

พระราชบัญญัติรถไฟ ค.ศ. 2004 ของประเทศสวีเดน

## Swedish Code of Statutes – SFS



**SFS**

Issued by the printers  
on 16 June 2004.

### The Railways Act

issued on 3 June 2004.

In accordance with a decision<sup>1</sup> of the Riksdag, the following is enacted<sup>2</sup>.

#### Chapter 1 General provisions

##### Scope of the Act

**Section 1** This Act applies to railway infrastructure and railway vehicles and the conduct and organisation of rail transport.

The Act does not apply to undergrounds and tramways. The Undergrounds and Tramways Safety Act (1990:1157) contains provisions concerning safety of such railed systems.

**Section 2** The Rail Transport Act (1985:192) and the International Rail Transport Act (1985:193) contain special provisions on the conveyance of passengers and goods.

<sup>1</sup> Government Bill 2003/04:123, Report 2003/04:TU14, Riksdag Communication 2003/04:000.

<sup>2</sup> See Council Directive 91/440/EEC of 29 July 1991 on the development of the Community's railways (*Official Journal of the European Communities* – OJ L 237, 24/08/1991, p. 25, Celex 31991L0440), last amended by Directive 2001/12/EC of the European Parliament and of the Council (OJ L 75, 15/03/2001, p. 1, Celex 32001L0012) and Annex II to the Act concerning the conditions of accession of the Czech Republic, and others (*Official Journal of the European Union* – OJ L 236, 23/09/2003, p. 53, Celex 12003TN02/01/A), Council Directive 95/18/EC of 19 June 1995 on the licensing of railway undertakings (OJ L 143, 27/06/1995, p. 70, Celex 31995L0018), last amended by Directive 2001/13/EC of the European Parliament and of the Council (OJ L 75, 15/03/2001, p. 26, Celex 32001L0013), Council Directive 96/48/EC of 23 July 1996 on the interoperability of the trans-European high-speed rail system (OJ L 235, 17/09/1996, p. 6, Celex 31996L0048), amended by Regulation (EC) No 1882/2003 of the European Parliament and of the Council (OJ L 284, 31/10/2003, p. 1, Celex 32003R1882), Directive 2001/14/EC of the European Parliament and of the Council of 26 February 2001 on the allocation of railway infrastructure capacity and the levying of charges for the use of railway infrastructure and safety certification (OJ L 75, 15/03/2001, p. 29, Celex 32001L0014), amended by Commission Decision 2002/844/EC (OJ L 289, 26/10/2002, p. 30, Celex 32002D0844) and also Directive 2001/16/EC of the European Parliament and of the Council of 19 March 2001 on the interoperability of the trans-European conventional rail system (OJ L 110, 20/04/2001, p. 1, Celex 32001L0016).

### **Supervisory authority**

**Section 3** The authority appointed by the Government (the supervisory authority) shall consider applications for licences and exercise supervision in accordance with this Act and in accordance with the regulations made in accordance with the Act.

### **Definitions**

**Section 4** In this Act and in regulations made in accordance with this Act,

*subsystem*: means part of a rail system,

*EEA*: means European Economic Area,

*infrastructure manager*: means the party that manages railway infrastructure and operates installations belonging to that infrastructure,

*railway vehicle*: means rolling stock that can be moved on railway tracks,

*railway undertaking*: means a party that, in accordance with a licence or special permit, provides traction and conducts rail transport,

*railway infrastructure*: means track, signals and security installations, traffic management installations, equipment for supplying electricity for transport together with other fixed equipment that is necessary for the existence, operation or use of the installation for the purposes of railway transport,

*rail network*: means railway infrastructure that is managed by one and the same infrastructure manager,

*rail system*: means railway infrastructure and railway vehicles together with the operation and management of the infrastructure and vehicles,

*train path*: means the infrastructure capacity that, according to that stated in a working timetable, may be utilised to move railway vehicles, except work vehicles, from one place to another during a certain period of time,

*working timetable*: means a plan for the use of railway infrastructure during a certain specified period.

### **Authorisation**

**Section 5** The Government or, following authorisation by the Government, the supervisory authority may issue regulations regarding which vehicles are to be regarded as work vehicles and whether certain line installations are not to be deemed to be railway infrastructure.

The Government may also issue regulations concerning what in this Act and in regulations made in accordance with the Act is meant by the 'trans-European conventional rail system' and the 'trans-European high-speed rail system'.

## **Chapter 2 Requirements for rail systems**

### **Security**

**Section 1** Railway infrastructure, railway vehicles and other material in the rail system shall be of such nature that damage/injury as a consequence of the operation conducted with the system is prevented.



**Section 2** An infrastructure manager's and a railway undertaking's operation shall be conducted so that damage/injury as a consequence of the operation is prevented.

The operation shall be organised so that it can be operated in a secure manner.

**Section 3** A party that is engaged in an infrastructure manager's or a railway undertaking's operation shall be very familiar with the circumstances, regulations and conditions applicable for the operation and which affect their work tasks.

Work tasks of importance for safety may only be performed by a person who is considered appropriate having regard to professional skill, health status and other personal circumstances.

**Section 4** An infrastructure manager or a railway undertaking may not allocate any work tasks of importance for safety without the person concerned having undergone a medical examination showing that there are no impediments owing to health reasons.

A person who has work tasks of importance for safety shall regularly undergo a medical examination. The party performing the operation may suspend from such work tasks a person who does not comply with an order to undergo an examination.

**Section 5** An infrastructure manager's or a railway undertaking's operation shall have security rules and such security provisions as may be necessary in addition to this Act and the regulations issued in accordance with this Act.

**Section 6** If an accident should occur in connection with use of a railway vehicle, whereby several persons are killed or are seriously injured or a vehicle, railway infrastructure or property that is not transported with the vehicle incurs extensive damage, railway undertakings and the infrastructure managers are liable to report what has occurred to the supervisory authority. Railway undertakings and managers are also liable to report when there has been a serious risk for such an accident or when something has happened that suggests that there may be a fundamental fault with a vehicle, or the infrastructure or that there are other fundamental inadequacies in safety respects.

The Investigation of Accidents Act (1990:712) contains provisions concerning investigation from the safety perspective of railway accidents and other events related to railways.

## **Requirements for subsystems and constituents**

### *Introductory provisions*

**Section 7** The provisions of Sections 8 to 12 shall only be applied to subsystems and constituents that were designed, constructed, upgraded or renewed after the end of June 2004. However, the provisions shall also be applied to subsystems and constituents that were put into use before then, but after 1 January 2001, provided they form part of the trans-European high-speed rail system.

### *Essential requirements and technical specifications*

**Section 8** Every subsystem and every component forming part thereof that is necessary for interoperability shall satisfy the prescribed requirements for safety, reliability, accessibility, health, environmental protection and technical compatibility.

Every subsystem shall furthermore comply with the prescribed technical specifications for interoperability.

### *Subsystems*

**Section 9** A subsystem may only be put into use if it satisfies the requirements contained in Section 8.

The requirements shall be deemed to be satisfied if the party that puts a subsystem into use, or his established representative in the EEA or in Switzerland, has issued a declaration that the subsystem complies with the prescribed requirements (EC declaration of verification). Verification of the subsystem and the assessment of compliance shall be performed by a body notified for this purpose according to the Act concerning Technical Conformity Assessment (1992:1119).

Verification and assessment according to the second paragraph is equated to verification and assessment by a body that has been notified for the same purpose by another State within the EEA or by Switzerland.

### *Constituents*

**Section 10** A constituent that is necessary for interoperability may be placed on the market and used in subsystems only if it enables interoperability to be achieved with the trans-European rail system and it satisfies the requirements of Section 8, first paragraph.

The requirements shall be deemed to be satisfied if the manufacturer, his established representative in the EEA or in Switzerland or the party that places a constituent on the market, has issued a declaration that the constituent complies with the applicable technical specifications and is suitable for the use intended (EC declaration of conformity). The assessment of compliance and suitability shall, in those cases prescribed by the Government or, following authorisation by the Government, the supervisory authority, be performed by a body that has been notified for this purpose in accordance with the Act concerning Technical Conformity Assessment (1992:1119).

An assessment according to the second paragraph is equated to assessment by a body that has been notified for the same purpose by another State within the EEA or by Switzerland.

### *Decisions concerning exemptions*

**Section 11** The supervisory authority may decide that a subsystem does not need to comply with such technical specifications for interoperability as referred to in Section 8, second paragraph, if there are special reasons.

A decision for an exemption shall be combined with the conditions necessary from the perspectives of safety, environment and interoperability.



**Section 12** If a subsystem forms part of a trans-European rail system, the supervisory authority may make a decision in accordance with Section 11 only in those cases where the Government prescribes.

#### **Approval by the supervisory authority**

**Section 13** A subsystem may be put into use only following approval by the supervisory authority, unless otherwise specially prescribed.

The provisions contained in Sections 8 to 12 shall not be taken into account upon the consideration by the supervisory authority of subsystems that have not been designed, constructed, upgraded or renewed after the end of June 2004.

#### **Authorisation**

**Section 14** The Government or, following authorisation by the Government, the supervisory authority may issue regulations concerning

1. safety in accordance with Sections 1 to 5,
2. that events that are of importance for the safety of railways shall also be reported in other cases than as referred to in Section 6, first paragraph,
3. requirements regarding safety, reliability, accessibility, health, environmental protection and technical compatibility, in accordance with Section 8, first paragraph,
4. technical specifications for interoperability in accordance with Section 8, second paragraph and other conditions for design, building, upgrading, renewal, operation, maintenance and the use of railway infrastructure and railway vehicles,
5. EC declaration of verification in accordance with Section 9,
6. EC declaration of conformity in accordance with Section 10, and
7. approval according to Section 13 and on exemptions from the requirement for approval.

The Government may make regulations concerning the cases in which the supervisory authority may decide in accordance with Section 12.

### **Chapter 3 Permits for rail activities**

#### **Permits for railway undertakings**

##### *Permit requirements*

**Section 1** In order to conduct rail transport either a permit is required in the form of a licence and a safety certificate or, in cases referred to in Section 4, a special permit.

##### *Licence*

**Section 2** A licence shall be granted to a party that

1. intends to provide traction and conduct rail transport,
2. is resident or seated in Sweden,
3. having regard to professional skill, financial capacity and good reputation is deemed to be suitable to provide traction and conduct rail transport, and
4. through insurance or other equivalent arrangement covers the liability and damages that may arise as a consequence of rail transport.

A licence or other corresponding permit issued in another State within the EEA or in Switzerland applies in Sweden.

#### *Safety certificate*

**Section 3** A safety certificate shall be granted to railway undertakings that

1. it may be expected will satisfy the requirements of Chapter 2, Sections 1 to 5 and of regulations made in accordance with Chapter 2, Section 14, 1,
2. use railway vehicles that satisfy the requirements contained in Chapter 2, and
3. show that insurance or other equivalent arrangement covers the liability and damages that may arise as a consequence of the traffic to which the safety certificate applies.

The requirements of the first paragraph may be adapted to the type and scope of the operation. In the certificate, the supervisory authority shall state how the requirements have been adapted and for which operation the certificate applies.

#### *Special permit*

**Section 4** A special permit may be granted to a party that, within Sweden, intends only to conduct

1. passenger traffic on local or regional stand-alone railway infrastructure,
2. regional transport of goods,
3. traffic in conjunction with maintenance of railway infrastructure, or
4. traffic with museum railway vehicles or other similar material that is insignificant in scope.

A special permit shall only be granted to a party that satisfies the requirements as referred to in Section 2, first paragraph, and Section 3, first paragraph. However, these requirements may not be adapted to the type and scope of the operation. The supervisory authority shall state in the permit how the requirements have been adapted and for which operation the permit applies.

#### **Permits for operators that organise rail transport**

**Section 5** In order to organise, but not self conduct, rail transport a permit in the form of an authorisation is required. However, an authorisation is not required for the National Public Transport Agency (Rikstrafiken).

**Section 6** Authorisation shall be granted to a party that

1. has a public or commercial interest in organising rail transport, and
2. having regard to professional skill, financial capacity and good reputation is deemed suitable to organise rail transport.

#### **Permits for infrastructure managers**

**Section 7** A permit is required to manage railway infrastructure and operate installations that belong to the infrastructure. However, a permit is not required for the Swedish National Rail Administration (Banverket).

**Section 8** A permit in accordance with Section 7 shall be granted to a party that



1. having regard to professional skill, financial capacity and good reputation is deemed suitable to manage railway infrastructure and operate installations that belong to the infrastructure, and

2. it may be expected will satisfy the requirements of Chapter 2, Sections 1 to 5 and in regulations made in accordance with Chapter 2, Section 14, 1.

The requirements of the first paragraph may be adapted to the type and scope of the operation. The supervisory authority shall state in the permit how the requirements have been adapted and for which operation the permit applies.

### **Conditions and reconsideration**

**Section 9** The supervisory authority may, except when it relates to a licence, in conjunction with the issue of a permit or during the term of the permit combine the permit with the conditions necessary from the safety perspective. The supervisory authority may also decide such conditions for The Swedish National Rail Administration as infrastructure manager and for The National Public Transport Agency as organiser of rail transport.

The permit holder is under an obligation to notify to the supervisory authority such changes in the operation that may give cause to reconsider the permit or conditions.

## **Chapter 4 Reporting of rail operations**

**Section 1** A railway undertaking shall, when appropriate, keep separate accounts for operations relating to transport of goods and management of railway infrastructure.

The infrastructure manager shall, when appropriate, keep separate accounts for the provision of transport services.

Public support that is paid to one of these operations may only be used in that operation. Public support that is paid to an operation relating to passenger transport shall be separately reported in that operation.

**Section 2** The provisions of this Chapter do not apply to a party that conducts traffic with museum railway vehicles or other similar material that is insignificant in scope.

**Section 3** The Government or, following authorisation by the Government, the supervisory authority may issue regulations regarding the duty to report as referred to in Section 1.

## **Chapter 5 Right to conduct and organise traffic on rail networks**

### **Passenger traffic**

**Section 1** The Government shall issue regulations concerning who, besides those referred to in Section 2, are entitled to conduct or organise passenger traffic on a rail network that is managed by the State.

As regards other rail networks, the infrastructure manager shall decide who, besides those referred to in Section 2, is entitled to conduct or organise passenger traffic on the rail network that the manager controls.

**Section 2** An international grouping of railway undertakings seated in different States within the EEA and Switzerland, with the object of conducting international transport between the Member States, may conduct transit passenger traffic on Swedish rail networks, if the traffic occurs between those States within the EEA and Switzerland where the undertakings are seated. If an undertaking in the grouping is seated in Sweden, it also is entitled to conduct traffic between Sweden and another State within the EEA and Switzerland, where an undertaking in the grouping is seated.

### **Freight services**

**Section 3** A railway undertaking seated within the EEA or in Switzerland is entitled to conduct freight services on Swedish networks. However, a railway undertaking seated in a State other than Sweden may convey goods, that are both loaded and unloaded within Sweden, only if the corresponding right is given in the other State for a railway undertaking seated in Sweden.

A party that is authorised in accordance with Chapter 3, Section 5 and is domiciled or seated within the EEA or in Switzerland is entitled to organise freight services on Swedish rail networks. However, a party that is domiciled or seated in a State other than Sweden only has such a right if a corresponding right is given in the other State for a party that is domiciled or seated in Sweden.

**Section 4** The right to conduct or organise traffic in accordance with Section 3 does not apply to stand-alone local and regional rail networks intended only for passenger traffic or to rail networks that are not managed by the State and which are only used by the owner for own freight services.

## **Chapter 6 Allocation of infrastructure capacity**

### **Obligations of infrastructure managers**

#### *Fundamental obligations*

**Section 1** An infrastructure manager is under an obligation to process an application concerning infrastructure capacity from a party that, according to Chapter 5, is entitled to conduct or organise traffic on Swedish rail networks and in a competitively neutral and non-discriminatory manner and for payment of a charge allocate infrastructure capacity to the party in accordance with the provisions of this Act.

An infrastructure manager may not, without authorisation, forward or utilise information that the applicant provides in conjunction with the application regarding its business and operational circumstances. The Secrecy Act (1980:100) applies to activities conducted by public bodies.

In connection with the allocation of infrastructure capacity, the manager shall observe the time schedule for the allocation that the Government or, following authorisation by the Government, the supervisory authority prescribes.

**Section 2** A party that conducts or organises rail transport may not at the same time be responsible for allocation of infrastructure capacity or determination of charges. However, the supervisory authority may in individual cases decide on exemptions from this, provided it can be assumed



that allocation of infrastructure capacity and determination of charges can occur in a non-discriminatory manner

**Section 3** An infrastructure manager shall assess the need for organising train paths for different types of transport, including the need for reserve capacity. If the applications concerning infrastructure capacity cannot be coordinated, the manager shall allocate capacity with the assistance of charges or in accordance with priority criteria whereby the infrastructure is utilised in a socio-economically efficient manner.

Railway infrastructure may be reserved for certain rail transport only if there is alternative railway infrastructure. The reservation of railway infrastructure for certain rail transport may not impede other traffic on this railway infrastructure provided capacity is available and the railway vehicles have the technical characteristics that are required.

**Section 4** An infrastructure manager shall cooperate with other managers in order to enable the efficient provision and allocation of infrastructure capacity on more than one rail network. The need for train paths for international traffic shall be considered in this connection.

#### *Description of rail networks*

**Section 5** An infrastructure manager shall prepare a description of the rail network the manager controls. The description shall contain information concerning available infrastructure and also information concerning the conditions for gaining access to it and concerning the procedures and criteria for allocation of infrastructure capacity.

The description shall be prepared following consultation with the parties involved. The description shall be made public, updated regularly and amended when necessary.

#### *Capacity enhancement plan*

**Section 6** When railway infrastructure has been declared to be congested according to Section 13, the infrastructure manager shall conduct a capacity analysis and prepare a capacity enhancement plan.

### **Allocation procedure**

#### *Application*

**Section 7** A party that is entitled to conduct or organise traffic on a Swedish rail network may apply for infrastructure capacity in the form of a train path to an infrastructure manager in accordance with the manager's description of the rail network.

If infrastructure capacity is requested on several rail networks, the application may be made to one of the infrastructure managers affected. This manager shall then request capacity from other infrastructure managers in accordance with the application.

**Section 8** The infrastructure manager shall state what infrastructure capacity the manager desires to use for planned line work no later than at the point in time when the applications for infrastructure capacity according to the description of the rail network shall have been received.

### *Planning capacity*

**Section 9** The infrastructure manager shall produce a proposal for a working timetable based on the applications that have been received and having regard to the need for reserve capacity. The proposal shall also state the train paths for international traffic that are planned with other infrastructure managers.

The infrastructure manager shall to the greatest extent possible accommodate all applications for infrastructure capacity and also consider the financial impact on the applicants' operations and other circumstances of importance for the applicants.

The parties involved shall be given an opportunity to express their views on the proposal for a working timetable. The time limit for stating views may not be less than one month.

**Section 10** The infrastructure manager shall, by a coordination of the applications, try to resolve the possible conflicts of interest that arise in connection with the allocation of capacity. The infrastructure manager may propose other infrastructure capacity for an applicant than that applied for.

**Section 11** If the applications can be coordinated, the infrastructure manager shall determine the allocation of capacity in a working timetable.

**Section 12** If a conflict of interest between two or several applicants cannot be resolved, the infrastructure manager shall provide a procedure for the expeditious resolution of disputes.

**Section 13** If the applications cannot be coordinated despite the procedure for coordination and resolution of disputes, the infrastructure manager shall immediately declare that part of the infrastructure where the applications are incompatible to be congested and state the times when this is the case.

If it is manifest that there will be significant capacity constraints on the part of the infrastructure within forthcoming working timetable periods, the infrastructure manager may declare this part of the infrastructure to be congested, before a procedure for coordination is commenced in accordance with Section 10.

**Section 14** A party that pays an additional charge in accordance with Chapter 7, Section 3 has priority in the allocation of congested infrastructure.

**Section 15** If the possibility, according to Chapter 7, Section 3, to impose an additional charge is not used or does not result in it being determined which applicant shall be allocated infrastructure capacity, the infrastructure manager shall allocate capacity according to the priority criteria as referred to in the description of the rail network.

**Section 16** An application concerning a train path within an already applicable working timetable shall be answered by the infrastructure manager immediately and no later than within five working days.

### *Measures in the event of disruptions and the like*





**Section 17** In the event of disruptions to rail transport, the infrastructure manager shall take the measures necessary to reinstate traffic to normal conditions. If the circumstances so require, the infrastructure manager may in a clearance or emergency situation, without prior warning and for the time necessary for repairs, take measures that are not compatible with previous decisions concerning the allocation of capacity.

**Section 18** A railway undertaking is liable in clearance and emergency situations, at the request of the infrastructure manager and in accordance with what the parties agree, make such resources available that the manager considers most suitable to reinstate conditions to normal.

#### *Train path*

**Section 19** A train path shall be allocated for one working timetable period at a time. A party that has been allocated a train path may not assign it. A train path shall not be considered to be assigned if a party that is not a railway undertaking engages a railway undertaking to conduct the traffic.

A party that has assigned a train path may be refused allocation of train paths upon the same or immediately forthcoming working timetable periods.

**Section 20** A party that has been allocated a train path and during one month has not utilised the train path to the extent referred to in the description of the rail network shall, at the request of the infrastructure manager, surrender the train path. This does not apply if the low utilisation is due to factors that are not of a financial nature and which lie outside the control of the party.

If a train path has not been utilised, this may be taken into account in connection with a later allocation of train paths.

#### *Framework agreement*

**Section 21** A contract between a railway undertaking or a party that is authorised according to Chapter 3, Section 5 and an infrastructure manager for the utilisation of infrastructure for a period exceeding one working timetable period (framework agreement) cannot be asserted against any other application to the extent that certain train paths are stated in the agreement or the agreement is formulated in another way so that it excludes the rights of other applicants to use the infrastructure.

#### *Traffic use contract*

**Section 22** In connection with the allocation of a train path, the railway undertaking or the party that is authorised according to Chapter 3, Section 5 and the infrastructure manager shall conclude the contracts of administrative, technical and financial nature that are necessary for the utilisation of the train path (traffic use contract). The contract terms and conditions shall be competitively neutral and non-discriminatory.

Rail transport may not be conducted without a traffic use contract having been concluded.

#### **Provision of services**



**Section 23** A party that, for someone entitled to conduct or organise traffic on Swedish rail networks, provides services as referred to in the second paragraph is obligated to do this in a non-discriminatory manner. A request for such a service may be rejected only if there are reasonable alternatives that can be used.

Those services referred to in the first paragraph are

1. access to stations for passengers, including structures and other installations, freight terminals, refuelling facilities and also maintenance facilities and other technical facilities that do not form part of the railway infrastructure, and

2. marshalling and other train formation possibilities, stocking possibilities, traction current, preheating of passenger trains, supply of fuel and also shunting and all other services conducted at those installations as referred to in 1 and which are necessary in order to conduct traffic.

In the event that an infrastructure manager does not provide a service as referred to in the second paragraph, the party that provides the main infrastructure shall, as far as is possible, facilitate the provision of the services.

### **Exemptions for certain infrastructure managers**

**Section 24** The provisions on obligations for infrastructure managers in Section 1, third paragraph and also Sections 3, 6, 8 to 13, 15 and 16, do not apply to managers that provide infrastructure capacity as only a small part of such a service as referred to in Section 23.

### **Authorisation**

**Section 25** The Government or, following authorisation by the Government, the supervisory authority may issue regulations regarding allocation of capacity in accordance Sections 1 to 4, description of rail networks in accordance Section 5, conducting of a capacity analysis and preparation of a capacity enhancement plan in accordance Section 6, procedure for allocation of capacity in accordance with Sections 7 to 16, including determination of a working timetable, and also the obligation for the infrastructure manager to prepare emergency plans for the eventuality of a serious accident or a serious disruption to traffic.

## **Chapter 7 Charges**

### **Charges for utilisation of the railway infrastructure**

**Section 1** An infrastructure manager shall impose competitively neutral and non-discriminatory charges for utilisation of the railway infrastructure.

#### *Charges based on marginal costs*

**Section 2** Charges for utilisation of the railway infrastructure shall, within the framework for the infrastructure manager's costs for the infrastructure, be determined to be the cost that arises as a direct consequence of the movement of railway vehicles, unless otherwise prescribed by Sections 3 to 6. However, for infrastructure that forms part of terminals and marshalling yards, the charge shall be determined in accordance with Section 8.

**Section 3** The infrastructure manager may, to ensure a socio-economically efficient utilisation of the railway infrastructure impose an additional charge for the utilisation of congested infrastructure.

However, if the infrastructure manager has not conducted or implemented a capacity enhancement plan according to Chapter 6, Section 6, the additional charge may not be imposed without the approval of the supervisory authority. Such approval shall be granted if the plan cannot be implemented owing to circumstances outside the manager's control or if the alternatives available to remedy the congestion are not economically or financially reasonable.

#### *Special charges*

**Section 4** The infrastructure manager may, in order to ensure coverage of costs, impose higher charges than as prescribed by Sections 2 and 3, provided this is compatible with the socio-economically efficient utilisation of the infrastructure. The charges may not be set so high that the market segments that can pay at least the cost that arises as a direct consequence of the movement of railway vehicles, plus profit earnings that the market can bear, are impeded from using the infrastructure.

**Section 5** The infrastructure manager may, on the basis of the long-term cost of a special infrastructure project that will increase the efficiency of the rail system and which has been concluded after 15 March 1986, impose higher charges than as prescribed by Sections 2 and 3, provided the project would not have been implemented if the charges had been limited in the manner prescribed by Sections 2 and 3.

#### *Discount*

**Section 6** The infrastructure manager may grant a discount on charges in order to promote the development of new rail transport or the use of significantly under-utilised lines. The discount shall be limited in time and available on equal terms for all users of particular traffic.

#### *Booking charges*

**Section 7** The infrastructure manager may impose the full or parts of the charge for allocated capacity that has not been utilised.

#### **Charges for services**

**Section 8** Charges for services that are provided in connection with utilisation of the railway infrastructure shall be non-discriminatory. If the party that controls such services is alone in the provision of a certain service, the charges shall be computed on the basis of the cost for providing services and according to the actual use that the purchaser of the services requests.

### **Chapter 8 Supervision, etc.**

#### **General provisions**



**Section 1** The supervisory authority shall exercise supervision of compliance with the Act and the regulations and conditions that have been made in accordance with the Act.

**Section 2** The Swedish Electrical Power Act (1997:857) contains special provisions for the supervision of electrical installations.

**Section 3** The supervisory authority is entitled to, from a party that conducts operations subject to this Act, upon request

1. obtain such information and gain access to such documents as are needed for the supervision, the assessment of applications for permits and for clearly defined statistical purposes,

2. obtain access to installations, vehicles and other materials, areas, premises and other spaces, though not dwellings, that are associated with the operation affected, and

3. obtain access to necessary personnel, materials or the like without cost in connection with test runs and other materials tests.

Police and customs authorities shall provide the assistance necessary for the supervision.

The supervisory authority may request execution by the Enforcement Service of a decision that relates to measures referred to the first paragraph. In this connection, the provisions of the Enforcement Code concerning such execution as referred to in Chapter 16, Section 10 of the Code shall apply.

Infrastructure managers and applicants for infrastructure capacity shall, without being requested to do so, afford the supervisory authority full insight into negotiations concerning charges.

### **Orders and prohibitions**

**Section 4** The supervisory authority may issue the orders and prohibitions required to ensure compliance with this Act or the regulations or conditions that have been made in accordance with this Act.

Orders and prohibitions may be made subject to a default fine.

A judgment requiring payment of a default fine may not be imposed under this Act for the same action where someone has been ordered by judgment to pay a competition impairment penalty in accordance with Section 26 of the Competition Act (1933:20) or ordered to pay a default fine in accordance with Section 59 of the same Act.

### **Revocation of a permit**

**Section 5** The supervisory authority may revoke a permit, if

1. the preconditions for the permit are no longer satisfied,
2. the permit holder does not satisfy his obligations according to this Act or according to regulations made in accordance with the Act, or
3. the permit holder does not use the permit for at least six months.

**Section 6** If a bankruptcy procedure or a proceeding for a composition has been initiated against the holder of a permit, the supervisory authority shall revoke the permit if there is well-founded reason to assume that a satisfactory financial restructuring cannot be accomplished within a reasonable time.

### **Market control**

**Section 7** If it can be considered that a constituent that is necessary for interoperability does not satisfy the requirements of Chapter 2, Section 8, first paragraph, the supervisory authority may take measures in order to limit the scope of use of the constituent, prohibit its further handling on the market or withdraw it from the market, even if the constituent is furnished with an EC declaration of conformity.

If it can be assumed that a subsystem does not satisfy the requirements of Chapter 2, Section 8, first paragraph, the supervisory authority may decide on supplementary examinations of the subsystem, even if the subsystem is furnished with an EC declaration of verification.

### **Register**

**Section 8** The supervisory authority shall keep and afford public access to a register of railway infrastructure and railway vehicles.

### **Settling of disputes**

**Section 9** A railway undertaking, an infrastructure manager or a party that is authorised to organise rail transport may refer to the supervisory authority disputes concerning whether an infrastructure manager's decision in accordance with this Act complies with the Act or regulations made in accordance with the Act.

The supervisory authority shall as soon as possible decide on the matters to which the dispute relates. The decision should be made no later than within two months from when all relevant information regarding the dispute has been submitted.

If the parties cannot reach agreement concerning the conditions contained in a traffic use contract, the supervisory authority may, upon the request of a party, determine the administrative, technical and financial conditions that shall apply for the traffic in question to the extent it is necessary to ensure that the conditions shall satisfy the provisions of this Act.

### **Authorisation**

**Section 10** The Government or, following authorisation by the Government, the supervisory authority may issue regulations regarding registers according to Section 8 and the regulations necessary for the settling of disputes.

## **Chapter 9 Good order**

**Section 1** No one may enter the railway track area without the permission of the infrastructure manager or a railway undertaking, except for places where it is clearly evident that the public is entitled to access.

**Section 2** Alcoholic beverages may not be consumed within a rail system. This prohibition does not apply in issues concerning consumption of beverages in connection with licensed serving of food and nor if a railway undertaking or an infrastructure manager has in an particular case consented to the consumption. 'Alcoholic beverages' means spirituous liquor, wine,



strong beer and beer in the sense ascribed to these designations by the Alcohol Act (1994:1738).

**Section 3** An officer in security or warden service at a rail system may remove from the rail system a person who violates the prohibition contained in Section 1, anyone who appears to be intoxicated or disturbs good order and anyone who through their behaviour jeopardises the safety of railway operations. If it is absolutely necessary, the officer may take such persons into custody. If this occurs, the police shall be notified immediately. The person taken into custody may be held until they have been surrendered to a police officer or there is no longer reason to continue the custody, though at most six hours.

An officer in security or warden service at a rail system may remove from the railway infrastructure anyone who that violates the prohibition contained in Section 2.

**Section 4** In order to implement a measure in accordance with Section 3, the officer may not apply more stringent means than the circumstances require.

Force may only be resorted to when other means are of no use. If force is resorted to, the mildest form shall be used that may be expected to lead to the intended result. Force may not be used more than is absolutely necessary.

## **Chapter 10 Penal provisions**

**Section 1** A sentence of a fine or imprisonment for at most two years shall be imposed on a person who

1. without a permit conducts operations that are subject to a permit obligation according to this Act,

2. with intent or by gross negligence in their operation engages someone who does not satisfy the requirements contained in Chapter 2, Section 3, to perform work tasks of importance for safety, or uses material that does not satisfy the safety requirements contained in Chapter 2, Section 1, or does not satisfy the requirement contained in Chapter 2, Section 5 concerning safety rules,

3. with intent or by gross negligence violates the conditions imposed in accordance with Chapter 3, Section 9, or

4. with intent or by gross negligence in the operation uses material that has not been approved in accordance with Chapter 2, Section 13.

Liability under this Act shall not be imposed on anyone who has not complied with a default fine order or violated a default fine prohibition for an act that is subject to the order or prohibition

**Section 2** Any person who conveys a power-operated rail transportation vehicle on a railway after having consumed beverages containing alcohol in such a great quantity that the concentration of alcohol during or after the journey amounts to at least 0.2 per mille in their blood or 0.10 milligrams per litre in their exhaled breath shall be sentenced to a fine or imprisonment for at most six months.

Any person who conveys a power-operated rail transportation vehicle on a railway after having used narcotics as referred to in Section 8 of the Penal Law on Narcotics (1968:64) in such a great quantity that during or after the

journey there is some narcotic substance remaining in their blood shall be sentenced to the same penalty. However, this does not apply if the narcotic has been used as prescribed by a physician or other authorised dispenser.

Any person who conveys a power-operated rail transportation vehicle on a railway and is so influenced by beverages containing alcohol that it may be considered that they cannot convey the vehicle in a safe way shall be sentenced to the same penalty. The same applies if the driver is similarly influenced by some other substance.

If an offence as referred to in the first, second or third paragraph is considered grave, the driver shall be sentenced to imprisonment for at most two years. When assessing whether the offence is grave, special account shall be taken to whether

1. the driver has a concentration of alcohol that amounted to at least 1.0 per mille in their blood or 0.50 milligrams per litre in their exhaled breath,

2. the driver had otherwise been considerably influenced by alcohol or some other substance, or

3. the conveyance of the vehicle has entailed a significant danger for traffic safety.

Any person who, without conveying a power-operated rail transportation vehicle on a railway, performs a service that includes tasks of essential importance for safety and at that time is so influenced by alcohol or some other substance that it may be considered that they cannot perform these tasks in a safe way shall be sentenced to a fine or imprisonment for at most two years.

**Section 3** Any person who neglects their duty to report under Chapter 2, Section 6, first paragraph or regulations that have been made in accordance with Chapter 2, Section 14, first paragraph, 2, shall be sentenced to a fine.

**Section 4** Any person who violates the prohibition contained in Chapter 9, Section 1, shall be sentenced to a monetary fine.

**Section 5** Liability under Section 1 or 3 shall not be imposed in petty cases.

Liability under Section 1, 3 or 4 shall not be imposed if the act is subject to a penalty under the Penal Code. Nor shall liability under Section 4 be imposed if the act is subject to a penalty contained in the Special Traffic Offences Act (1951:649).

**Section 6** The Act on the Forfeiture of Alcoholic Beverages, Etc. (1958:205) contains provisions concerning the issue of seizure and forfeiture of alcoholic beverages of a person who consumes such beverages in violation of Chapter 9, Section 2.

## **Chapter 11 Appeals**

**Section 1** A decision by the supervisory authority in an individual case in accordance with this Act or with regulations made in accordance with the Act may be appealed against to a general administrative court.

Leave to appeal is required in connection with appeals to the Administrative Court of Appeal.



**Section 2** A decision in accordance with this Act or in accordance with regulations made in accordance with the Act applies immediately, unless otherwise stated in the decision. However, a decision concerning revocation of a permit does not apply until it has entered into final legal force, unless otherwise stated in the decision.

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1. This Act enters into force on 1 July 2004. The following Acts are repealed by this Act

- a) the Track Capacity Allocation Act (1997:756), and
- b) the High-speed Rail Systems Act (2000:1336).

2. The provisions concerning requirements for approval in accordance with Chapter 2, Section 13 do not apply to subsystems that have been put into use after the end of the year 2000 but prior to 1 July 2004, if the subsystems are part of the trans-European high-speed rail system, as long as the subsystem is not thereafter rebuilt or renewed.

3. The provisions of the new Act concerning requirements for approval of subsystems and concerning permits shall not apply as long as a corresponding approval or permit applies in accordance with the transitional provisions of the Act (2004:000) on amendments to the Railway Safety Act (1990:1157). However, the provisions contained in Chapter 8 of the new Act shall apply from the date of entry into force even in those cases when an approval or a permit has been given before the entry into force in accordance with the Railway Safety Act.

4. A traffic manager according to the Public Passenger Special Transport Liability Act (1997:734) may until the end of 2006 organise rail transport without such authorisation as prescribed by Chapter 3, Section 5.

5. A party that at the time that the Act entered into force conducted operations, that comprise both conducting and organising rail transport and responsibility for allocation of infrastructure capacity or determination of charges, may notwithstanding Chapter 6, Section 2 continue to conduct the operation until at most the end of the year 2008.

6. The Government or, following authorisation by the Government, the supervisory authority may issue regulations regarding when the provisions concerning description of rail networks and allocation procedures contained in Chapter 6 and concerning charges contained in Chapter 7 shall be applied for the first time. Until then, as far as regards allocation procedures, the provisions contained in the Track Capacity Allocation Act (1997:756) shall apply.

7. When considering cases and matters in accordance with the Track Capacity Allocation Act (1997:756) and the High-speed Rail Systems Act (2000:1336) which were pending at the time of entry into force, the older provisions shall apply.

On behalf of the Government

LARS ENGQVIST

LEIF PAGROTSKY  
(Ministry of Industry, Employment  
and Communications)