

(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 user 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 are 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.

Regulations on Authorisation to Operate Railways, including Tramways, Underground Railways and Suburban Railways etc., and Access to the National Railway Network (Authorisation Regulations)

Laid down by the Ministry of Transport and Communications on 5 February 2003 in pursuance of Act No. 100 of 11 June 1993 on the Establishment and Operation of Railways, including Tramways, Underground Railways and Suburban Railways etc., (Railways Act), sections 2, 4, 5, 6, 7, 8, 11, 13, 15 and 16, cf. Royal Decree No. 1076 of 22 November 1996 and Royal Decree No. 275 of 4 April 1997. Cf. EEA Agreement Annex XIII No. 37 (Directive 91/440/EEC amended by Directive 2001/12/EC), No. 42a (Directive 95/18/EC amended by Directive 2001/13/EC), No. 41b (Directive 2001/14/EC).

Chapter 1 Introductory provisions

Section 1-1 Scope

These regulations govern authorisation to operate railways, including tramways, underground railways, suburban railways and similar modes of guided transport, and access to the national railway network.

Requirements for rolling stock and infrastructure, and further requirements for organisation, competence etc., are contained in separate regulations.

Section 1-2 Exceptions

These regulations do not apply to

- a) utility track, railways run for museum or hobby purposes, when the track does not cross a public road, is not linked to the national railway network, and the track does not otherwise constitute a material risk to traffic safety,
- b) utility track within a delimited factory area,
- c) funicular railways. Funicular railways are dealt with in separate regulations.

Section 1-3 The Norwegian National Railway Administration

The Norwegian National Railway Administration is exempted from applying to the Norwegian Railway Inspectorate for authorisation to engage in railway operation (infrastructure, rail traffic control and museum train operation under the auspices of the Norwegian Railway Museum) under these regulations, but is otherwise required to comply with the provisions laid down in or pursuant to the Railways Act, which includes obtaining of approvals and being subject to supervision and inspection by the Norwegian Railway Inspectorate.

Section 1-4 The authorities

The Ministry of Transport and Communications shall provide access to the national railway network in accordance with section 2-2 and monitors competition in the markets for rail transport including the market for freight transport by rail in conformity with Directive 91/440/EEC article 10 paragraph 7 amended by Directive 2001/12/EC.

The Norwegian Railway Inspectorate grants authorisations to engage in railway operation,

issues safety certificates and supervises and inspects railway operators.

The Norwegian Railway Inspectorate may by regulations or individual decision lay down further requirements on and conditions for railway operation in order to safeguard the interests of safe and appropriate rail services and of the environment in accordance with the Railways Act section 6, and may make further provisions to the present regulations.

The Norwegian Railway Inspectorate may make regulations authorising the Norwegian National Rail Administration to take immediate action to ensure safe and appropriate rail services when exercising rail traffic control on the State's railway network.

The Norwegian Railway Inspectorate shall approve rolling stock and infrastructure pursuant to the Railways Act section 4 and section 5 and may make regulations establishing conditions for such approvals.

Section 1-5 Definitions

For the purpose of these regulations:

- a) "the national railway network" means those railway networks which are intended for transport of goods and/or passengers by rail and which are managed by infrastructure managers as described in Annex I,
- b) "international freight services" means transport services where the train crosses the border of at least one EEA state on at least one occasion; the train may be joined and/or split and the different sections may have different origins and destinations, provided that all wagons cross at least one border,
- c) "international grouping" means any association of at least two railway undertakings established in different EEA states or between an EEA state and Switzerland for the purpose of providing international transport services between EEA states or between an EEA state and Switzerland,
- d) "railway undertaking" means any public or private undertaking with a licence whose main business is to provide rail transport services for goods and/or passengers with a requirement that the undertaking must ensure traction; this also includes undertakings which provide traction only,
- e) "combined transport of goods" means Article 1, Directive 92/106/EEC,
- f) "licence" means an authorisation issued to an undertaking in an EEA state or Switzerland, in which it is recognised as a railway undertaking in accordance with Directive 95/18 EC. Such recognition may be confined to the provision of certain forms of transport,
- g) "regional transport" means transport services provided in order to meet transport needs within a region,
- h) "safety certificate" means a recognition that a railway undertaking in an EEA state or Switzerland coming under Article 10 of Directive 91/440/EEC meets the same safety requirements as those applying to national undertakings that service the national railway network,
- i) "transport in urban and suburban areas" means transport services provided in order to meet transport needs in an urban nucleus or urban area as well as transport needs between this urban nucleus or urban area and the suburbs.

Chapter 2 Access to the national railway network

Section 2-1 Undertakings which have access to the national railway network

The following undertakings have access to infrastructure that is part of the national railway network provided they are licensed for railway operation under chapter 4 of these regulations:

- a) NSB AS and its subsidiaries,
- b) Flytoget AS, to provide rail transport services to the extent provided by the ministry,
- c) undertakings intending to provide freight transport services,
- d) undertakings which are allocated a contract for public procurement of passenger transport services on that part of the national railway network which is embraced by the contract.

The following undertakings have access to infrastructure which is part of the national railway network provided they are licensed for the type of railway operation in question and hold a safety certificate in accordance with chapter 6 of the present regulations:

- a) railway undertakings that are part of an international grouping where one of the undertakings is established in Norway and has access to the infrastructure concerned for the type of transport in question,
- b) railway undertakings intending to provide international combined goods transport services,
- c) railway undertakings intending to provide international freight transport services on infrastructure that constitutes the Trans-European Rail Freight Network, TERFN; see Annex II. Such railway undertakings will also be entitled to receive and deliver goods in Norway provided that the corresponding right applies to Norwegian railway undertakings in the EEA state or Switzerland where the undertaking is established.

Access also includes necessary transport of rolling stock along the entire national railway network.

Section 2-2 Undertakings which may apply to the ministry for access to the national railway network

The following undertakings may be given access to infrastructure that forms part of the national railway network provided they are licensed for railway operation under Chapter 4 of the present regulations.

- a) undertakings which provide transport services in urban and suburban areas exclusively on their own infrastructure,
- b) undertakings intending to provide passenger transport services on parts of the railway network where the state railway company has ceased such services.
- c) railways run for museum or hobby purposes.

Access under a) and b) is given in cases where it will promote an appropriate traffic flow.

Section 2-3 Access to harbour track connected to the national railway network

Parties having access to infrastructure which forms part of the national railway network also have access to harbour track which is connected to such network and which is necessary in order to be able to utilise services that are provided or can be provided to more than one end customer.

Section 2-4 Exercise of access rights

Parties having access rights under section 2-1 to infrastructure which forms part of the national railway network or to which the ministry has given such access rights under section 2-2 must, in order to utilise such access rights, apply to the infrastructure manager concerned for train paths.

Chapter 3 Special requirements on rail transport services and operation of infrastructure

Section 3-1 Special requirements on rail transport services

The ministry may impose requirements to the effect that transport conditions, ticket systems, fares and timetables shall be approved by the ministry, to the extent that this is not in contravention of the EEA Agreement, and the county municipality does not have such authority under section 7, second paragraph, of the Railways Act.

The ministry shall approve transport conditions for undertakings engaged in ordinary transport of passengers by rail.

The ministry shall approve additional charges for passengers not holding a valid ticket.

Undertakings intending to service the national railway network shall keep and publish profit and loss accounts and either balance sheets or an annual overview of assets and liabilities in respect of freight transported by rail. Funds paid to an undertaking in respect of passenger transport which is part of a public service shall be entered separately in the relevant accounts and must not be transferred to business related to other rail transport or other types of business.

Section 3-2 Special requirements on operation of infrastructure

Undertakings which operate infrastructure forming part of the national railway network shall prepare a business plan which includes investment and financing programmes. The plan shall be designed with a view to ensuring optimal, effective and efficient use and development of the infrastructure and shall at the same time ensure financial balance and include the funds needed to achieve these objectives. The ministry may issue further guidelines for the preparation of such plans.

In order to accommodate the obligations set forth in Directive 2001/14/EC, the ministry may by regulations or individual decision impose special conditions for private undertakings which operate infrastructure forming part of the national railway network.

Undertakings which operate infrastructure which is connected to the national railway network and which is made available to the party authorised to service infrastructure which is part of the national railway network are obliged to provide the infrastructure manager of the

national railway network with such information as the latter needs to be in a position to publish information on access to the infrastructure in question and information on appurtenant services.

Chapter 4 Authorisation for railway operation

Section 4-1 Authorisation for railway operation

Parties wishing to engage in railway operation must be authorised to do so by the Norwegian Railway Inspectorate in accordance with the provisions of this chapter. Authorisation will be granted to an undertaking which is established in Norway, which meets the requirements as to good repute, financial fitness, organisation and professional competence as well as insurance or guarantee and which renders it probable that requirements established in or pursuant to the Railways Act will be fulfilled.

Authorisation will be granted provided there are no special grounds for not doing so.

Authorisation may be granted for a limited period or until further notice, and may apply to a particular line or a particular type of transport. The Inspectorate may establish that the authorisation may be subject to review every five years.

Responsibility for the undertaking rests with the party who has received the authorisation. Responsibility includes ensuring that the undertaking is run in proper manner in terms of safety and that the conditions set for the undertaking in or pursuant to law are fulfilled.

Authorisation may not be transferred to others.

Operation of infrastructure shall include responsibility for rail traffic control. The Norwegian Railway Inspectorate may authorise the transfer of such responsibility to others.

Section 4-2 Good repute and bankruptcy

The undertaking and its chief executive must be of good repute and not be subject to bankruptcy proceedings. Other managerial personnel may also be required to meet these requirements.

The requirement as to good repute will be met when persons as mentioned in the first paragraph:

- a) have not been convicted of serious criminal offences, including offences of a commercial nature,
- b) have not been convicted of serious breaches of special legislation applicable to transport,
- c) have not been convicted of serious or repeated failure to fulfil social- or labour-law obligations, including obligations under worker protection or working environment legislation, and – in the case of an undertaking that wishes to engage in cross-border rail transport subject to customs procedures - obligations under customs legislation

Section 4-3 Financial fitness

The undertaking must present a realistic business plan demonstrating that it meets the

requirement relating to financial fitness.

The requirement relating to financial fitness will be met when the undertaking can demonstrate that it will be able to meet its actual and potential obligations, assessed on a realistic basis, for a period of twelve months, and the undertaking does not have substantial arrears on taxes or social security contributions.

Section 4-4 Organisation and professional competence

The undertaking must be organised in such a way that it shows itself to be an independent railway undertaking with sufficient professional competence to perform the activity encompassed by the authorisation, thereby ensuring the safety of its passengers, its own personnel, third parties and its surroundings in general.

The requirement relating to professional competence will be met when:

- a) the management organisation in the undertaking has the knowledge and/or experience necessary to exercise safe and reliable operational control and supervision of the type of operations specified in the authorisation,
- b) the personnel responsible for safety are fully qualified in their field of activity,
- c) the personnel and organisation can ensure that the services to be provided afford a high level of safety.

Section 4-5 Insurance/guarantee

The undertaking shall have adequate insurance or guarantee covering liability which may arise as a result of the undertaking's operations, including cover for liability in the event of accidents, especially involving passengers, luggage, freight, mail and third parties.

Section 4-6 Authorisation to operate utility track and railways run for museum or hobby purposes

This chapter applies correspondingly to authorisation to operate utility track and railways run for museum or hobby purposes to the extent such activity is relevant to the business in question.

Section 4-7 Authorisation to operate side tracks, harbour tracks, terminal tracks and the like connected to the national railway network

The Norwegian Railway Inspectorate may deviate from the conditions of this chapter and may establish its own conditions for authorisation to operate side tracks, harbour track, terminal track and the like connected to the national railway network.

Chapter 5 Applications for authorisation to engage in railway operation

Section 5-1 Application

Applications shall provide documents showing that the conditions for authorisation to engage in railway operation are complied with.

Applications shall be sent to the Norwegian Railway Inspectorate.

Section 5-5 applies to applications for the operation of utility track, and railways run for museum or hobby purposes.

In the case of applications for authorisation to operate side-tracks, harbour track, terminal track and the like connected to the national railway network, the Norwegian Railway Inspectorate may deviate from the requirements of this chapter and may establish its own requirements for the content of applications.

The inspectorate may establish further guidelines on how applications shall be set up, and may request additional information beyond that required under sections 5-2, 5-3, 5-4 and 5-5, including the enclosure by the applicant of an independent assessment of the safety of the business for which authorisation is sought.

Section 5-2 Required content of applications

The application shall contain:

- a) The applicant's name, address and business certificate:
- b) A police attest in the case of persons as mentioned in section 4-2,
- c) Details of any other business which the applicant owns, operates or has a financial interest in, and any previous involvement by the applicant as owner etc., in a railway undertaking; in the event including the reason for the termination of the undertaking.
- d) A description of the services to be provided, including an organisation chart,
- e) Information demonstrating financial fitness.

For assessment of the undertaking's financial fitness, the applicant shall present the annual accounts or, if this is not possible, the annual balance sheet. Moreover, detailed particulars must be provided on:

- available funds, including the bank balance, overdraft facilities and loans granted,
- funds and assets available as security,
- working capital,
- relevant costs, including purchase costs and payments on account referring to vehicles, land, buildings, installations and rolling stock,
- charges on the undertaking's assets.

Information shall be documented by submission of an audit report and suitable documentation from a bank, auditor or authorised accountant.

A tax attest shall also be presented.

- f) information on the period for which the authorisation is desired,
- g) information on professional competence within the undertaking, including qualifications required of senior employees responsible for safety,
- h) information on training programmes, with particular reference to safety,
- i) information on what action will be taken to implement systematic measures which are designed to ensure that the railway operation's activities are planned, organised and executed in conformity with requirements established in or pursuant to the Railways Act, and which are of significance for safe railway services,
- j) details of insurance or guarantee covering liability which may arise as a result of the

undertaking's activities.

Section 5-3 Additional requirements as to the content of the application for applicants intending to operate rail transport services

In the case of applicants who intend to operate rail transport services, the application shall also contain:

- a) information on which infrastructure is to be serviced,
- b) information on how the undertaking will identify and implement measures to ensure control of special risk factors that the rail transport services may entail,
- c) a detailed organisation chart for that part of the undertaking that involves transport of passengers and goods,
- d) details of the qualifications required of personnel who are to drive and accompany trains,
- e) information documenting that personnel who are to drive and accompany trains will have the training necessary to meet other safety requirements imposed on such personnel in the interest of train traffic,
- f) information rendering it probable that the applicant is able to obtain approved rolling stock including traction,
- g) details of the nature and maintenance of the rolling stock, particularly with regard to safety standards.

Applicants who primarily operate rail traffic services must enclose information about their own private infrastructure connected to the national railway network. Such information must include relevant themes as mentioned in section 5-4.

Section 5-4 Additional requirements on the content of the application for applicants intending to operate infrastructure and rail traffic control

In the case of applicants who intend to operate infrastructure and rail traffic control, the application shall also contain:

- a) information on relevant modes of operation,
- b) information on how the undertaking will identify and implement measures to ensure control of special risk factors that the infrastructure operation and rail traffic control may entail,
- c) a detailed organisation chart for that part of the undertaking that involves operation of the infrastructure and rail traffic control,
- d) information on the nature and maintenance of the infrastructure, particularly with regard to safety standards,
- e) information on principles for rail traffic control,
- f) information on plans for the development of provisions for safe traffic flow on the infrastructure.

Section 5-5 Requirements on the content of the application for applicants intending to operate utility track and railways run for museum or hobby purposes

The application shall contain:

- a) the applicant's name and address, and who is to be responsible for the undertaking,

- b) a description of the undertaking, including its organisation, finances and funding,
- c) information on the period for which the authorisation is desired,
- d) details of the infrastructure and the nature and maintenance of the rolling stock, with particular reference to safety standards,
- e) information on what action will be taken to implement systematic measures which are designed to ensure that the railway operation's activities are planned, organised and executed in conformity with requirements established in or pursuant to the Railways Act, and which are of significance for safe railway services,
- f) information on professional competence within the undertaking, including qualifications required of employees responsible for safety,
- g) details of insurance or guarantee covering liability which may arise as a result of the activities.

Chapter 6 Safety certificate

Section 6-1 Requirement as to a safety certificate

Railway undertakings from other EEA states or Switzerland must hold a safety certificate from the Norwegian Railway Inspectorate in accordance with the present chapter in order to service infrastructure forming part of the national railway network.

Section 6-2 Conditions for a safety certificate

Personnel who are to drive and accompany the trains shall have the training necessary to enable them to comply with the traffic rules for the train path in question, and the training necessary to enable them to fulfil other safety requirements imposed on them in the interest of train traffic.

The rolling stock comprising the trains shall have been approved by the Norwegian Railway Inspectorate or by another public authority or infrastructure manager in conformity with international agreements.

The railway undertaking shall comply with the provisions of Norwegian legislation concerning technical and operational requirements on rail transport, and safety requirements for personnel, rolling stock and the undertaking's internal organisation. The undertaking shall also comply with the requirements for insurance or guarantee as mentioned in section 4-5.

Section 6-3 Applications

Applications for a safety certificate shall be sent to the Norwegian Railway Inspectorate.

Applications shall contain documentation as mentioned in section 5-2 j) and section 5-3.

Chapter 7 Administrative provisions etc.

Section 7-1 Supervision and control

The Norwegian Railway Inspectorate shall exercise supervision and control of railway operation and shall be given the opportunity to inspect necessary documents to ensure that

the conditions are met. All parties are obliged to furnish the inspectorate with the information it needs to discharge its tasks and, for the same purpose, to afford the inspectorate access to installations, equipment and other materiel connected with the railway operation.

The Norwegian Railway Inspectorate may order corrective measures to be taken.

The Norwegian Railway Inspectorate may order complete or partial stoppage of operations when called for in the interest of safety, and may if necessary request assistance from the police to enforce such an order.

Section 7-2 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.

Section 7-3 Revocation of access to the national railway network

Access to the national railway network may be revoked if the conditions set for such access are not complied with.

Access may also be revoked where the holder has failed to utilise such right six months after it could have done so at the latest, or where the undertaking has ceased operations for six months.

Section 7-4 Revocation of authorisation to engage in railway operation

Authorisation to engage in railway operation may be revoked if the conditions set for such access are not complied with. In the event of bankruptcy proceedings or similar proceedings the authorisation shall be revoked where there is no realistic prospect of satisfactory financial restructuring within a reasonable period of time.

Moreover, the authorisation may be revoked if the undertaking has not started operations six months after the grant of the authorisation at the latest, or if the undertaking has ceased operations for six months. Where the special nature of the services to be provided so indicates, a railway undertaking may apply for a longer period to be fixed for it to start operations.

Where an authorisation is revoked on grounds of non-compliance with the requirement for financial fitness, the Norwegian Railway Inspectorate may grant a temporary authorisation for a maximum of six months pending reorganisation of the railway undertaking, provided that safety is not jeopardised.

Section 7-5 Revocation of safety certificate

The safety certificate may be revoked if the conditions set for such certificate are not

complied with.

Section 7-6 Replacement of chief executive and other factors of significance for authorisation

Replacement of the chief executive shall be approved by the Norwegian Railway Inspectorate.

The Norwegian Railway Inspectorate shall be notified of material changes of significance for the authorisation, including changes in ownership structure, for example through merger, takeover or major changes in owner composition. The inspectorate may require the authorisation to be resubmitted for approval pursuant to these regulations. The undertaking may continue operations pending such review provided that safety is not jeopardised.

Section 7-7 Rules on administrative procedures

Except where otherwise specifically provided in these regulations, the administrative rules of the Public Administration Act shall apply.

Applications for authorisation shall be decided as soon as possible and no later than three months after the date on which all necessary information was presented.

Appeals against decisions concerning safety certificates shall be decided as soon as possible and no later than two months after the date on which all necessary information was presented.

Chapter 8 Concluding provisions

Section 8-1 Notification to other authorities

Where there is serious doubt regarding compliance with the requirements of Directive 95/18/EC on the part of a railway undertaking to which a licence has been issued by an authority in another EEA state or Switzerland, the Norwegian Railway Inspectorate shall without undue delay inform the licence-issuing authority in the relevant EEA state or Switzerland accordingly.

Upon the issue, suspension, revocation or amendment of a licence, the Norwegian Railway Inspectorate shall notify the ministry thereof as soon as possible such that the ministry can immediately notify the Standing Committee.

Section 8-2 Transitional provisions

Authorisations for railways, including tramways, underground railways and suburban railways granted before the Railways Act came into force shall remain valid with the adjustments resulting from the removal of the licensing obligation for the establishment of railways. Such authorisations shall remain valid until their expiry, albeit not for more than ten years after 1 July 1993, except as otherwise provided by the EEA Agreement.

Section 8-3 Commencement

These regulations come into force on 15 March 2003. Regulations No. 1333 of 4 December 2001 on Authorisation to operate Railways, including Tramways, Underground Railways and

Suburban Railways etc., and on Access to the National Railway Network (Authorisation Regulations) shall simultaneously be revoked.

Annex I. The national railway network

Infrastructure managers:

The Norwegian National Rail Administration

A description of the particular network is obtainable from the infrastructure manager concerned.

Annex II. Trans-European Rail Freight Network (TERFN)

The Norwegian part of the Trans-European Rail Freight Network (TERFN) comprises the following :

TERFN lines:

Oslo S - Dombås - Trondheim - Bodø
 Oslo S - Gardermoen - Eidsvoll
 Dombås - Åndalsnes
 Marienborg - Leangen
 Hell - Storlien (border)
 Hamar - Røros - Støren
 Lillestrøm - Charlottenberg (border)
 Kongsvinger – Elverum
 Oslo S - Moss - Kornsjø (border)
 Østern linje Ski - Sarpsborg
 Oslo S - Stavanger
 Filipstad - Skøyen/Asker - Spikkestad/Drammen - Eidanger
 Nordagutu - Eidanger
 Side-track Eikonrød - Skien G
 Hokksund - Hønefoss
 Nelaug - Arendal
 Oslo – Roa - Bergen
 Freight track Grefsen - Alnabru
 Freight track Loenga - Alnabru
 Roa – Gjøvik

Narvik - Vassijauri (border)

TERFN feeder lines:

Grong - Namsos

Tinnoset – Hjuksebø

Sidesporet Skoppum - Horten

Eidanger - Ørvik/Brevik

Hønefoss - Hen - Endepunkt

Kongsberg - Rollag

Eina - Dokka

Rail track to and from the following harbours:

Narvik

Bodø

Mosjøen

Namsos

Trondheim

Åndalsnes

Bergen

Stavanger

Kristiansand

Brevik

Larvik

Horten

Drammen

Oslo

Moss

The Norwegian part of the Trans-European Rail Freight Network (TERFN) is scheduled to cover the entire national railway network by 15 March 2008.

Regulations on the Allocation of Railway Infrastructure Capacity and the Levying of Charges for the Use of the National Railway Network (Allocation Regulations)

Laid down by the Ministry of Transport and Communications on 5 February 2003 in pursuance of Act No. 100 of 11 June 1993 on the Establishment and Operation of Railways, including Tramways, Underground Railways and Suburban Railways etc., (Railways Act), sections 6, 8, 15 and 16, cf. Royal Decree No. 1076 of 22 November 1996 and Royal Decree No. 275 of 4 April 1997. Cf. EEA Agreement Annex XIII No. 37 (Directive 91/440/EEC amended by Directive 2001/12/EC) and No. 41b (Directive 2001/14/EC amended by Decision 2002/044/EC). Amended 17 March 2003 No. 343.

Chapter 1 Introductory provisions

Section 1-1 Scope

These regulations apply to infrastructure managers on the national railway network and any party with access to infrastructure that is part of the national railway network.

Section 1-2 Definitions

For the purpose of these regulations:

- a) “allocation” means the allocation of railway infrastructure capacity by an infrastructure manager,
- b) “infrastructure manager” means any body or undertaking that is responsible in particular for establishing and maintaining railway infrastructure. This may also include the management of infrastructure control and safety systems.
- c) “railway undertaking” means any public or private undertaking holding a licence, the principal business of which is to provide service for the transport of goods and/or passengers by rail with a requirement that undertaking must ensure traction; this also includes undertakings which provide traction only;
- d) “railway infrastructure” means all the items listed in Annex I.A to Commission Regulation (EEC) No. 2598/70 of 18 December 1970 specifying the items to be included under the various headings in the forms of accounts shown in Annex I to Regulation (EEC) No. 1108/70 (as amended), with the exception of the final indent which, for the purpose of these regulations only, shall read as follows: “Buildings used for infrastructure purposes”;
- e) “railway network” means the entire railway infrastructure owned and/or managed by an infrastructure manager;
- f) “network statement” means the statement which sets out in detail the general rules, deadlines, procedures and criteria concerning the charging and capacity allocation

schemes. It shall also contain such other information as is required to enable applications for infrastructure capacity;

- g) "train path" means the infrastructure capacity needed to run a train between two places over a given time-period;
- h) "working timetable" means the data defining all scheduled train and rolling-stock movements on the relevant infrastructure during the period for which it is in force;
- i) "coordination" means the process through which the infrastructure manager and applicants attempt to resolve situations in which there are conflicting applications for infrastructure capacity.

Chapter 2 Network statement

Section 2-1 Requirement as to network statement

The infrastructure manager shall, after consultation with the interested parties, develop a network statement which shall be published no less than four months in advance of the deadline for applications for infrastructure capacity. The network statement shall be kept up to date and modified as necessary and shall be obtainable against payment of a duty which may not exceed the cost of publishing that statement.

Section 2-2 Content of the network statement

The network statement shall contain:

1. Information on the nature of the infrastructure which is available to parties wishing to provide rail transport services on the railway network in question and on the conditions of access to the infrastructure. The network statement shall also contain information on infrastructure which is connected to the railway network in question and which is available to any party who has access to infrastructure that is part of the national railway network.
2. Information on charging principles and tariffs. The network statement shall contain appropriate details of the charging scheme as well as sufficient information on charges that apply to services mentioned in Annex I which are provided by only one supplier. It shall detail the methodology, rules and, where applicable, scales used for fixing charges. The network statement shall contain information on changes in charges already decided upon or foreseen.
3. Information on the principles and criteria for capacity allocation. The network statement shall set out the general capacity characteristics of the infrastructure which is available to parties wishing to provide rail transport services on the railway network in question, and any restrictions on its use, including likely capacity requirements for maintenance. The network statement shall also specify the procedures and deadlines which relate to the capacity allocation process. It shall contain specific criteria which are employed during that process, in particular:

- a) the procedures according to which applicants may apply for capacity from the infrastructure manager, including the content of applications;
- b) the requirements governing applicants;
- c) the schedule for the allocation process;
- d) the principles governing the coordination process;
- e) the procedures which shall be followed and criteria used where infrastructure is congested;
- f) details of restrictions on the use of infrastructure, including infrastructure reserved for specific purposes;
- g) any conditions whereby account is taken of previous levels of utilisation of capacity in determining priorities for the allocation process.

It shall detail the measures taken to ensure the adequate treatment of freight services, international services and requests subject to the *ad hoc* procedure.

Chapter 3 Services to be supplied by the infrastructure manager

Section 3-1 Access services

The infrastructure manager shall on a non-discriminatory basis offer the minimum services package mentioned in Annex I.1 and access via the railway network to service facilities listed in Annex I.2.

Section 3-2 Prioritised services

The infrastructure manager shall supply services in accordance with Annex I.2 to the extent it has the facilities mentioned at its disposal. The services shall be supplied on a non-discriminatory basis and applications may only be refused provided implementable alternatives are available on market terms.

Section 3-3 Additional services

Where the infrastructure manager supplies any services described as additional services in Annex I.3, it shall supply them to all who request them.

Chapter 4 Infrastructure charges and prices of services

Section 4-1 Setting of tariffs for infrastructure charges

The ministry sets tariffs for infrastructure charges and the specific rules governing such charges. The infrastructure charge includes charges for access services as mentioned in section 3-1.

Section 4-2 Setting of prices for the use of prioritised services

The infrastructure manager sets prices for the use of prioritised that it supplies as mentioned in section 3-2.

Section 4-3 Setting of prices for the use of additional services

The infrastructure manager sets prices for the use of additional services that it supplies as

mentioned in section 3-3.

Section 4-4 Calculation and collection of infrastructure charges

The infrastructure manager shall on a non-discriminatory basis calculate and collect infrastructure charges from any party who has been allocated infrastructure capacity.

Chapter 5 Applications for infrastructure capacity

Section 5-1 Applications

Parties with access to infrastructure that is part of the national railway network may apply for infrastructure capacity. The infrastructure manager may also authorise undertakings which have yet to receive access to infrastructure that is part of the national railway network to apply for infrastructure capacity.

Applications shall be sent to the infrastructure manager. Applications for infrastructure capacity that crosses more than one railway network shall be sent to one of the infrastructure managers, in the event to the joint body stated in the infrastructure manager's network statement.

Section 5-2 Content of applications

Applications pursuant to section 5-1 first paragraph shall be accompanied by documentation showing that the applicant has access to the national railway network. The infrastructure manager determines other requirements for the content of applications.

Section 5-3 Date for submitting applications

Applications relating to the general working timetable and *ad hoc* applications shall comply with the deadlines stated in the network statement.

Section 5-4 Applicants with a framework agreement

Applicants who have concluded a framework agreement under the provisions of Chapter 6 with the infrastructure manager shall apply in conformity with such framework agreement.

Chapter 6 Framework agreements

Section 6-1 Conclusion of framework agreements

The infrastructure manager and an applicant may conclude a framework agreement on the use of infrastructure capacity for a period of time exceeding one working timetable period.

The framework agreement shall in principle be for a period of five years. The infrastructure manager may agree to a shorter or longer period in specific cases. Any period longer than five years shall be justified by the existence of commercial contracts, specialised investments or risks. Any period longer than ten years shall be justified by large-scale, long-term investment.

Framework agreements shall not preclude the use of the relevant infrastructure by other

applicants.

Section 6-2 Content of the agreement

A framework agreement shall specify the characteristics of the infrastructure capacity required by and offered to the applicant over a period of time exceeding one working timetable period.

The framework agreement shall not specify a train path in detail, but should be such as to seek to meet the legitimate commercial needs of the applicant.

The framework agreement shall allow for the amendment or limitation of its terms to enable better use to be made of the railway infrastructure.

The framework agreement may contain penalties should it be necessary to modify or terminate the agreement.

Section 6-3 Right of inspection

All affected parties shall have the right to inspect any framework agreement provided that the requirements of section 9-3 are met.

Chapter 7 Allocation of railway infrastructure capacity

Section 7-1 Train paths

The infrastructure manager allocates infrastructure capacity. Infrastructure capacity is allocated via the allocation of train paths. Train paths may be allocated to parties who have access to service the national railway network. Train paths may be allocated for a period not exceeding a working timetable period.

The infrastructure manager shall maintain an overview of allocated and vacant infrastructure capacity and shall at all times be able to inform affected parties about what infrastructure capacity has been allocated to undertakings. Information about vacant capacity shall be made available to all applicants who wish to make use of such capacity.

Section 7-2 Cooperation between infrastructure managers

The infrastructure manager shall cooperate with other infrastructure managers to achieve an appropriate traffic flow and allocate infrastructure capacity across more than one railway network. Such procedures shall be established as are appropriate to enable this to take place. Such procedures shall be published.

Section 7-3 Schedule for the allocation process

The infrastructure manager shall establish a schedule for the allocation of infrastructure capacity within the following framework:

- 1 The working timetable shall be established once per calendar year.
- 2 The change of working timetable shall take place at midnight on the second Saturday in December. Where a change or adjustment is carried out after the winter it shall take

place at midnight on the second Saturday in June each year and at such other intervals between these dates as are required. Infrastructure managers may agree on different dates, and in such case they shall inform the ministry thereof if the change affects train paths for international traffic.

- 3 The final date for receipt of requests for capacity to be incorporated into the working timetable shall be no more than 12 months in advance of the coming into force of the working timetable.
- 4 No later than 11 months before the working timetable comes into force, the infrastructure manager shall ensure that provisional international train paths have been established in cooperation with other relevant infrastructure managers or allocation bodies as set out in Directive 2001/14/EC Article 15.
- 5 No later than four months after the deadline for submission of applications, the infrastructure manager shall prepare a draft timetable.

Section 7-4 Processing of applications

The infrastructure manager shall as far as is possible meet all requests for infrastructure capacity including requests for train paths crossing more than one network, and shall as far as possible take account of all constraints on applicants, including the economic effect on their business.

The infrastructure manager shall consult interested parties about the draft working timetable and allow them at least one month to present their views. Interested parties shall include all those who have requested infrastructure capacity as well as other parties who wish to have the opportunity to comment on how the working timetable may affect their ability to procure rail services during the working timetable period.

Section 7-5 Applications referring to capacity on more than one network

Applicants may request infrastructure capacity crossing more than one network by applying to one of the infrastructure managers affected. That infrastructure manager shall then be permitted to act on behalf of the applicant to seek capacity with the other relevant infrastructure managers.

Infrastructure managers shall ensure that, for infrastructure capacity crossing more than one network, applicants may apply direct to any joint body which the infrastructure managers have established to this end.

Section 7-6 International train paths

The infrastructure manager shall seek to arrive at an agreement with the other relevant infrastructure managers about which international train paths are to be included in the working timetable, before commencing consultation on the draft working timetable. Adjustments to international train paths shall only be made if absolutely necessary.

Section 7-7 Coordination of applications for infrastructure capacity

Should conflicts of interest arise during the scheduling process the infrastructure manager shall coordinate all applications. The infrastructure manager shall have the right, within reasonable limits, to propose infrastructure capacity that differs from that which was applied

for.

The principles governing the coordination process shall be defined by the infrastructure manager. These principles shall in particular reflect the difficulty of arranging international train paths and the effect that modification may have on other infrastructure managers.

Section 7-8 Dispute resolution

Where an applicant disagrees with the schedule proposed after coordination has been carried out, the applicant may request that a dispute resolution system be applied.

The infrastructure manager shall establish a system to secure prompt resolution of disputes as mentioned in the first paragraph. The system shall ensure that a decision is reached within a time limit of 10 days.

Section 7-9 Congested infrastructure

Where, after coordination of the requested paths and consultation with applicants, it is not possible to satisfy requests for infrastructure capacity adequately then the infrastructure manager must immediately declare that element of infrastructure on which this has occurred to be congested. This shall also be done for infrastructure which it can be foreseen will suffer from insufficient capacity in the near future.

Where infrastructure has been declared to be congested, the infrastructure manager shall carry out a capacity analysis as described in section 7-13, unless a capacity enhancement plan as described in section 7-14 is already being implemented.

Section 7-10 Priority criteria

Where the infrastructure has been declared to be congested and it is necessary to employ priority criteria to allocate infrastructure capacity, the infrastructure manager shall employ infrastructure capacity in such a way as to take maximum possible account of the importance of a service to society relative to any other service which will consequently be excluded or supplanted.

With reference to the provision of the first paragraph, cf. third paragraph, the following guidelines apply, in order of priority, to the allocation of infrastructure capacity:

- 1 infrastructure capacity to public services. On the stretch Asker – Gardemoen the feeder service to Oslo International Airport shall have the same priority as public services;
- 2 infrastructure capacity that is included in framework agreements;
- 3 infrastructure capacity reserved for use for particular types of traffic on infrastructure described in section 7-12;
- 4 infrastructure capacity for international goods transport and international combined transport;
- 5 other goods transport;
- 6 other passenger transport.

The infrastructure manager may deviate from the above sequence of priorities if such deviation will result in higher overall utilisation of the total infrastructure capacity. The infrastructure manager may also take account of previous levels of utilisation of allocated train paths when deciding priorities and shall in such case establish rules in this respect.

Section 7-11 Ad hoc requests

The infrastructure manager shall respond to *ad hoc* requests for individual train paths as quickly as possible and in any event within five working days.

Section 7-12 Specialised infrastructure

Infrastructure capacity shall be considered to be available for the use of all types of service which conform to the characteristics necessary for operation on the train path in question.

Where there are suitable alternative routes, the infrastructure manager may, after consultation with interested parties, designate particular infrastructure for use by specified types of traffic. Such designation shall be approved by the ministry. When such designation has occurred, the infrastructure manager may give priority to this type of traffic when allocating infrastructure capacity.

Such designation shall not prevent the use of such infrastructure by other types of traffic when capacity is available and when the rolling stock conforms to the technical characteristics necessary for operation on the line in question.

Section 7-13 Capacity analysis of the infrastructure

Capacity analysis shall identify the reasons for the congestion and what measures might be taken in the short and medium term to ease the congestion.

The analysis shall consider the infrastructure, the operating procedures, the nature of the different services operating on the infrastructure and the effect of all these factors on infrastructure capacity. Measures to be considered shall include in particular re-routing of services, re-timing of services, speed alterations and infrastructure improvements.

A capacity analysis shall be completed within six months of the infrastructure being declared to be congested.

Section 7-14 Capacity enhancement plan for the infrastructure

Within six months of the completion of a capacity analysis, the infrastructure manager shall produce a capacity enhancement plan.

A capacity enhancement plan shall be developed after consultation with users of the relevant congested infrastructure. It shall identify:

- a) the reasons for the congestion;
- b) the likely future development of traffic;
- c) the constraints on infrastructure development;
- d) the options and costs for capacity enhancement, including likely changes to infrastructure

charges.

It shall also, on the basis of a cost benefit analysis of the possible measures identified, determine what action shall be taken to enhance infrastructure capacity, including a calendar for implementation of the measures.

Section 7-15 Infrastructure capacity for scheduled maintenance

Requests for infrastructure capacity to enable maintenance to be performed shall be submitted during the scheduling process.

Adequate account shall be taken by the infrastructure manager of the effect of infrastructure capacity reserved for scheduled track maintenance on applicants.

Chapter 8 Allocated infrastructure capacity

Section 8-1 Agreements with the infrastructure manager

Any party who is allocated infrastructure capacity on the national railway network shall conclude the necessary administrative, technical and financial agreements with the infrastructure manager for the railway infrastructure used, including an agreement which gives the infrastructure manager the traffic data needed to carry out his tasks as planner and manager of the infrastructure. The terms governing such agreements shall not provide an opportunity for discriminatory treatment.

Section 8-2 Transfer of and trade in infrastructure capacity

Allocated infrastructure capacity may not be transferred to others or used for types of services other than that for which it is allocated.

All trade in infrastructure capacity is prohibited and may lead to exclusion from further allocation of capacity in the current and/or next working timetable period.

Section 8-3 Withdrawal of allocated infrastructure capacity

The infrastructure manager may withdraw a train path which, over a period of at least one month, has been used less than a threshold quota to be laid down in the network statement. The infrastructure manager shall withdraw such train paths in situations where the infrastructure is congested. Such train paths may not be withdrawn where lack of use is due to non-economic reasons beyond the undertaking's control.

In an emergency and where absolutely necessary on account of a breakdown making the infrastructure temporarily unusable, the paths allocated may be withdrawn without warning for as long as is necessary to repair the system.

Chapter 9 Final provisions

Section 9-1 Changes in quality and capacity on the national railway network

The infrastructure manager shall as quickly as possible inform any party who has been

allocated infrastructure capacity of any important changes in the quality or capacity of the infrastructure in question.

Section 9-2 Special measures in the event of disturbance

In the event of disturbance to train movements caused by technical failure or accident, the infrastructure manager must take all necessary steps to restore the normal situation.

In an emergency and where absolutely necessary on account of a breakdown, the infrastructure manager may require the party who has been allocated infrastructure capacity to make available to him the resources which he considers are the most appropriate to restore the normal situation as soon as possible.

Section 9-3 Confidentiality

The infrastructure manager shall treat as confidential any information on technical appliances and procedures or on operating or commercial conditions which it would on competitive grounds be in the interest of the party to which it pertains to keep secret. This shall not prevent the infrastructure manager from passing to the Norwegian Railway Inspectorate information on circumstances of significance for safety or information requested by the Inspectorate when dealing with appeals under section 9-4.

Section 9-4 Appeal

The network statement and the criteria therein, allocation of infrastructure capacity, collection of charges, framework agreements concluded or other circumstances where the applicant believes his rights under these regulations have been violated, may be appealed to the Norwegian Railway Inspectorate. Such appeals shall be decided within two months of all necessary information being produced.

Section 9-5 Commencement

These regulations come into force on 15 March 2003. Regulations No. 1332 of 4 December 2001 on the Allocation of Railway Infrastructure Capacity and the Levying of Charges for the Use of the National Railway Network (Allocation Regulations) shall be revoked on the same date.

Annex I. Services to be supplied to railway undertakings

1. The minimum access package shall comprise:

- a) handling of requests for infrastructure capacity;
- b) the right to utilise capacity which is granted;
- c) use of such running track points and junctions as are necessary to utilise the capacity granted;
- d) rail traffic control including signalling, regulation, dispatching and the communication and provision of information on train movement;
- e) all other information required to implement or operate the service for which capacity has been granted.

2. Track access to services facilities and supply of services shall comprise:

- a) use of electrical supply equipment for traction current, where available;
- b) refuelling facilities;
- c) passenger stations, their buildings and other facilities;
- d) freight terminals;
- e) marshalling yards;
- f) train formation facilities;
- g) storage sidings;
- h) maintenance and other technical facilities.

3. Additional services may comprise:

- a) traction current;
- b) pre-heating of passenger trains;
- c) supply of fuel, shunting, and all other services provided at the access services facilities mentioned above;
- d) tailor-made contracts for:
 - control of transport of dangerous goods,
 - assistance in running abnormal trains.

4. Ancillary services may comprise:

- a) access to telecommunication network;
- b) provision of supplementary information;
- c) technical inspection of rolling stock.