

(This translation is for information purposes only)

Act on the Establishment and Operation of Railways, including Tramways, Underground Railways and Suburban Railways etc., (Railways Act)

Chapter I Introductory provisions

Section 1 (Scope of the act)

This act applies to the establishment and operation of railways, including tramways, underground railways, suburban railways and similar modes of guided transport. The act also applies to fixed and movable appliances that are connected with railway operations.

Section 2 (Exceptions for certain railways)

The ministry may by regulations or individual decision except from this act or parts thereof railways:

- a) for whom transport is not their main business,
- b) which will not constitute a material risk to traffic safety, or
- c) in which the State holds an owner interest above 50 per cent and the intentions of the act can be promoted by other means.

Section 3 (Definitions)

For the purpose of this act:

- a) "infrastructure" means rail track layout with appurtenant land areas and installations, signal and back-up systems, power supply systems and communication systems;
- b) "rail traffic control" means train management and other functions that co-ordinate and promote safety in the interest of train movement;
- c) "rail transport services" means carriage of passengers and freight on the infrastructure;
- d) "railway operation" means operation of infrastructure, rail traffic control and rail transport services.

The ministry may make supplementary regulations on what is meant by infrastructure, rail traffic control and rail transport services.

Chapter II Approval schemes, authorisations etc.

Section 4 (Establishment and approval of infrastructure)

The ministry may lay down regulations on the technical design of infrastructure in order to promote the interest of safe and appropriate services.

The planning and establishment of infrastructure shall take place in accordance with the Planning and Building Act.

The infrastructure shall be approved by the ministry before being put into operation.

Section 5 (Approval of rolling stock etc.)

Rolling stock shall be approved by the ministry before being put into service on the infrastructure, except as otherwise provided by international agreements or regulations made by the ministry.

Section 6 (Authorisation to engage in railway operation)

Whoever intends to operate infrastructure or rail transport services must be authorised to do so by the ministry. Operation of infrastructure includes responsibility for rail traffic control, unless the ministry authorises the transfer of such responsibility to others.

The ministry may by regulations or individual decision lay down conditions for this authorisation in order to safeguard the interests of safe and appropriate rail services and of the environment, including requirements for:

- a) requisite professional competence, good repute and financial fitness of the applicant;
- b) competence etc., of the operating personnel;
- c) a police certificate from the applicant or the person effectively in charge of the undertaking and from personnel responsible for safety;
- d) a guarantee or insurance covering liability for damages which may arise from the activity of the undertaking;
- e) accounts, scrutiny of the accounts, statistics etc., and inspection of such documents;
- f) safety regulations and internal control systems;
- g) protection against noise, fencing.

Section 7 (Special requirements as to rail transport services)

The ministry may by regulations or individual decision impose a requirement concerning conditions for rail transport and concerning an additional charge for passengers not holding a valid ticket.

Where the county municipality provides grants to a local railway undertaking within a county, the county municipality shall set conditions for rail transport. The county municipality's decisions in matters relating to approval of working timetables, fares and grants may not be appealed to the ministry.

Section 7a (Right of detention)

Anyone travelling on a means of transport regulated by the present act who is unable to produce a valid ticket at a ticket inspection and who fails to pay on the spot an additional charge as approved by the ministry pursuant to section 7 first paragraph, may be detained by the transport company's inspectors so long as the person in question fails to give sufficient details of their name, address and date of birth. The right of detention also applies while the details given are being verified.

The right to detain persons under the first paragraph applies only where such right is approved by the Ministry of Transport and Communications as part of the company's conditions for rail transport.

Persons may not be detained in circumstance where detention would constitute a disproportionate intervention.

Persons below the age of 15 should not be detained.

Section 8 (Access rights to the national railway network)

The King may decide that whoever is authorised to engage in railway operation pursuant to section 6 may be given access rights to infrastructure that forms part of the national railway network. The King may make further provisions in regard to the scope and the conditions for such authorisation.

Chapter III Obligations etc., on the general public

Section 9 (Obligations on the general public and owners of private level crossings)

All persons who are present in a railway area are obliged to follow the safety instructions applying to the location.

Members of the public are prohibited from:

- a) boarding and alighting from a train that is in motion;
- b) loitering in a railway area that is not intended for public use;
- c) using a level crossing when a train can be expected.

The owner of a private gate or other closing device shall be responsible for keeping such gate or device closed when crossing is not taking place.

Section 10 (Adjacent properties)

Except by agreement with the infrastructure owner, it is prohibited to erect a building or other installation, carry out excavation or filling within 30 metres of the centre line of the nearest track, unless otherwise provided for by an area development plan. This shall not apply where the track layout is a part of a public or private road.

The owner of the infrastructure may order the owner of a neighbouring property, or the holder of rights to such property, to remove trees and other vegetation within the 30 metre boundary as mentioned in the first paragraph when called for in the interest of train movement or of the safety of the surroundings. If such order is not complied with, the owner of the infrastructure may see to the removal of the vegetation himself.

The owner or rights holder shall be entitled to compensation by appraisalment for any damage and inconvenience resulting from measures as mentioned in the second paragraph, as well as for any expenses in this connection. If timely notice has been given in writing that planting shall not take place within the 30 metre boundary, the owner or rights holder shall not be entitled to compensation.

Chapter IV Administrative provisions

Section 11 (Supervision etc.,)

Railways shall be subject to supervision by the ministry or by whatever authority the ministry prescribes. It is incumbent on all parties to provide the supervisory authority with the information it requires to discharge its tasks and, for the same purpose, to afford the supervisory authority access to installations, equipment and other materiel associated with railway operation. The supervisory authority may order corrective measures to be taken.

The supervisory authority may order a complete or partial halt to operations when called for in the interest of safety. It may if necessary request assistance from the police to enforce such order.

The ministry may furthermore revoke an authorisation given pursuant to the law in the event of a breach of conditions or requirements imposed on the undertaking.

Section 12 (Supervision of the marketing of interoperability constituents etc.)

The supervisory authority may order any party who places on the market a subsystem or an interoperability constituent to restrict its field of application, and may prohibit the use of or withdraw the subsystem or interoperability constituent from the market where there is a risk that the subsystem or interoperability constituent fails to meet the essential requirements. It is incumbent on all parties to provide the supervisory authority with the information it requires to discharge its tasks and, for the same purpose, to afford the supervisory authority access to premises and equipment associated with the subsystem or interoperability constituent.

The ministry may make further regulations on the supervision of marketing of subsystems or interoperability constituents.

Section 13 (Coercive fine)

When making an order, the supervisory authority may fix a coercive fine for each day that elapses after the expiry of the deadline set for complying with the order up to such time as the order is complied with. The supervisory authority may waive an accrued coercive fine.

The size of the coercive fine shall be fixed taking due account of the importance of complying with the order and of the costs it is expected to entail.

A coercive fine constitutes grounds for execution proceedings.

The ministry may make further regulations on the imposition and calculation of coercive fines and on the waiving of an imposed fine.

Section 14 (Charges)

The ministry may make regulations imposing payment of charges for control measures taken to ensure that this act or decisions pursuant to this act are complied with.

The ministry may likewise fix charges for dealing with applications for authorisation pursuant to this act.

Charges owed shall constitute grounds for execution proceedings.

Section 15 (Delegation of authority)

The ministry may delegate its authority under this act to a public or private institution.

Section 16 (EEA rules)

The King may make regulations to supplement or implement the EEA Agreement in the railway sphere.

Norwegian authorities and Norwegian railway undertakings may, notwithstanding the duty of confidentiality, provide the EFTA Surveillance Authority and the EEA States' Standing

Committee any information necessary for the implementation of the EEA Agreement. Railway undertakings engaged in international freight transport may, notwithstanding the duty of confidentiality, be ordered, to the extent required by the EEA Agreement, to provide information to other railway undertakings providing the same services.

Chapter V Investigation of railway accidents

Section 17 (The investigating authority)

Where a railway accident occurs which results in death or serious injury or damage to a person, rolling stock, infrastructure, property adjacent to the railway or the environment, the authority prescribed by the ministry shall carry out an investigation. The same applies where there has been a serious danger of such an accident or if railway safety in general has been seriously compromised. The investigations shall seek to clarify the course of events and the causes, and to elucidate factors of significance for preventing accidents and improving railway safety.

The ministry may make further provisions concerning the investigating authority.

Section 18 (Rights of the investigating authority)

It is incumbent on all parties upon request to provide the investigating authority with any information they possess on circumstances which may be of significance for the investigation. This applies irrespective of any confidentiality requirement to which the party is otherwise subject.

The investigating authority has the right to avail itself of private land and may demand to examine rolling stock, wreckage, documents and other objects to the extent it needs to do so to perform its task. It may order persons to undergo medical examination pursuant to the rules of the Civil Aviation Act section 6-11 third paragraph. It may if necessary request police assistance.

The investigating authority may also, if deemed necessary for the investigation, require evidence to be taken under the rules of the Act relating to Judicial Procedure in Civil Cases.

The investigating authority shall, in conformity with further regulations made by the ministry, if possible inform the owner of the rolling stock and – if the rolling stock is used by a party other than the owner – also its owner and the insurer and other affected parties, of the investigation and give them the opportunity, before the investigation is completed, to present any matter they deem necessary to protect their interests. Interested parties have the right to attend the investigation and acquaint themselves with the documents insofar as doing so does not impede the investigation.

Statements taken down in accordance with the first paragraph may only be used for railway safety purposes. Information emerging during a statement taken down in accordance with the first paragraph may not be used as evidence against the person having made the statement in any subsequent criminal action against the person concerned.

Section 19 (Duty to notify a railway accident)

All parties engaged in railway operation are required to notify the nearest police authority or the investigating authority immediately of a railway accident as mentioned in section 17. The supervisory authority shall also be notified.

Any person who witnesses a railway accident is also required to notify the nearest police authority or the investigating authority unless the witness has reason to assume that such notification is unnecessary in the circumstances.

The ministry may make further provisions regarding the notification duty pursuant to this section.

Section 20 (Removal of wreckage etc.)

Damaged rolling stock and infrastructure, wreckage or other items from such rolling stock or infrastructure and marks left by the accident must not be removed or interfered with without permission from the investigating authority or the police unless this is necessary in order to save or avert danger to life or property or to prevent the destruction or disappearance of items of significance to the investigation.

Section 21 (Removal of wreckage outside the infrastructure etc.)

Where rolling stock or parts of the infrastructure have landed outside the infrastructure, or wreckage or other objects from such rolling stock or infrastructure are an impediment to ordinary traffic or otherwise of inconvenience to the general public or endanger persons or property, and the owner fails to remove them or otherwise rectify the circumstance, the police may set a deadline for this to be done. If the deadline is disregarded, the police may have the necessary steps taken at the owner's expense.

If the identity of the owner is not known, or it is necessary in the interest of traffic flow or for other reason to step in immediately, the police may take action as mentioned in the first paragraph without giving the owner a deadline.

Chapter VI Final provisions

Section 22 (Penalties)

Any party who negligently or wilfully violates provisions or conditions laid down in or pursuant to this act, or who assists such violation, shall be punished by fines unless the violation is subject to a severer penalty.

Section 23 (Commencement etc.)

(1) This act shall come into force on the date decided by the King.

(2) The following acts and provisions shall be repealed on the same date: - - -

Section 24 (Transitional arrangements)

The ministry may establish transitional arrangements in respect of previously awarded authorisations.