

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 3

Validity of the licence

Article 23

Spatial and temporal validity

- 1 A licence shall be valid throughout the territory of the Union.
- 2 A licence shall be valid as long as the railway undertaking fulfils the obligations laid down in this Chapter. A licensing authority may, however, make provision for a regular review. If so, the review shall be carried out at least every five years.
- 3 Specific provisions governing the suspension or revocation of a licence may be incorporated in the licence itself.

Article 24

Temporary licence, approval, suspension and revocation

1 If there is serious doubt that a railway undertaking which it has licensed complies with the requirements of this Chapter, and in particular those of Article 18, the licensing authority may, at any time, check whether that railway undertaking does in fact comply with those requirements.

Where a licensing authority is satisfied that a railway undertaking can no longer meet the requirements, it shall suspend or revoke the licence.

2 Where the licensing authority of a Member State is satisfied that there is serious doubt regarding compliance with the requirements laid down in this Chapter on the part of a railway undertaking to which a licence has been issued by the licensing authority of another Member State, it shall inform the latter authority without delay.

3 Notwithstanding paragraph 1, where a licence is suspended or revoked on grounds of non-compliance with the requirement for financial fitness, the licensing authority may grant a temporary licence pending the reorganisation of the railway undertaking, provided that safety is not jeopardised. A temporary licence shall not, however, be valid for more than six months after its date of issue.

4 Where a railway undertaking has ceased operations for six months or has not started operations within six months of the grant of a licence, the licensing authority may decide that the licence shall be required to be resubmitted for approval or be suspended.

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As regards the start of activities, the railway undertaking may ask for a longer period to be fixed, taking account of the specific nature of the services to be provided.

5 In the event of a change affecting the legal situation of an undertaking and, in particular, in the event of a merger or takeover, the licensing authority may decide that the licence shall be resubmitted for approval. The railway undertaking in question may continue operations, unless the licensing authority decides that safety is jeopardised. In that event, the grounds for such a decision shall be given.

6 Where a railway undertaking intends to significantly change or extend its activities, its licence shall be resubmitted to the licensing authority for review.

7 A licensing authority shall not permit a railway undertaking against which bankruptcy or similar proceedings have commenced to retain its licence if that authority is convinced that there is no realistic prospect of satisfactory financial restructuring within a reasonable period of time.

8 Where a licensing authority issues, suspends, revokes or amends a licence, it shall immediately inform the European Railway Agency accordingly. The European Railway Agency shall inform the licensing authorities of other Member States forthwith.

Article 25

Procedure for granting licences

1 The procedures for granting licences shall be made public by the Member State concerned, which shall inform the Commission thereof.

2 The licensing authority shall take a decision on an application as soon as possible, but not more than three months after all relevant information, notably the particulars referred to in Annex III, has been submitted. The licensing authority shall take into account all the available information. The decision shall be communicated to the undertaking applying for a licence without delay. A refusal shall state the grounds on which it is based.

3 Member States shall ensure that the licensing authority's decisions are subject to judicial review.