

Directive 2012/34/EU of the European Parliament and of the Council of 21 November 2012 establishing a single European railway area (recast) (Text with EEA relevance)

CHAPTER III

LICENSING OF RAILWAY UNDERTAKINGS

SECTION 2

Conditions for obtaining a licence

Article 17

General requirements

1 An undertaking shall be entitled to apply for a licence in the Member State in which it is established.

2 Member States shall not issue licences or extend their validity where the requirements of this Chapter are not complied with.

3 An undertaking which fulfils the requirements set out in this Chapter shall be authorised to receive a licence.

4 No undertaking shall be permitted to provide the rail transport services covered by this Chapter unless it has been granted the appropriate licence for the services to be provided.

However, such a licence shall not, in itself, entitle the holder to access the railway infrastructure.

5 The Commission shall adopt measures setting out the details for the use of a common template for the licence and, if needed to ensure fair and efficient competition in rail transport markets, details on the procedure to be followed for the application of this Article. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 62(3).

Article 18

Conditions for obtaining a licence

An undertaking applying for a licence shall be required to be able to demonstrate to the licensing authorities of the Member State concerned before the start of its activities that it will at any time be able to meet the requirements relating to good repute, financial fitness, professional competence and cover for its civil liability as listed in Articles 19 to 22.

For those purposes, each undertaking applying for a licence shall provide all relevant information.

Status: EU Directives are being published on this site to aid cross referencing from UK legislation. After IP completion day (31 December 2020 11pm) no further amendments will be applied to this version.

Article 19

Requirements relating to good repute

Member States shall define the conditions under which the requirement of good repute is met to ensure that an undertaking applying for a licence or the persons in charge of its management:

- (a) have not been convicted of serious criminal offences, including offences of a commercial nature;
- (b) have not been declared bankrupt;
- (c) have not been convicted of serious offences set out in specific legislation applicable to transport;
- (d) have not been convicted of serious or repeated failure to fulfil social or labour law obligations, including obligations under occupational safety and health legislation, and customs law obligations in the case of a company seeking to operate cross-border freight transport subject to customs procedures^[F1];
- (e) ^[F2]have not been convicted of serious offences resulting from obligations arising in accordance with national law from binding collective agreements, where applicable.]

Textual Amendments

- F1** Substituted by [Directive \(EU\) 2016/2370 of the European Parliament and of the Council of 14 December 2016 amending Directive 2012/34/EU as regards the opening of the market for domestic passenger transport services by rail and the governance of the railway infrastructure \(Text with EEA relevance\)](#).
- F2** Inserted by [Directive \(EU\) 2016/2370 of the European Parliament and of the Council of 14 December 2016 amending Directive 2012/34/EU as regards the opening of the market for domestic passenger transport services by rail and the governance of the railway infrastructure \(Text with EEA relevance\)](#).

Article 20

Requirements relating to financial fitness

1 The requirements relating to financial fitness shall be met when an undertaking applying for a licence can demonstrate that it will be able to meet its actual and potential obligations, established under realistic assumptions, for a period of 12 months.

2 The licensing authority shall verify financial fitness especially by means of a railway undertaking's annual accounts or, in the case of undertakings applying for a licence which are unable to present annual accounts, a balance sheet. Each undertaking applying for a licence shall provide at least the information listed in Annex III.

3 The licensing authority shall not consider an undertaking applying for a licence to be financially fit if considerable or recurrent arrears of taxes or social security are owed as a result of that undertaking's activity.

4 The licensing authority may require the submission of an audit report and suitable documents from a bank, public savings bank, accountant or auditor. Those documents shall include the information listed in Annex III.

5 The Commission shall be empowered to adopt delegated acts in accordance with Article 60 concerning certain amendments to Annex III. Thus, Annex III may be amended to specify the information to be provided by undertakings applying for a licence or supplemented in the light of the experience gained by licensing authorities or the evolution of the rail transport market.

Article 21

Requirements relating to professional competence

The requirements relating to professional competence shall be met when an undertaking applying for a licence can demonstrate that it has or will have a management organisation which possesses the knowledge or experience necessary to exercise safe and reliable operational control and supervision of the type of operations specified in the licence.

Article 22

Requirements relating to cover for civil liability

Without prejudice to Union rules on State aid and in accordance with Articles 93, 107 and 108 TFEU, a railway undertaking shall be adequately insured or have adequate guarantees under market conditions for cover, in accordance with national and international law, of its liabilities in the event of accidents, in particular in respect of passengers, luggage, freight, mail and third parties. Notwithstanding this obligation, the specificities and the risk-profile of different types of services, in particular of railway operations for cultural or heritage purposes, may be taken into account.