

**NB: Unofficial translation**

## **Railway Act (198/2003)**

### Chapter 1 - **General Provisions**

#### Section 1 - *Objectives and scope of application of the Act*

The objectives of this Act are to promote railway traffic and the use of the railway network as well as to improve the safety of railway traffic.

This Act applies to the operation and safety of railway traffic on the state-owned railway network as well as to the use and funding of the railway network. Furthermore, this Act applies to private sidings, as provided in section 27, 30(1) and 38, as well as to the supply of services for railway traffic on private sidings, as provided in section 34.

#### Section 2 - *Definitions*

For the purposes of this Act,

- (1) *railway undertaking* means a company or other association under private law whose main activity is to operate railway traffic on the basis of an appropriate operating licence issued in the European Economic Area and which has in its possession rolling stock needed for traffic operation; undertakings providing only traction services are also regarded as railway undertakings;
- (2) *railway network* means the state-owned railway network managed by the Finnish Rail Administration (*Rail Administration*);
- (3) *infrastructure maintenance* means the construction and maintenance of tracks, of structures and equipment connected with them, as well as of real property needed for infrastructure maintenance;
- (4) *operation of railway traffic* means traffic operated by a railway undertaking or a museum train operator on the railway network;
- (5) *traffic* means traffic with rail vehicles on the railway network, operated by a railway operator or connected with infrastructure maintenance or related activities, as well as other traffic crossing the track area of the railway network, except road traffic at level-crossings under the Road Traffic Act (267/1981);
- (6) *infrastructure capacity* means the capacity of a train path to carry train traffic over a particular period of time and depending on the characteristics of the railway network, except train traffic directly connected with infrastructure maintenance;
- (7) *applicant for infrastructure capacity* means a railway undertaking or an international grouping of railway undertakings;
- (8) *traffic control* means the implementation of the allocated infrastructure capacity as well as the control and management of traffic on individual train paths and on tracks at traffic operating points on the railway network in accordance with the available traffic control systems and the provisions concerning traffic on the railway network;
- (9) *congested infrastructure* means an element of infrastructure for which the

requested infrastructure capacity cannot be granted even after co-ordination of the different requests for capacity;

- (10) *museum train traffic* means traffic operated on a small scale on the railway network by a non-profit association with museum trains or comparable rolling stock;
- (11) *private siding* means a track, connected to the state-owned network, which is not managed by the Rail Administration.

### Section 3 - *Funding of infrastructure maintenance*

The railway network is maintained and constructed within the framework of the appropriations granted in the state budget and other funding. The infrastructure charge referred to in Chapter 3 of this Act is used for funding the infrastructure maintenance. The infrastructure charge is taken into account in the state budget.

### Section 4 - *Network statement*

The Rail Administration publishes information on the provisions of this Act and the Act on the Interoperability of the Trans-European Rail System (561/2002; *Rail System Interoperability Act*), or on the provisions issued under these Acts, for applicants for infrastructure capacity in a network statement for each timetable period separately.

This information concerns:

- 1) the right of access to the railway network;
- 2) the principles of determining the infrastructure charges;
- 3) applying for infrastructure capacity and the related deadlines;
- 4) the requirements for and approval of railway rolling stock; as well as
- 5) other conditions concerning operating and starting the operation of railway traffic

The Rail Administration publishes in the network statement information on the nature and extent of the railway network and gives further information on the details and availability of the minimum access package and track access to service facilities referred to in section 13 of this Act. The provisions which the Rail Administration issues on

- 1) specialised infrastructure under section 18(1);
- 2) the priority order applied to congested infrastructure under section 18(2); as well as on
- 3) the threshold quota for the minimum use of railway infrastructure on each train path under section 23(2)

are also published in the network statement.

In the course of preparation of the network statement, the Rail Administration shall consult the applicants for infrastructure capacity established in Finland as well as other applicants wishing to get access to the Finnish railway network. The Rail Administration shall publish the network statement in its collection of regulations no later than four months before the deadline for the submission of applications for infrastructure capacity laid down by Government decree. If the information referred to in subsection 1 and 2 changes during the validity of the network statement, the Rail Administration shall publish the changed information in its collection of regulations.

## Chapter 2 - **Operation of railway traffic**

### Section 5 - *Operating licence*

For operating railway traffic, an operating licence issued by the Ministry of Transport and Communications (*Ministry*) is required. The operating licence may include conditions, connected particularly with the extent and nature of the services to be operated, which complement the provisions of this Act or the provisions issued under this Act.

If requested, the operating licence may be limited to the provision of passenger or freight services only.

The Ministry reviews the operating licence and its conditions every five years after issuing the licence. Furthermore, the Ministry may check whether the railway undertaking fulfils the obligations in relation to the operation of railway traffic imposed on it by or under this Act, if there is serious doubt that the obligations are observed.

An operating licence issued in one state belonging to the European Economic Area is valid throughout the territory of the European Economic Area. The Ministry informs the appropriate competent authority if a railway undertaking licensed in another state belonging to the European Economic Area no longer meets the conditions to be complied with for receiving a licence.

### Section 6 - *Conditions for issuing an operating licence*

The Ministry issues an operating licence for the operation of railway traffic to an applicant established in Finland, provided that:

- 1) the applicant intends to operate, as its main business, railway traffic with the rolling stock in its possession or to provide traction services;
- 2) the applicant has a safety certificate referred to in section 11, issued or approved by the Rail Administration, or gives a corresponding explanation of its activities;
- 3) the applicant is reliable, and the persons in charge of its management are of good repute and professionally competent;
- 4) judging from the facts that are known, the applicant is financially sufficiently fit to be able to meet its actual and potential obligations and commitments for a period of not less than one year; as well as
- 5) the applicant has adequate liability insurance as referred to in section 10 or has made equivalent arrangements.

A person in charge of the applicant's management does not meet the requirement of good repute referred to in subsection 1(3) if, during the last five years, he or she has been sentenced to prison or, during the last three years, fined for seriously violating the provisions concerning employment relation, the carrying out of business activities, accounting, debt relation, traffic operation or traffic safety, and the offence shows that he or she is clearly unsuitable for operating railway traffic. The same applies to the violation of customs regulations in case the applicant's purpose is to start operating international railway traffic.

The applicant meets the requirement of professional competence referred to in subsection 1(3) if:

- 1) the applicant possesses the knowledge and experience necessary for the safe operation and the control of railway traffic to the extent defined in the application;
- 2) the applicant's personnel responsible for safety are fully qualified for their field of activity; as well as
- 3) the applicant's personnel, rolling stock and organisation can ensure a high level of safety for the services to be provided.

The applicant does not meet the requirement of financial fitness referred to in subsection 1(4) if:

- 1) the applicant or a person in charge of its management has been declared bankrupt or is under a ban on business operations under the Trading Prohibition Act (1059/1985);
- 2) a person in charge of the applicant's management has petitioned for debt adjustment under the Act on the Adjustment of the Debts of a Private Individual (57/1993); or
- 3) the applicant owes considerable arrears of taxes or statutory social security contributions as a result of its activities.

For special reasons, the Ministry may make a derogation from the requirements laid down in subsection 4.

### *Section 7 - Applying for and issuing an operating licence*

For estimating its good repute, professional competence and financial fitness, the applicant shall provide the Ministry with information on:

- 1) the good repute of the persons in charge of its management;
- 2) the nature and maintenance of rolling stock, in particular as concerns safety standards;
- 3) the qualifications and professional training of personnel responsible for safety;
- 4) its funds and debts;
- 5) its capital and reserves, and liabilities, sufficiently itemised; as well as
- 6) receipts and expenses connected with its activities, including expenses connected with the procurement of railway rolling stock, buildings, structures and land areas.

The Ministry may require the applicant to present an assessment of its financial position, given by an auditor or an audit firm, authorised by a regional chamber of commerce or the Central Chamber of Commerce of Finland.

The decision on an application for an operating licence shall be taken no more than three months after all relevant information for taking a decision has been submitted to the Ministry.

### *Section 8 - Revocation or suspension of the operating licence*

If the licence holder no longer meets the conditions to be complied with for receiving a licence, the Ministry shall give the licence holder the opportunity to remedy the non-compliance within a reasonable period of time, which shall not be less than two months of the date on which the Ministry is informed of the non-compliance. If the licence holder

has not remedied the non-compliance within the prescribed period of time or has been declared bankrupt and its financial position cannot within a reasonable period of time attain the level required for operating railway traffic in accordance with the licence, the Ministry shall revoke or suspend the operating licence.

On establishing that the licence holder no longer meets the requirement of financial fitness, the Ministry may at the same time decide that the operation of railway traffic may be continued in accordance with the licence or with restrictions for a period of not more than six months. Permission to continue the operation of railway traffic shall not, however, be given if the continuation of operation may put the safety of railway traffic at risk.

The Ministry may revoke or suspend the operating licence if the licence holder, in spite of admonitions by the competent authority, seriously and repeatedly violates the conditions specified in the operating licence or the provisions concerning railway traffic. In the case of minor violations, the Ministry may give the licence holder a warning.

#### *Section 9 - Changes in the activities of the railway undertaking affecting the operation of railway traffic*

If the railway undertaking intends significantly to change or extend its activities, it shall submit a new application to the Ministry or give an additional explanation as requested by the Ministry. The Ministry may, on the basis of the application, issue a new licence or, on the basis of the additional explanation, give permission to continue operation.

Notwithstanding the secrecy regulations, the Ministry may request an explanation if the legal position of the licence holder changes in such a way that it may affect the operation of railway traffic in accordance with the licence. The Ministry shall assess the possibilities to continue operation as soon as possible after receiving a necessary explanation from the licence holder.

If the Ministry considers that the safety of railway traffic may be put at risk as a result of changes referred to in subsections 1 and 2, it shall revoke or suspend the licence, as provided in section 8.

#### *Section 10 - Insurance cover of the railway undertaking*

The railway operator shall have valid, adequate liability insurance cover corresponding to its asset base or make equivalent arrangements to provide for its liabilities in case such damage is caused to third parties by railway operations for which the railway operator is responsible on the basis of a law or an agreement. Such an insurance cover or equivalent arrangements shall be valid throughout the whole period of time during which railway traffic is operated.

#### *Section 11 - Safety certificate*

On the conditions laid down in this section, the Rail Administration shall, on application, issue a safety certificate or approve a safety certificate issued in another state belonging to

the European Economic Area for a period of not more than five years. In the case of a safety certificate issued in another state belonging to the European Economic Area, the Rail Administration may require the applicant to give an additional explanation of the services it intends to operate in Finland.

For the issuance or approval of a safety certificate, the applicant shall provide the Ministry with information on:

- 1) the applicant's safety management system and other internal arrangements which ensure that the provisions concerning the operation of railway traffic are observed;
- 2) qualifications and professional training of the management and personnel responsible for the safety of railway traffic; as well as
- 3) the applicant's railway rolling stock and servicing and maintenance systems, insofar as an explanation thereof has not already been given to the Rail Administration earlier in another context.

The Rail Administration shall decide on the issuance or approval of a safety certificate within four months after the applicant has provided the information referred to in subsection 2. The Rail Administration may issue or approve a safety certificate for the whole of the state-owned railway network or for individual train paths. In order to ensure the safety of railway traffic, conditions concerning the safety of railway traffic may be included in the safety certificate, taking into account the nature and extent of the railway services to be operated by the applicant. All railway operators operating traffic on a certain line section shall, however, always meet equal safety conditions.

If the nature or extent of the railway services operated by a railway undertaking or an international grouping of railway undertakings changes essentially, the undertaking or the grouping shall apply for a new safety certificate or resubmit its safety certificate to the Rail Administration for approval. The Rail Administration may withdraw a safety certificate or the approval of a safety certificate issued in another state belonging to the European Economic Area if the railway undertaking or the international grouping of railway undertakings seriously violates any provision relating to the operation of railway traffic.

## Section 12 - *Starting and ceasing the operation of railway traffic*

The licence holder is entitled to start operating railway traffic, provided that:

- 1) the licence holder has a safety certificate, issued or approved by the Rail Administration under section 11, which covers all the train paths on which traffic will be operated;
- 2) the licence holder has made an agreement with the Rail Administration on the use of traffic control services, on the details of how safety matters shall be organised, on the use of marshalling yards, storage sidings and other tracks, as well as on other practical arrangements; and
- 3) the conditions for the operation of railway traffic laid down in or under this Act and the Rail System Interoperability Act are in all respects fulfilled.

The Rail Administration shall make an agreement referred to in subsection 1(2) with each licence holder on usual and reasonable conditions. No agreement shall, however, be made before the licence holder meets other conditions for the start of rail operations specified in subsection 1.

The licence holder shall start its activities within six months after the licence has been issued. On request of the licence holder, the Ministry may, taking into account the specific nature of the services to be provided, decide that the activities may be started later than within six months after the issuance of the licence. If the licence holder has not started its activities within six months after the issuance of the licence or has ceased its activities for an uninterrupted period of not less than six months, the Ministry may request the licence holder to give an additional explanation in order to clarify the existence of prerequisites for the validity of the licence.

### Chapter 3 - **Services to be supplied to railway undertakings and the infrastructure charge**

#### Section 13 - *Services to be supplied by the Rail Administration to railway undertakings*

The Rail Administration shall, on a fair and non-discriminatory basis, offer railway operators the minimum access package and track access to service facilities, as provided in Annex II of Directive 2001/14/EC of the European Parliament and the Council on the allocation of railway infrastructure capacity and the levying of charges for the use of railway infrastructure and safety certification (*Capacity and Infrastructure Charge Directive*). Further provisions concerning these services shall be issued by Government decree. Information on the details and availability of the services concerned, as well as on the availability of track access, shall be included in the network statement.

The Rail Administration may supply the aforementioned services, as well as additional and ancillary services for the use of the railway network, to railway operators and agree on these services and other commodities. Further provisions concerning additional and ancillary services for the use of the railway network shall be issued by Government decree. Information on the services and other commodities supplied, as well as on their details and availability, shall be included in the network statement. The Rail Administration shall supply the services and other commodities referred to in this section to all railway operators on a fair and non-discriminatory basis in accordance with the information published in the network statement. These services and commodities shall be supplied for each train path.

#### Section 14 - *Infrastructure charge*

The infrastructure charge consists of a basic infrastructure charge and of other charges connected with the infrastructure charge, which are laid down separately (*infrastructure charge*).

The Rail Administration shall collect a basic infrastructure charge from railway operators on a fair and non-discriminatory basis for the services and other commodities referred to in section 13(1), calculated on the basis of the actual level of use, in compliance with Chapter II of the Capacity and Infrastructure Charge Directive. The basic infrastructure charge collected from railway operators for the services and other commodities referred to in section 13(1) shall always be based on the infrastructure maintenance costs directly

incurred to the rail network and infrastructure maintenance by the operation of railway traffic.

Further provisions concerning the amount of the basic infrastructure charge shall be issued by a decree of the Ministry of Transport and Communications.

#### Section 15 - *Collection of the infrastructure charge*

The Rail Administration decides on the levying of the basic infrastructure charge and collects it from railway operators each calendar month. The infrastructure charges levied by the Rail Administration are subject to distraint without sentence or decision.

### Chapter 4 - **Access to the railway network and infrastructure capacity**

#### Section 16 - *Railway undertakings and international groupings of railway undertakings entitled to access to the railway network*

The infrastructure capacity allocated in compliance with this Chapter may be used by:

- 1) railway undertakings and international groupings of railway undertakings referred to in section 2(1) for providing services in international railway traffic between states belonging to the European Economic Area; as well as
- 2) the rail transport operating subsidiary of the limited-liability company referred to in section 1 of the Act on the Incorporation of the Finnish State Railways (20/1995) for providing services in domestic freight and passenger traffic, as well as in traffic between Finland and Russia.

The railway undertakings and international groupings of railway undertakings referred to in subsection 1 above may use traffic operating points on the railway network for their operations on the conditions specified in the agreement referred to in section 12(1)(2). Other undertakings or associations, too, may use individual traffic operating points on the railway network for their operations, provided that this traffic serves a private siding connected to a traffic operating point and that an agreement on traffic operation has been made with the Rail Administration.

#### Section 17 - *Applying for infrastructure capacity*

Applications for infrastructure capacity shall be made to the Rail Administration for each timetable period within the period of time to be laid down by Government decree. Applications for new capacity, or a change of capacity, for regular traffic may be made during the timetable period as well. Further provisions concerning applying for infrastructure capacity and the deadlines for the submission of applications shall be issued by Government decree in compliance with the provisions of Annex III of the Capacity and Infrastructure Charge Directive.

Railway undertakings and international groupings of railway undertakings can also make applications to the Rail Administration for infrastructure capacity for such an international



train path within the European Economic Area as only partly uses the railway network referred to in this Act.

#### Section 18 - *Priority order of applications for infrastructure capacity*

If there are sufficiently alternative routes for other traffic, the Rail Administration may designate a specific element of infrastructure, or a part of it, as specialised infrastructure in compliance with Article 24 of the Capacity and Infrastructure Charge Directive. When allocating infrastructure capacity on an element of infrastructure, or a part of it, designated as specialised infrastructure, priority is given to the type of traffic for which the infrastructure is specialised.

If it is not possible to co-ordinate the applications for infrastructure capacity in the manner defined in section 19(1), the Rail Administration shall declare the element of infrastructure concerned, or a part of it, to be congested infrastructure. Infrastructure may also be declared to be congested if it is evident that it will become congested during the timetable period. The Rail Administration may issue further provisions concerning the priority order according to which a specific type of traffic may be given priority when allocating congested infrastructure capacity.

#### Section 19 - *Decision on the priority order in individual cases*

If there are several applicants for the same infrastructure capacity or the requested capacity has effects on the capacity requested by another applicant, the Rail Administration shall in the first place attempt to co-ordinate the requests between the applicants. In such cases, the Rail Administration may offer applicants capacity that does not essentially differ from the capacity they have requested.

If the co-ordination process referred to in subsection 1 does not lead to a satisfactory result, the Rail Administration may decide on the priority order in each individual case on the grounds laid down in this Chapter in order to establish a draft working timetable. The Rail Administration shall decide on the priority order no later than ten days after the co-ordination process referred to in subsection 1 has ended.

In the case of congested infrastructure, the Rail Administration may decide to make a derogation from the priority order specified in this Chapter in favour of an applicant operating international traffic or such traffic as otherwise maintains or improves the performance of the rail transport system or public transport. The same applies to cases where the rejection of the application would cause unreasonable damage to applicants, railway undertakings, international groupings of railway undertakings or to the business activities of their customers.

#### Section 20 - *Establishing the draft working timetable and consultation with the interested parties*

Based on the applications, the Rail Administration shall establish a draft working timetable for the next timetable period no later than four months after the deadline

for the submission of applications for capacity. The draft working timetable may contain information on the capacity that the Rail Administration proposes to allocate to an applicant only to such an extent and with such restrictions as is necessary for implementing traffic control for the use of this capacity.

The draft working timetable shall primarily be based on supposition that the requested capacity will be allocated, provided that the different train paths enable railway traffic to be operated in accordance with the technical and safety regulations. In order to improve the allocation of capacity, the Rail Administration may, however, offer applicants capacity that does not essentially differ from the capacity they have requested. It is also possible not to allocate capacity, provided that reserve capacity is needed for the timetable period as a result of the priority order applied to railway traffic.

The Rail Administration shall send the draft working timetable to applicants for information within the period of time referred to in subsection 1 and give them the opportunity to comment. Comments shall be presented within 30 days after receipt of the draft working timetable. Customers purchasing freight transport services and associations representing those who purchase rail transport services are entitled to present comments on the draft working timetable within 30 days, counted from the date on which the Rail Administration publishes an announcement in its collection of regulations that the draft working timetable has been established.

#### *Section 21 - Allocation of infrastructure capacity*

Based on the draft working timetable and the comments presented under section 20(3), the Rail Administration shall decide on the allocation of infrastructure capacity on a fair and non-discriminatory basis. In taking the decision, the Rail Administration shall pay particular attention to the needs of passenger and freight traffic and infrastructure maintenance, as well as to efficient use of the railway network. The priority order determined for specialised and congested infrastructure shall also be taken into account, unless otherwise provided in this Chapter.

Decisions on changing or reallocating infrastructure capacity for regular traffic during the timetable period shall be made on the grounds specified in subsection 1 in compliance with the provisions concerning the application process laid down in section 17(1) and the Government decree issued pursuant to it.

#### *Section 22 - Ad hoc requests for infrastructure capacity*

Applicants for infrastructure capacity and associations operating museum train traffic may request infrastructure capacity from the Rail Administration regardless of the period of time laid down by Government decree if they urgently need infrastructure capacity for one or more provisional train paths. In such cases, the Rail Administration shall decide on the request for capacity within five days after its submission.

The Rail Administration shall allocate the requested infrastructure capacity if there is sufficient capacity for the use specified in the request. Unless otherwise provided in section 19 and 21(1), the capacity shall be allocated on a first-come first-served basis.

Ad hoc requests for capacity shall be made in writing. The request may, however, be sent by electronic means too, as provided in the Act on Electronic Service in the Administration (13/2003). Contrary to the provisions of this act, the decision on a request submitted by electronic means may be sent to the applicant for information by telefax or electronic mail as well. In such cases, the applicant is considered having been informed of the decision after the telefax message or electronic mail has been sent to the applicant.

### Section 23 - *Use and cancellation of infrastructure capacity*

Applicants for infrastructure capacity may not transfer allocated capacity to other parties. Railway undertakings may, however, use such capacity as has been allocated to an applicant, other than a railway operator, and is used for traffic for which the capacity was requested by the applicant. If a railway undertaking uses such capacity contrary to the provisions of this subsection, the Rail Administration shall cancel this capacity.

The Rail Administration shall issue further provisions concerning the threshold quota for the use of infrastructure capacity for each train path separately. The Rail Administration may cancel the infrastructure capacity allocated to an applicant, or a part of it, if the applicant has used this capacity over a period of not less than 30 days less than the threshold quota laid down for the train path in question or a part of it.

The infrastructure capacity may not, however, be cancelled if the failure to use it is due to non-economic reasons beyond the railway operator's control. The Rail Administration may always cancel the capacity for such a period of time during which the railway undertaking does not have a safety certificate for operating railway traffic.

The Rail Administration may cancel the infrastructure capacity totally or partly on a train path which is provisionally out of service due to a technical failure on the railway network, an accident or other incident. In such cases, the Rail Administration shall offer the operator alternative train paths, as far as possible. The Rail Administration is not, however, obliged to compensate for damage that may be caused to the operator, unless otherwise provided in section 12 or 24 of this Act.

### Section 24 - *Framework agreements*

The Rail Administration may conclude framework agreements on the use of infrastructure capacity with applicants for infrastructure capacity. The purpose of such an agreement is to specify the characteristics of the infrastructure capacity requested by the applicant. The framework agreement does not, however, entitle the applicant to obtain such capacity as is specified in the agreement. If requested, the Rail Administration shall allocate the infrastructure capacity specified in the agreement following the procedure and on the grounds laid down in this Chapter. The framework agreement does not in any way impede the application of other provisions of this Chapter to other applicants.

The maximum period for which a framework agreement may be concluded is ten years. The Rail Administration may, for special reasons, conclude agreements for a longer period as well. Conclusion of an agreement for a period over ten years can, however, be justified only by the contracts, special investments or special business risks connected with the transport business of the party with which the agreement is concluded. Conclusion of an agreement for a period over ten years is justifiable only for particularly weighty reasons, such as the large-scale and long-term investments of the party with which the agreement is concluded and the contractual commitments connected with such activities.

Information on each framework agreement and on the main characteristics of the infrastructure capacity for which it is concluded is public. In other respects, the Act on the Openness of Government Activities (621/1999) applies. Notwithstanding the secrecy provisions, the Ministry is entitled to get information on the negotiations on framework agreements, on the conclusion of these agreements and the grounds for them, as well as on the conditions contained within them.

## Chapter 5 - **Safety of railway traffic**

### Section 25 - *Basis for the safety of railway traffic*

Railway operators shall have an organisation which ensures safety, as well as necessary internal instructions for directing and controlling such activities. Each railway operator is responsible for the safety of its activities, as well as for the observance of the regulations and instructions relating to railway traffic in its activities. Section 3 of the Rail System Interoperability Act applies to the technical and safety requirements relating to the operation of railway traffic.

### Section 26 - *Requirements for the qualification of personnel responsible for the safety of railway traffic*

To be able to carry out their tasks properly, drivers of railway rolling stock, personnel responsible for traffic control, as well as other personnel whose tasks are directly connected with traffic safety, shall meet the necessary health, training and other qualification requirements in accordance with the relevant provisions issued separately.

### Section 27 - *Traffic control*

The Rail Administration is responsible for traffic control on the railway network. The Rail Administration organises traffic control or purchases traffic control services from public or private service providers. The Rail Administration may also agree with a private siding owner on organising traffic control on a private siding or on a part of it.

### Section 28 - *Verification system for railway rolling stock*

The Rail Administration is responsible for the verification system for such railway rolling stock as has not been granted an authorisation for putting a subsystem into

service in accordance with section 5 of the Rail System Interoperability Act. Such railway rolling stock belongs within the scope of the Rail Administration's verification system. The Rail Administration organises verification or purchases verification services from public or private service providers. The decisions concerning verification and the related administrative decisions are, however, taken by the Rail Administration.

Railway rolling stock also belongs within the scope of this verification system if no assessment by the notified body referred to in section 7 of the Rail System Interoperability Act is carried out when granting the authorisation for putting a subsystem into service or controlling the compliance of the rolling stock with the requirements.

Notwithstanding subsections 1 and 2, the notified body referred to in subsection 2 may also be used for carrying out the verifications specified in this section. In such cases, the Rail System Interoperability Act and the provisions issued pursuant to it apply.

### *Section 29 - Requirements for traffic control services and verification services for railway rolling stock*

Undertakings providing traffic control services and verification services for railway rolling stock shall have an organisation which ensures safety, as well as instructions given by the Rail Administration for directing and controlling such activities. Services shall be provided on an equal basis to all railway undertakings. Undertakings providing traffic control services shall meet the requirements of good governance in their activities.

Persons carrying out tasks connected with the verification of railway rolling stock shall be suitable for their tasks and professionally competent. Undertakings carrying out rolling stock verifications shall comply in their activities, as appropriate, with the provisions of the Administrative Procedure Act (598/1982), the Act on the Openness of Government Activities, the Act on Service in Administrative Matters (232/1966), the Act on Delivery of Documents (874/1954), the Act on Electronic Service in the Administration and the Language Act (148/1922).

The provisions concerning the penal responsibility of an official for the legality of his action apply to persons employed by the undertakings referred to in subsection 1 when performing the tasks specified in subsection 27 or 28.

### *Section 30 - Supervision of the safety of railway traffic*

The Rail Administration supervises the safety of railway traffic on the state-owned railway network. The Rail Administration also supervises the safety of railway traffic on private sidings.

Notwithstanding the secrecy provisions, railway undertakings, undertakings providing traffic control services and undertakings providing verification services for rolling stock shall give the Rail Administration the information it needs for performing its supervising task.

### Section 31 - *Preparedness for railway accidents*

Railway undertakings shall be adequately prepared for possible railway accidents or dangers threatening railway traffic. The Rail Administration may in each particular case order what measures the railway undertaking shall take in advance to provide for railway accidents or dangers threatening railway traffic.

The Rail Administration may obligate the railway undertaking and persons carrying out tasks connected with the safety of railway traffic to take part in rescue exercises and in the railway emergency service, however, during not more than five days per year.

### Section 32 - *Investigation of accidents and danger situations*

The provisions of the Act on the Investigation of Accidents (373/1989) apply to the investigation of accidents and danger situations in railway traffic.

The Rail Administration may also investigate other danger situations and incidents than those to be investigated under subsection 1 if it is necessary in order to promote safety.

## Chapter 6 - **Miscellaneous provisions**

### Section 33 - *Preparedness for emergency conditions and disturbances*

The Rail Administration and railway undertakings shall be prepared to continue their activities with as few disturbances as possible under emergency conditions as referred to in the Emergency Preparedness Act (1080/1991) and in comparable situations when the normal conditions are disturbed. Besides ensuring its own activities, the Rail Administration shall also ensure the operability of the railway network under various emergency conditions and disturbances.

The emergency preparedness measures are directed and co-ordinated by the Ministry, which issues necessary instructions concerning the details and planning of emergency preparedness.

### Section 34 - *Obligation to supply services*

Railway undertakings, international groupings of railway undertakings, as well as companies or other associations providing services for railway traffic, are obliged to supply the services and track access to service facilities referred to in Appendix II.2 of the Capacity and Infrastructure Directive on a fair and non-discriminatory basis against payment to railway operators in case such services are supplied by only one company or other association and cannot be reasonably organised otherwise. The payment shall be fair to all railway undertakings and reasonable in relation to the costs incurred by the services.

Further provisions concerning the services and track access referred to in this section shall be given by Government decree.

### Section 35 - *Capacity analysis and capacity enhancement plan*

If the Rail Administration identifies infrastructure as congested under section 18(2), it shall prepare a capacity analysis within six months of the identification of the infrastructure as congested. This analysis shall identify the reasons for the congestion and what measures the Rail Administration shall take to ease or reduce congestion on the infrastructure to be analysed.

After completing the capacity analysis referred to in subsection 1, the Rail Administration shall produce a capacity enhancement plan within six months of the completion of the capacity analysis. The capacity enhancement plan shall identify the reasons for the congestion, the likely future development of railway traffic, the constraints on the development of the railway network, as well as the options and costs for capacity development, taking into account the assessments of the proposed options on the basis of a cost-efficiency analysis and the conditions for changing the charges connected with the infrastructure charge.

### Section 36 - *Museum train traffic*

Notwithstanding the provisions of section 16, the Rail Administration may grant the right of access to the railway network to associations operating museum train traffic. The conditions for the operation of museum train traffic and the operation of such traffic are regulated by the provisions concerning traffic, the operation of railway traffic and the tasks connected with traffic safety contained in this Act or any other act or issued pursuant to it. Museum train operators do not, however, need an operating licence referred to in section 5. The applications of museum train operators shall always be treated as urgent in compliance with section 22.

Museum train operators shall have a safety certificate referred to in section 11, which the Rail Administration may issue separately for museum train traffic on the conditions specified in the aforementioned section. The provisions concerning licence holders in section 12 and applicants for infrastructure capacity in section 23 of this Act also apply to museum train operators.

### Section 37 - *Traffic connected with infrastructure maintenance*

Notwithstanding the provisions of section 16, the Rail Administration may grant the right of access to the railway network to track maintenance companies, other than railway undertakings or international groupings of undertakings, for track machine and train movements directly connected with infrastructure maintenance, provided that these operations do not put the safety of railway traffic at risk. The provisions concerning traffic and the tasks connected with traffic safety contained in or issued under this Act or any other act are applicable to such traffic.

The track maintenance company shall have a safety certificate referred to in section 11, which the Rail Administration may issue separately for traffic connected with infrastructure maintenance on the conditions specified in the aforementioned section. Traffic connected

with infrastructure maintenance shall be organised under the direction of the Rail Administration in such a way it does not affect the right of the applicants for infrastructure capacity to use the capacity allocated to them.

*Section 38 - Connection of private sidings to the state-owned railway network*

Railway undertakings and other companies or associations under private law, as well as municipalities and state authorities, may connect their private sidings to the state-owned railway network, provided that the Rail Administration grants them the appropriate authorisation. The Rail Administration and the party having received the authorisation shall agree between themselves on the taking in use and maintenance of the siding.

*Section 39 - Right of the Rail Administration to get information for fixing the infrastructure charges, statistics and research*

If requested, railway operators shall give the Rail Administration necessary information on their finances and on the traffic operated by them. The Rail Administration uses this information for fixing the infrastructure charges, as well as for statistics and research.

*Section 40 - Accounts of railway undertakings*

Railway undertakings shall in their accounts observe the relevant provisions valid in the European Community and Finland. Furthermore, they shall prepare a calculation of the profitability of freight traffic, as well as an annual summary of the quantity and values of their production equipment and of the financial responsibilities connected with it. This summary shall be published. The receipts from passenger services purchased as public services shall be entered into a separate account and may not be used to cover the costs of other business operations.

*Section 41 - Conditional fines, threat of performance at the defaulter's expense and threat of interruption*

The Rail Administration may reinforce the fulfilment of an obligation or the observance of a prohibition laid down under this Act by conditional fines, a threat of performance at the defaulter's expense or a threat of interruption, as provided in the Act on Conditional Fines (1115/1990).

*Section 42 - Regulatory body*

In addition to its other duties laid down in this Act, the Ministry shall supervise that the requirements set out in this Act are complied with. The Ministry shall particularly ensure that the basic infrastructure charge referred to in section 14 is not discriminatory or otherwise in conflict with this Act or the provisions issued pursuant to it and that the allocation of infrastructure capacity takes place in accordance with the requirements set out in this Act.



The Ministry is entitled to get such information as it needs for performing its duties under this Act from railway operators and, notwithstanding the secrecy provisions, from the Rail Administration.

#### Section 43 - *Claim for rectification and appeal*

Any party which is not satisfied with a decision taken by the Rail Administration may submit a claim for rectification to the Ministry if the decision concerns:

- 1) priority order for allocating infrastructure capacity in individual cases;
- 2) levying of the infrastructure charge;
- 3) allocation of infrastructure capacity;
- 4) allocation of urgently needed infrastructure capacity;
- 5) issuance of a safety certificate; or
- 6) the agreement which the Rail Administration concludes under section 12(1)(2).

The claim for rectification shall be submitted to the Ministry within 30 days from the date of receipt of notice of the decision.

The Ministry shall decide on a claim for rectification submitted under subsection 1 within two months of the date on which all relevant information for taking a decision has been delivered to it. The decision shall, however, be taken within ten days of the date on which all relevant information has been delivered if the claim for rectification concerns the priority order in individual cases, the allocation of infrastructure capacity or a request for urgently needed infrastructure capacity.

A decision taken by the Ministry on a claim for rectification may be appealed against as provided in the Administrative Judicial Procedure Act (586/1996). A decision taken by the Rail Administration under section 41 may be appealed against as provided in the Act on Conditional Fines. Other decisions taken by the Rail Administration under this Act may be appealed against as provided in the Administrative Judicial Procedure Act. In spite of lodging an appeal, the decisions shall be obeyed, unless the appellate authority orders otherwise.

Applicants may lodge an appeal if the Ministry has not decided on the issuance of an operating licence within the time specified in section 7(3) or on a claim for rectification within the time specified in subsection 3 above, or if the Rail Administration has not decided on the issuance or approval of a safety certificate within the time specified in section 11(3) or on the priority order for a train path within the time specified in section 19(2) or established a draft working timetable within the time specified in section 20(1) or decided on a request for urgently needed infrastructure capacity within the time specified in section 22(1). In such cases, it is considered that the appeal is made against a rejection. Such appeals can be made until a decision is taken on the application. The Ministry and the Rail Administration shall inform the appellate authority as soon as the decision is taken. In other respects, the provisions of the Administrative Judicial Procedure Act apply, where appropriate, to the lodging and treatment of the appeals referred to in this section.

#### Section 44 - Penal provisions

Those who operate railway traffic subject to licence without an appropriate operating licence shall be sentenced to pay a fine for *unlicensed operation of railway traffic*.

Those who intentionally

- 1) operate railway traffic without complying with the conditions referred to in section 12;
  - 2) use infrastructure capacity contrary to the provisions of section 21;
  - 3) operate museum train traffic contrary to the conditions and requirements laid down in section 36;
  - 4) act against the conditions and requirements relating to traffic connected with infrastructure maintenance laid down in section 37; or
  - 5) move or stay without authorisation in a railway yard, on a railway line, on a railway bridge or in a railway tunnel which is not open for public;
- shall be sentenced to pay a fine for *violating railway legislation*, unless the offence is minor or a more severe punishment is provided in some other act.

#### Section 45 - *Entry into force*

This Act repeals:

- 1) the Act on the State-Owned Railway Network, Infrastructure Maintenance and the Use of the Railway Network of 5 January 1995 (21/1995; *Railway Network Act*), as amended;
- 2) the Act on the Legalisation and Mortgaging of a Private Railway Built for Public Traffic of 15 April 1889 (16/1889), as amended;
- 3) the Decree on Private Railways for Public Traffic of 15 April 1889 (16/1889), as amended;
- 4) the Decree on the Prohibition of Trespassing the Railway Area and of Other Activities Disturbing Public Order in the Railway Area of 6 June 1924 (145/1924).

Measures necessary for the implementation of this Act may be undertaken before the Act's entry into force.

#### Section 46 - *Transitional provisions*

The operating licence issued under section 7 of the Railway Network Act is valid as an operating licence in accordance with this Act for one year after the entry into force of this Act. After that, the licence holders shall have an operating licence complying with the provisions of this Act in order to operate railway traffic.

The access rights granted under section 8 of the Railway Network Act and the safety certificate referred to in section 3 of the Decree on the Operating Licence of Railway Undertakings (554/1997) shall remain in force unchanged until the beginning of the first timetable period laid down under this Act. The access rights holders shall apply for infrastructure capacity for the timetable periods to be laid down under this Act as provided in this Act. The railway operators and the undertakings operating traffic connected with infrastructure maintenance referred to in section 37 of this Act shall obtain a safety certificate issued under this Act by the beginning of the first timetable period to be laid down under this Act.

The first network statement in accordance with this Act shall be published within not more than one month after the entry into force of this Act. The Rail Administration shall consult on its draft network statement with the applicants for infrastructure capacity referred to in subsection 4 of this section before the entry into force of this Act.

Further provisions concerning the beginning of the first timetable period in accordance with this Act, the first deadline for the submission of applications for infrastructure capacity and the publishing of the first draft working timetable referred to in section 20 shall be issued by Government decree.

The provisions issued by the Rail Administration under section 6 of the Railway Network Act shall apply unchanged until other provisions concerning their application are issued. The authorisations based on section 12 of the Rail Network Act or granted by the Rail Administration for connecting private sidings to the state-owned railway network shall remain in force unchanged.