

Commission Implementing Regulation (EU) 2018/1795 of 20 November 2018 laying down procedure and criteria for the application of the economic equilibrium test pursuant to Article 11 of Directive 2012/34/EU of the European Parliament and of the Council (Text with EEA relevance)

Article 11

Result of the economic equilibrium test

- 1 As a result of the economic equilibrium test carried out in accordance with Articles 9 and 10, the regulatory body shall take a decision provided for in Article 11(2) of Directive 2012/34/EU, on the basis of which the right of access to the rail infrastructure shall be granted, modified, granted only under conditions or denied.
- 2 Where the economic equilibrium of a public service contract would be compromised by the new rail passenger service, the regulatory body:
 - a shall, as appropriate, indicate possible changes to that new rail passenger service, such as a modification of frequencies, paths, intermediate stops or schedule, which would ensure that the conditions for granting the right of access provided for in Article 10(2) of Directive 2012/34/EU are met; and/or
 - b may issue recommendations to the competent authorities, where relevant in the light of net benefits to customers referred to in point (a) of Article 10(5) of this Regulation, concerning other changes not related to the new passenger service that would ensure that the conditions for granting the right of access are met.
- 3 Where the request for access concerns the operation of a new service as defined by Article 3(36) of Directive 2012/34/EU, following the procedure and analysis laid down in this regulation, the regulatory body shall act in accordance with Article 11a of Directive 2012/34/EU.
- 4 In the circumstances described in Article 5(2) second subparagraph, where the economic equilibrium test on the existing public service contract demonstrates that access can be granted, it shall be time-limited, pending the outcome of the economic equilibrium test to be carried out in accordance with Article 5(2), first paragraph and Article 9(7).
- 5 The regulatory body shall notify a non-confidential version of its decision to the entities listed in Article 11(3) of Directive 2012/34/EU and publish it on its website.

Changes to legislation:

There are outstanding changes not yet made to Commission Implementing Regulation (EU) 2018/1795. Any changes that have already been made to the legislation appear in the content and are referenced with annotations.

[View outstanding changes](#)

Changes and effects yet to be applied to :

- Regulation applied by [S.I. 2019/518 reg. 88](#)
- Regulation words substituted by [S.I. 2019/518 reg. 75](#)
- Art. 11(1) words substituted by [S.I. 2019/518 reg. 84\(a\)](#)
- Art. 11(3) words substituted by [S.I. 2019/518 reg. 84\(c\)\(i\)](#)
- Art. 11(3) words substituted by [S.I. 2019/518 reg. 84\(c\)\(ii\)](#)
- Art. 11(5) words substituted by [S.I. 2019/518 reg. 84\(d\)](#)

Changes and effects yet to be applied to the whole legislation item and associated provisions

- Signature words omitted by [S.I. 2019/518 reg. 87](#)
- Art. 3(7)(8) inserted by [S.I. 2019/518 reg. 77\(b\)](#)
- Art. 4(4)(a) words omitted by [S.I. 2019/518 reg. 78\(c\)](#)
- Art. 4(4)(b) words substituted by [S.I. 2019/518 reg. 78\(d\)](#)
- Art. 11(2)(a) words substituted by [S.I. 2019/518 reg. 84\(b\)](#)