certificate;
4) information concerning the locomotive driver's training and evaluation of knowledge.

(4 1) Information on the safety certificate and safety authorisation issued to an IM/RU shall be entered in the safety certificates, operational safety certificates and safety authorisations database.

(5) 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 law.

§ 69. Persons who submit information to railway traffic register

(1) 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 for in clauses 68 (2) 2)–7) of this Act;
2) the owner or possessor of railway vehicles as regards information provided for in clauses 68 (3) 2)–3) of this Act;
3) the IM/RU as regards information provided for in clause 68 (4) 3) of this Act;
4) the trainer or examiner as regards information provided for in clause 68 (4) 4) of this Act;
5) the Consumer Protection and Technical Regulatory Authority as regards information provided for in clauses (2) 8), (3) 1), (4 1) and 5), and (4 1) and 2) and subsection (4 1) of § 68 this Act.
(2) A person who submits information to the railway traffic register shall be responsible for the correctness of submitted information.

§ 69. 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.
[RT I, 13.03.2014, 1 - entry into force 01.04.2014]

§ 70. Railway civil engineering works and railway vehicles not registered in railway traffic register

[RT I, 13.03.2014, 1 - entry into force 01.04.2014]

(1) It is prohibited to use railway civil engineering works which have not been registered in the railway traffic register upon organising railway traffic.
[RT I, 13.03.2014, 1 - entry into force 01.04.2014]

(2) The use of railway vehicles which have not been registered in a European Union Member State in rail traffic is prohibited. Railway vehicles registered outside the Member States of the European Union may be used by IM/RLUs operating in Estonia for rail transport pursuant to international agreements. Railway vehicles which have not been registered may be used in rail traffic only in the following cases:
[RT I, 13.03.2014, 1 - entry into force 01.04.2014]
1) for taking a railway vehicle which enters the territory of Estonia for the first time from the border to its destination (home station);
2) for testing a railway vehicle under the supervision of the Consumer Protection and Technical Regulatory Authority in the case provided for in subsection 67 (5) of this Act.
[RT I 2007, 66, 408 - entry into force 01.01.2008]

Chapter 9
STATE SUPERVISION

Division 1
[Title omitted - RT I, 13.03.2014, 4 - entry into force 01.07.2014]

§ 71. State supervision

[RT I, 13.03.2014, 4 - entry into force 01.07.2014]

(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 Road Administration;
5) [repealed - RT I, 12.12.2018, 3 - entry into force 01.01.2019]
6) the Labour Inspectorate;
7) the Information System Authority.
[RT I, 03.03.2017, 1 - entry into force 01.07.2017]

(2) The Ministry of Economic Affairs and Communications is competent to:
1) [repealed - RT I, 24.03.2016, 1 - entry into force 01.04.2016]
2) ensure performance of the obligations arising from 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 railways designated for public use and 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 for in subsections 4 (2)–(3) of this Act;
[RT I, 24.03.2016, 1 - entry into force 01.04.2016]

Railways Act   Page 59 / 69
2) refuse to issue, suspend and revoke operating licences provided for in this Act, and terminate the validity thereof;
3) process complaints submitted concerning allocation of railway infrastructure capacity pursuant to subsections 64(1)-(4) of this Act;
[RT I, 24.03.2016, 1 - entry into force 01.04.2016]
4) exercise supervision over compliance of the agreements specified in subsection 49(4) of this Act with the requirements,

(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 railway traffic management;
[RT I, 24.03.2016, 1 - entry into force 01.04.2016]
2) approve of the detailed plans and design criteria which constitute the basis for building design documentation of railway civil engineering works, and exercise state supervision over performance of construction work on railways;
3) inspect the conformity of conventional and high-speed rail systems to the requirements specified in subsection 66(1) of this Act;
4) inspect compliance with the requirements provided in Chapter 5 of this Act and constantly monitor the activities related to training and assessment of competences of locomotive drivers, locomotive driver's licences and certificates.
[RT I, 16.05.2017, 1 - entry into force 19.05.2017]

(5) Upon exercising supervision over the conventional and high-speed rail systems, the Consumer Protection and Technical Regulatory Authority has the rights and obligations of a market surveillance authority established in the Product Conformity Act.

(6) The Road Administration is competent to inspect compliance with the requirements established for IM/RUs, having regard to the provisions of § 9 of this Act.
[RT I, 12.12.2018, 3 - entry into force 01.01.2019]

(7) The Labour Inspectorate is competent to exercise state supervision on the conditions established in §§ 66-66-12 of this Act pursuant to the procedure and under the conditions provided for in the Occupational Health and Safety Act.

(7 1) State supervision over compliance with the requirements of subsection 4 (11) of this Act shall be exercised by the Estonian Information System Authority within the limits of competence provided by the Cybersecurity Act.
[RT I, 22.05.2018, 1 - entry into force 23.05.2018]

(8) For performance of the function provided for in clause (2) 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 which brings about rights or obligations to third parties shall submit the draft contract for approval to the minister responsible for the area.
[RT I, 13.03.2014, 4 - entry into force 01.07.2014]

§ 71. Competence of Competition Authority
[Repealed - RT I, 13.03.2014, 4 - entry into force 01.07.2014]

§ 72. Special state supervision measures
(1) In order to exercise state supervision provided for in this Act, a law enforcement authority may apply the special state supervision measures provided for in §§ 30, 31, 32, 49, 50, 51 and 52 of the Law Enforcement Act on the basis of and pursuant to the procedure provided for in the Law Enforcement Act.
(2) [Repealed - RT I, 22.05.2018, 1 - entry into force 23.05.2018]

§ 72 1. Competence of Road Administration
[Repealed - RT I, 13.03.2014, 4 - entry into force 01.07.2014]

§ 72 2. Competence of Consumer Protection Board
[Repealed - RT I, 13.03.2014, 4 - entry into force 01.07.2014]

§ 72 3. Competence of the Labour Inspectorate
[Repealed - RT I, 13.03.2014, 4 - entry into force 01.07.2014]
§ 72. Specifications concerning state supervision

(1) The Director General of the Consumer Protection and Technical Regulatory Authority has the right to issue precepts to IM/RUs or other possessors of railway infrastructure or railway vehicles for ordering technical expert analyses of railway civil engineering works or railway vehicles which shall be conducted by a notified body which has the corresponding competence. The IM/RUs or other possessors of railway infrastructure or railway vehicles shall cover the costs of the expert analyses.

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

(3) If non-conformity, specified in subsection § 66(1) of this Act, of a subsystem or interoperability constituent endangers railway traffic or is otherwise significant, the Consumer Protection and Technical Regulatory Authority shall take measures to restrict or prohibit the use of the subsystem or interoperability constituent.

[RT I, 13.03.2014, 4 - entry into force 01.07.2014]

§ 73. Penalty payment rates

[RT I, 13.03.2014, 4 - entry into force 01.07.2014]

(1) In the event of failure to comply with a precept, the minister responsible for the area, the Consumer Protection and Technical Regulatory Authority, the Competition Authority and the Road Administration have the right to apply, pursuant to the procedure provided for 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, except in the case provided for in subsection 47(3) of this Act.

[RT I, 12.12.2018, 3 - entry into force 01.01.2019]

(2) In the case provided for in subsection 34(9) of this Act, the Consumer Protection and Technical Regulatory Authority has the right to apply substitutive enforcement pursuant to the procedure provided for in the Substitutive Enforcement and Penalty Payment Act.

[RT I, 13.03.2014, 4 - entry into force 01.07.2014]

(3) [Repealed - RT I, 22.05.2018, 1 - entry into force 23.05.2018]

§ 74. Right of Ministry of Economic Affairs and Communications, Consumer Protection and Technical Regulatory Authority and Competition Authority to obtain information and access objects of supervision

[RT I 2007, 66, 408 - entry into force 01.01.2008]

(1) IM/RUs and their employees, other owners and possessors of railway infrastructure and railway vehicles and their employees, undertakings belonging to the same group as an IM/RU and their employees, and undertakings engaged in the performance of construction work on railways, railway vehicle maintenance or repair and their employees are required, at the first request of the minister responsible for the area, officials duly authorised by the minister, or the Consumer Protection and Technical Regulatory Authority, the Competition Authority or the Road Administration to provide correct and complete information necessary for the performance of state supervision functions.

[RT I, 12.12.2018, 3 - entry into force 01.01.2019]

(2) The Consumer Protection and Technical Regulatory Authority has the right of free access to railway infrastructure, railway vehicles and technical equipment, and cargo carried by way of rail transport which is the object of supervision, and to documents related to the objects of supervision.

[RT I 2007, 66, 408 - entry into force 01.01.2008]

(3) For performance of their duties, the minister responsible for the area, officials duly authorised by the minister and the Competition Authority have the right of free access to the accounting documentation of IM/RUs and undertakings which belong to the same group as the IM/RUs.

[RT I 2007, 66, 408 - entry into force 01.01.2008]

§ 75. Confidentiality of business and technical information

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

[RT I, 12.12.2018, 3 - entry into force 01.01.2019]
Division 2
State Supervision over Performance of Construction Work on Railways
[Repealed -RT I, 13.03.2014, 4 - entry into force 01.07.2014]

§ 76–§ 78.[Repealed - RT I, 13.03.2014, 4 - entry into force 01.07.2014]

Division 3
State Supervision over Interoperability of Conventional and High-speed Rail Systems
[Repealed -RT I, 13.03.2014, 4 - entry into force 01.07.2014]

§ 78¹. [Repealed - RT I, 13.03.2014, 4 - entry into force 01.07.2014]

Chapter 10
LIABILITY

§ 79. Violation of traffic safety in rail transport
[Repealed - RT I, 22.05.2018, 1 - entry into force 23.05.2018]

§ 79¹. Violation of electronic security requirements

(1) Violation of the electronic security requirements specified in subsection 4 (1¹) 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 20,000 euros.
[RT I, 03.03.2017, 1 - entry into force 01.07.2017]

§ 80. 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,
health or property of the people on or near railway vehicles,
is punishable by a fine of up to 3200 fine units.
[RT I, 12.07.2014, 1 - entry into force 01.01.2015]

(2) The same act if committed by a legal person –
is punishable by a fine of up to 2000 euros.
[RT I 2010, 22, 108 - entry into force 01.01.2011]

§ 81. Obstruction of train traffic

Placing objects on a railway which may obstruct rail 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 50 fine units.

§ 82. Driving unregistered railway vehicles
[Repealed - RT I, 12.07.2014, 1 - entry into force 01.01.2015]

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

(1) Restriction of visibility or causing of fire in the protection zone, if hinders 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 3200 euros.
[RT I, 12.07.2014, 1 - entry into force 01.01.2015]
§ 83. Use of unregistered railway vehicles in railway traffic

[RT I, 12.07.2014, 1 - entry into force 01.01.2015]

(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 2000 euros.
[RT I, 12.07.2014, 1 - entry into force 01.01.2015]

(2) The same act if committed by a legal person – is punishable by a fine of up to 2000 euros.
[RT I 2010, 22, 108 - entry into force 01.01.2011]

§ 84. 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 to property, is punishable by a fine of up to 300 fine units.
[RT I, 12.07.2014, 1 - entry into force 01.01.2015]

(2) The same act if committed by a legal person – is punishable by a fine of up to 3200 euros.
[RT I 2010, 22, 108 - entry into force 01.01.2011]
Driving of railway vehicles and performance of the duties of assistant locomotive driver by a person in intoxicated state is punishable by a fine of up to 300 fine units or by detention. [RT I, 12.07.2014, 1 - entry into force 01.01.2015]

§ 92. Performance of duties of assistant locomotive driver by person in intoxicated state
[Repealed - RT I, 12.07.2014, 1 - entry into force 01.01.2015]

§ 93. Evasion by person of examination for state of intoxication to be ascertained
Evasion by a driver of railway vehicles or a person performing the duties of assistant locomotive driver who is obviously intoxicated, including a person without the right to drive railway vehicles, of an examination for his or her state of intoxication to be ascertained is punishable by a fine of up to 300 fine units or by detention.

§ 94. Consumption of alcohol or narcotic, psychotropic or psychotoxic substances after accident or serious accident by driver involved in accident or serious accident
[RT I, 13.03.2014, 1 - entry into force 01.04.2014]
The consumption of alcohol or narcotic, psychotropic or psychotoxic substances immediately after an accident or serious accident by a driver of a railway vehicle involved in the accident or serious accident and before the circumstances of the accident have been ascertained at the scene of the accident is punishable by a fine of up to 300 fine units or by detention. [RT I, 13.03.2014, 1 - entry into force 01.04.2014]

§ 95. Permitting intoxicated person or person without right to drive to drive locomotive or perform duties of assistant locomotive driver
[RT I, 12.07.2014, 1 - entry into force 01.01.2015]
(1) Permitting an intoxicated person to drive railway vehicles or perform the duties of assistant locomotive 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 of railway vehicles or a person responsible for railway traffic control is punishable by a fine of up to 300 fine units. [RT I, 12.07.2014, 1 - entry into force 01.01.2015]

(2) The same act if committed by a legal person is punishable by a fine of up to 3200 euros. [RT I 2010, 22, 108 - entry into force 01.01.2011]

§ 96.–§ 99. [Repealed - RT I, 12.07.2014, 1 - entry into force 01.01.2015]

§ 99
1. Failure to submit report on compliance of railway infrastructure or railway traffic management with requirements, report or interim report on compliance of railway vehicles
[Repealed - RT I, 13.03.2014, 1 - entry into force 01.04.2014]

§ 100. Failure to perform obligation of public transport of passengers
[RT I, 13.03.2014, 1 - entry into force 01.04.2014]
(1) Failure to engage in public transport of passengers by an IM/RU designated as an IM/RU engaging in public transport of passengers is punishable by a fine of up to 300 fine units. [RT I, 13.03.2014, 1 - entry into force 01.04.2014]

(2) The same act if committed by a legal person is punishable by a fine of up to 3200 euros. [RT I 2010, 22, 108 - entry into force 01.01.2011]

§ 100³. Failure to perform requirements applicable in territory of Estonia as regards rights and obligations of rail passengers
[Repealed - RT I, 12.07.2014, 1 - entry into force 01.01.2015]

§ 100². Failure to provide passengers with information
(1) Failure to comply with the requirement provided for 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 50 fine units.
(2) The same act if committed by a legal person –
is punishable by a fine of up to 3,200 euros.
[RT I, 27.02.2015, 1 - entry into force 09.03.2015]

§ 100³. Failure to make advance payment

(1) Failure to comply with the requirement provided for 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 50 fine units.

(2) The same act if committed by a legal person –
is punishable by a fine of up to 3,200 euros.
[RT I, 27.02.2015, 1 - entry into force 09.03.2015]

§ 100⁴. Failure to provide assistance to passenger in case of delay of train

(1) Failure to comply with the requirement provided for 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 50 fine units.

(2) The same act if committed by a legal person –
is punishable by a fine of up to 3,200 euros.
[RT I, 27.02.2015, 1 - entry into force 09.03.2015]

§ 100⁵. Failure to provide information or assistance to disabled passenger or passenger with reduced
mobility

(1) Failure to comply with the requirement provided for in Article 20 or 23 of Regulation (EC) No 1371/2007
of the European Parliament and of the Council –
is punishable by a fine of up to 50 fine units.

(2) The same act if committed by a legal person –
is punishable by a fine of up to 3,200 euros.
[RT I, 27.02.2015, 1 - entry into force 09.03.2015]

§ 101. Violation of railway traffic and rail transport services procedure

[RT I, 12.07.2014, 1 - entry into force 01.01.2015]

(1) Organisation of rail transport services for passengers or goods or traffic on railway infrastructure without a
safety certificate or violation of the procedure for temporary restriction or closure of railway traffic
is punishable by a fine of up to 300 fine units.
[RT I, 12.07.2014, 1 - entry into force 01.01.2015]

(2) The same act if committed by a legal person –
is punishable by a fine of up to 3200 euros.
[RT I 2010, 22, 108 - entry into force 01.01.2011]

§ 102. Engaging in rail transport of passengers or goods without safety certificate or operational safety
certificate

[Repealed - RT I, 12.07.2014, 1 - entry into force 01.01.2015]

§ 103. Violation of rules for technical use of railways

(1) Violation of the requirements for maintenance of 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 to
property or endangers railway traffic,
is punishable by a fine of up to 300 fine units.
[RT I, 12.07.2014, 1 - entry into force 01.01.2015]

(2) The same act if committed by a legal person –
is punishable by a fine of up to 3200 euros.
[RT I 2010, 22, 108 - entry into force 01.01.2011]
§ 104. Use of railway civil engineering works without permit for use
[Repealed - RT I, 23.03.2015, 3 - entry into force 01.07.2015]

§ 105. Unauthorised building of railway civil engineering works
[Repealed - RT I, 23.03.2015, 3 - entry into force 01.07.2015]

§ 106. Violation of procedure for temporary restriction or closure of railway traffic
[Repealed - RT I, 12.07.2014, 1 - entry into force 01.01.2015]

§ 107. Violation of procedure for notification of accident, serious accident or incident on railways
[RT I, 13.03.2014, 1 - entry into force 01.04.2014]

(1) Violation of the procedure for notification of an accident, serious accident or incident on railways
is punishable by a fine of up to 300 fine units.
[RT I, 13.03.2014, 1 - entry into force 01.04.2014]

(2) The same act if committed by a legal person –
is punishable by a fine of up to 3200 euros.
[RT I 2010, 22, 108 - entry into force 01.01.2011]

§ 108. Failure to transfer performance of acts for allocation of railway infrastructure capacity to
Consumer Protection and Technical Regulatory Authority
[Repealed - RT I, 12.07.2014, 1 - entry into force 01.01.2015]

§ 109. Violation of rail transport requirements
(1) Violation of the requirements for securing rail cargoes, if it causes danger to railway traffic or human life,
health or property,
is punishable by a fine of up to 300 fine units.
[RT I, 12.07.2014, 1 - entry into force 01.01.2015]

(2) The same act if committed by a legal person –
is punishable by a fine of up to 3200 euros.
[RT I 2010, 22, 108 - entry into force 01.01.2011]

§ 109¹. Violation of requirements for working and rest time by employer
[RT I, 29.11.2010, 1 - entry into force 09.12.2010]
Violation of the working and rest time conditions of mobile workers engaged in interoperable cross-border
services within the limits of European Union Member States specified in §§ 66⁷–66¹² of this Act by an employer
is punishable by a fine of up to 1300 euros.
[RT I, 29.11.2010, 1 - entry into force 01.01.2011]

§ 110. Grant of permission to organise rail transport on railway not registered in national register
(1) Grant of permission to organise rail transport on a railway not registered in the national register –
is punishable by a fine of up to 300 fine units.
[RT I 2010, 22, 108 - entry into force 01.01.2011]

§ 110¹. Removal of inspection seal or sticker
(1) Removal of or tampering with the inspection seal or sticker installed by an official exercising state
supervision
is punishable by a fine of up to 300 fine units.
[RT I, 12.07.2014, 1 - entry into force 01.01.2015]

(2) The same act if committed by a legal person –
is punishable by a fine of up to 3200 euros.
[RT I 2010, 22, 108 - entry into force 01.01.2011]
§ 110. Violation of conditions of certificate by IM/RU

Violation of the conditions of issue and maintenance of validity of a certificate provided for in § 45¹ of this Act by an IM/RU –
is punishable by a fine of up to 2000 euros.
[RT I, 04.07.2011, 3 - entry into force 01.07.2013]

§ 111. Proceedings

(1) Extra-judicial proceedings concerning the misdemeanours provided for in §§ 81, 86, 89, 91 and 93–95 of this Act shall be conducted by the Police and Border Guard Board.

(2) Extra-judicial proceedings concerning the misdemeanours provided for in §§ 80 and 84 of this Act shall be conducted by the Police and Border Guard Board and the Consumer Protection and Technical Regulatory Authority.

(3) Extra-judicial proceedings concerning the misdemeanours provided for in § 82¹ of this Act shall be conducted by the Rescue Board and the Consumer Protection and Technical Regulatory Authority.

(4) Extra-judicial proceedings concerning the misdemeanours provided for in §§ 79, 83, 88, 101, 103, 107, 109 and 110–110² of this Act shall be conducted by the Consumer Protection and Technical Regulatory Authority.
[RT I, 23.03.2015, 3 - entry into force 01.07.2015]

(4¹) [Repealed - RT I, 22.05.2018, 1 - entry into force 23.05.2018]

(5) Extra-judicial proceedings concerning the misdemeanours provided for in § 100 of this Act shall be conducted by the Ministry of Economic Affairs and Communications.

(6) Extra-judicial proceedings concerning the misdemeanours provided for in § 109¹ of this Act shall be conducted by the Labour Inspectorate.
[RT I, 12.07.2014, 1 - entry into force 01.01.2015]

(7) Extra-judicial proceedings concerning the misdemeanours provided for in §§ 100²–100⁵ of this Act shall be conducted by the Road Administration.
[RT I, 12.12.2018, 3 - entry into force 01.01.2019]

Chapter 11
FINAL PROVISIONS

§ 112. Designation of railways for public use

Railways which were 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.

§ 113. Specifications concerning use of railway ground area

Until the determination of railway ground areas pursuant to the procedure provided for in legislation, railway infrastructure managers shall determine the boundaries of railway crossings, install traffic control devices thereto and ensure the maintenance of the railway crossings and traffic safety thereon based on and pursuant to the procedure provided for in the rules for technical use of railways.

§ 114. Termination of national register of railways and national register of railway vehicles

(1) The activities of the national register of railways and national register of railway vehicles shall terminate as of 30 March 2004.

(2) The processor of the national register of railways and national register of railway vehicles shall transfer the information in the national register of railways and national register of railway vehicles to the national railway traffic register not later than by 31 March 2004.
§ 115. Implementing provisions of Act

(1) Operating licences for management of railway infrastructure and for provision of rail transport services for passengers or rail transport services for goods issued from 1 May 1999 shall be valid until 30 March 2004 and their period of validity shall be extended pursuant to the procedure prescribed in Chapter 2 of this Act.
[RT I 2007, 14, 70 - entry into force 02.03.2007]

(1') Operating licences for management of railway infrastructure and for provision of rail transport services for passengers or rail transport services for goods issued from 1 May 1999 until 31 December 2007 shall be valid until 31 December 2008. Undertakings who have received safety certificates for management of railway infrastructure and for provision of rail transport services for passengers or rail transport services for goods issued from 1 May 1999 until 31 December 2007 need not pay a state fee upon applying for an operational safety certificate if the safety certificate issued to them is valid at least until 31 December 2008. Undertakings engaged in the management of railway infrastructure or provision of rail transport services for passengers or rail transport services for goods shall submit applications for the receipt of new safety certificates by 1 July 2008 at the latest.
[RT I 2007, 14, 70 - entry into force 02.03.2007]

(1'') A valid liability insurance contract of an IM/RU shall be brought into compliance with the requirements provided for in § 14 of this Act by 1 June 2010. An IM/RU who is managing a non-public railway may operate without a safety certificate and without a liability insurance contract until 1 June 2010.
[RT I 2010, 8, 38 - entry into force 27.02.2010]

(1'') Operating licences for provision of rail transport services for passengers and rail transport services for goods issued before 1 April 2014 shall be valid until the expiry date set out on the licence and these shall be renewed pursuant to the procedure prescribed in Chapter 2 of this Act.
[RT I, 13.03.2014, 1 - entry into force 01.04.2014]

(1'') Safety certificates for management of railway infrastructure, provision of rail transport services for passengers and rail transport services for goods issued between 1 July 2008 and 1 April 2014 shall be valid until the expiry date set out on the safety certificate and these shall be renewed pursuant to the procedure prescribed in Chapter 2 of this Act.
[RT I, 13.03.2014, 1 - entry into force 01.04.2014]

(1'') An undertaking who wishes to engage in transport of passengers or goods it non-public railways which are not connecting to the network of public railways and does not have a valid part A or B of the safety certificate shall present an application for obtaining the operational safety certificate no later than by 1 July 2014.
[RT I, 13.03.2014, 1 - entry into force 01.04.2014]

(2) Operating licences for performance of construction work on railways and railway vehicle repair issued prior to the entry into force of this Act and after 1 May 1999 shall be valid until 30 June 2004. From 15 April 2004, undertakings engaged in the performance of construction work on railways shall apply for a respective registration in the register of economic activities by 1 July 2004. Undertakings which have been granted an operating licence for performance of construction work on railways prior to the entry into force of this Act and after 1 May 1999 need not pay the state fee upon application for registration for performance of construction work on railways in the register of economic activities if the operating licence issued to them is valid on the date of submission of the registration application to the registrar. Undertakings which have been granted an operating licence for railway vehicle repair prior to the entry into force of this Act and after 1 May 1999 need not pay the state fee upon application for registration for railway vehicle repair pursuant to this Act if the operating licence issued to them prior to the entry into force of this Act is valid on the date of submission of the application for an operating licence for railway vehicle repair to the minister responsible for the area. Undertakings engaged in railway vehicle maintenance shall apply for an operating licence for railway vehicle maintenance by 1 July 2004.

(3) Locomotive driver's licences issued prior to the entry into force of this Act and after 1 May 1999 shall be valid and their term of validity shall be extended pursuant to the procedure provided for in § 45 of this Act. Qualification certificates issued prior to the entry into force of this Act and after 1 May 1999 to persons responsible for railway safety and railway traffic control shall be valid until 31 December 2004. Persons responsible for railway safety and railway traffic control shall apply for a professional certificate by 1 January 2005. Persons who perform the duties of assistant locomotive driver or driver of special railway vehicles shall apply for a professional certificate by 1 January 2005.

(3') The requirement prescribed in subsection 66 (1) of this Act applies from 1 January 2005.

(3'') Subsystems and interoperability constituents can be used on a conventional rail system if such subsystems or interoperability constituents have been taken into use or manufactured in conformity with the requirements effective until 1 July 2007.
[RT I 2007, 14, 70 - entry into force 02.03.2007]
(3) Locomotive driver's licences issued to locomotive drivers prior to 1 July 2013 shall remain valid until the date specified on the locomotive driver's licence and the term of validity of locomotive driver's licences shall be extended by the issue of a new locomotive driver's licence pursuant to the procedure provided for in § 45 of this Act and by the issue of a certificate pursuant to the procedure provided for in § 45 of this Act. The right to drive a type of locomotives specified on a locomotive driver's licence issued to a locomotive driver prior to 1 July 2013 shall be directly transferred to the certificate upon obtaining a new locomotive driver's licence.

[RT I, 04.07.2011, 3 - entry into force 01.07.2013]

(4) The rules for technical use of railways approved by a regulation of the Minister of Transport and Communications on the basis of subsection 16 (2) of the Railways Act shall be valid after the entry into force of this Act until such rules are revoked.

(5) Applications for capacity for the timetabling period starting in 2005 shall be submitted at least seven months prior to the beginning of the timetabling period, and the timetable shall be approved one month before the beginning of such period.

(6) Only unallocated capacity may be allocated to the IM/RUs which have not been founded in a Member State of the European Union.

[RT I 2007, 14, 70 - entry into force 02.03.2007]

(7) Prior to organising the first independent capacity allocation, a railway infrastructure manager shall submit a corresponding 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.

[RT I, 13.03.2014, 1 - entry into force 01.04.2014]

(8) A railway infrastructure manager whose independence has been confirmed by the Competition Authority may allocate capacity from such timetabling period, for which applications for capacity are submitted directly to the railway infrastructure manager on the basis of subsection 52 (1) of this Act.

[RT I, 13.03.2014, 1 - entry into force 01.04.2014]

(9) Until the timetabling period beginning in year 2016 and for the specified timetabling period, user fees shall be determined in accordance with the version of this Act in force until 31 March 2016.

[RT I, 24.03.2016, 1 - entry into force 01.04.2016]

(10) If the interest rate of a loan between legal entities of a vertically integrated undertaking specified in subsection 49(4) of this Act granted prior to 25 December 2018 does not comply with the market conditions effective at entry into the agreement, the loan must be immediately brought into harmony with the requirements of this Act or the loan agreement must be terminated.


§ 116.–§ 118.[Omitted from this text.]

§ 119. Entry into force of Act

(1) This Act enters into force on 31 March 2004.

(2) Subsection 10 (5) of this Act enters into force on 1 January 2006.

[RT I 2005, 38, 298 - entry into force 17.07.2005]
