

APPROVED
by the Executive Board of the
Joint Stock Company LatRailNet
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in Riga

REGULATIONS

30 June 2017

No. JALP-7.6/03-2017

The public-use railway infrastructure network performance scheme

Issued under Article 11(9) and
Article 13.² of the Railway Law

I. General issues

1. These regulations (hereinafter referred to as the Scheme) lay down:

- 1.1. the procedure for negotiating an agreement between the performer of the essential functions of the public-use railway infrastructure (hereinafter referred to as the railway infrastructure) manager and both the infrastructure manager and applicants regarding the main parameters of the Scheme;
- 1.2. the procedure for communicating the working timetable;
- 1.3. the procedure for attributing delays and other railway infrastructure network performance parameters to a stakeholder and calculating payments;
- 1.4. the procedure for dispute settlement;
- 1.5. the procedure for publishing information about the annual average level of performance punctuality achieved by the railway undertakings based on the main parameters agreed in the Scheme.

2. The following terms are used in the Scheme:

- 2.1. **performers of individual technological processes** – commercial companies that operate upon an assignment by a railway undertaking, the infrastructure manager, an operator of a service facility, a consignor or consignee and that are granted the rights to access the railway infrastructure in accordance with Article 5.¹ of the Railway Law;
- 2.2. **the performer of the essential functions** – the performer of the essential functions of the infrastructure manager declared in the railway infrastructure network statement, JSC LatRailNet, that in accordance with the Railway Law is responsible for the infrastructure charging;
- 2.3. **railway transportation dispatcher** – the dispatcher of the Train Movement Control Centre of the infrastructure manager;

- 2.4. **charges** – the charges for the minimum access package mentioned in Article 12.¹ of the Railway Law and for the access to the railway infrastructure connecting service facilities;
- 2.5. **infrastructure manager** – the railway infrastructure manager – SJSC Latvian Railway;
- 2.6. **capacity allocation dispatcher** – a shift employee (a dispatcher) of the performer of the essential functions carrying out the operational railway infrastructure capacity allocation and the assignment of train paths during the period of their shift;
- 2.7. **capacity Allocation Scheme** – the regulations “The scheme for the allocation of the public-use railway infrastructure capacity” issued by the performer of the essential functions in regard to Article 13.² and Article 27(11) of the Railway Law and published both on the website of the performer of the essential functions and in the railway infrastructure manager’s railway infrastructure network statement;
- 2.8. **Charging Scheme** – the regulations “The Charging Scheme” issued by the performer of the essential functions in regard to Article 11(1) and Article 13.² of the Railway Law and published both on the website of the performer of the essential functions and in the railway infrastructure manager’s railway infrastructure network statement;
- 2.9. **operational capacity allocation plan** – a daily planning document indicating train paths assigned to specific railway undertakings;

3. The Scheme is applied to users of the railway infrastructure network – all railway undertakings, applicants, the infrastructure manager and to the performers of individual technological processes throughout the railway infrastructure network, in accordance with the main principles of the regulations of the Cabinet of Ministers No. 471 of July 15, 2016 on Basic Principles of the Performance Scheme Applicable to the Railway Network (hereinafter referred to as the Cabinet Regulations) in order to reduce disruption to a minimum, improve the performance of the railway infrastructure network, achieve the agreed level of performance punctuality and avoid the danger of the economic viability of the service.

II. Main parameters of the scheme

4. Not later than four months before the deadline for the publication of the railway infrastructure network statement applicants and the infrastructure manager may provide evidence to the performer of the essential functions that:

- 4.1. the particular causes of delays mentioned in the Annex to the Cabinet Regulations interfere with the network performance, cause losses to any or all stakeholders, endanger the economic viability of the service as well as how these causes can be affected by penalties for actions which disrupt the operation of the railway network, compensations to those who suffer losses from disruptions and bonuses to applicants with better-than-planned performance;
- 4.2. there are other causes that are not specifically mentioned in the Annex to the Cabinet Regulations, but which meet the criteria of Sub-paragraph 4.1 of the Scheme and may be applied to one of the classes of delays mentioned in the Annex to the Cabinet Regulations.

5. Within two weeks after the deadline for the admission of the evidence referred to in Paragraph 4 of the Scheme, the performer of the essential functions publishes on its website on the internet a notice about the time, place and agenda of the planned negotiations regarding the amendments to the Chapter “Network performance supporting charges” of the Charging Scheme, as well as publishes the draft of the amendments on the website on the internet, where specifies penalties for actions which disrupt the operation of the railway network, compensations to those who suffer losses from disruptions and bonuses (charge reductions to applicants with better-than-planned performance of the parameters specified in the Scheme), based on:

- 5.1. the analysis of the causes of deviations from the equal actual and technological conditions that are laid down in the capacity Allocation Scheme, where the causes that are relevant to the criteria mentioned in Sub-paragraphs 4.1. un 4.2. of the Scheme are identified;
- 5.2. the summaries of proposals received from applicants and the infrastructure manager;
- 5.3. the indicative railway infrastructure development Strategy approved by the Cabinet of Ministers, the infrastructure manager’s business plan (including investment and financial programs) and the conditions of the contractual agreement;
- 5.4. the agreements on network Performance Schemes when train services cross more than one railway infrastructure network within the European Union;
- 5.5. the information mentioned in Chapter VI of the Scheme.

6. During the negotiation provided by the draft of the amendments to the Chapter “Network performance supporting charges” of the Charging Scheme and Paragraph 5 of the Scheme the infrastructure manager, the performer of the essential functions and applicants agree on the following main parameters of the Scheme (hereinafter – the parameters of the Scheme):

- 6.1. a list of causes to be recorded;
- 6.2. the units of measurement of the causes to be recorded (delay time on the section of the line or on the route, the number of train paths, the assessment of the condition of a rail line, the number of non-dispatched wagons in a station, number of non-provided traction, etc.)
- 6.3. thresholds of causes - the maximum (minimum) number of occurrences in time (day, month, year, etc.) or during the functional period (during the allocated train path, during the technological process, etc.), as well as the intervals or circumstances where related financial value of cause/effect appears and/or changes;
- 6.4. financial values of penalties for actions which disrupt the operation of the network, compensations for railway undertakings which suffer from disruption and bonuses (charge reductions for applicants with better-than-planned performance of the parameters specified in the network Performance Scheme) for applicants with better-than-planned performance.

7. If the infrastructure manager and applicants do not agree with the parameters of the Scheme proposed by the performer of the essential functions and fail to agree within one week after the start of the negotiations, then the performer of the essential functions notifies the known

applicants and the infrastructure manager that it is not possible to agree on the parameters of the Scheme and makes a decision on the amendments to the Chapter “Network performance supporting charges” of the Charging Scheme, publishes it on its website on the internet not later than three months before the deadline for the publication of the railway infrastructure network statement and submits the information to the infrastructure manager for publication in the railway infrastructure network statement not later than 30 days before the deadline for the publication of the railway infrastructure network statement or its amendments as notified by the infrastructure manager.

The performer of the essential functions may decide, that the information on the contentious parameters of the Scheme will be recorded, but the payments will not be calculated.

III. Procedure for communicating the working timetable

8. The infrastructure manager maintains the records of the parameters of the Scheme according to the internal legal act, that is considered as a document regarding the use of the railway infrastructure and in accordance with Article 5(2¹) of the Railway Law is publicly available on the infrastructure manager's website on the internet.

9. The records of the parameters of the Scheme are based on:

9.1. the working timetable – for trains that are dispatched in accordance with the annual working timetable;

9.2. the operational railway infrastructure capacity allocation plan drawn up and confirmed by a capacity allocation dispatcher twice a day (not later than 15:00 and 03:00) and sent for execution to the Train Movement Control Centre of the infrastructure manager and railway undertakings – for the trains that are dispatched within the operational railway infrastructure capacity allocation procedure;

9.3. the decision of a capacity allocation dispatcher on amendments to the operational capacity allocation plan as well as related instructions given to railway undertakings and to the infrastructure manager by using the official electronic communication tools.

IV. Procedure for attributing delays and other performance parameters to a stakeholder and calculating payments

10. If a railway infrastructure network disruption caused by one network user affects other network users' parameters of the Scheme, its causes are attributed to the former network user, if there have not been other reasons.

11. If two or more network users are responsible for a network disruption, its causes are attributed to the first involved network user and after particular evaluation it is granted a compensation in proportion to the degree of the offence of every next network user involved.

12. Network disruption causes made by the performers of individual technological processes are attributed to network users upon whose assignment the technological processes were performed.

13. If train speed restriction is applied due to an accident, it is attributed to the rail undertaking designated by the relevant applicant till the speed limit is restored by a relevant instruction of the infrastructure manager. If the speed limit is not restored within the time limit set, then it is further extended to the infrastructure manager.

14. Network disruption causes are recorded within 5 working days.

15. The capacity allocation dispatcher and a railway transportation dispatcher promptly examine the results of the attribution of the parameters of the Scheme. Railway undertakings have the right to request and receive from the infrastructure manager the results of the attribution of the parameters of the Scheme attributed to them and to network users working on their behalf. The operational information is not a subject of the dispute settlement procedure mentioned in Chapter V of the Scheme.

16. Payments for the infrastructure charges determined by the Chapter “Network performance supporting charges” of the Charging Scheme are made by railway undertakings and the performer of the essential functions in accordance with the invoice issued by the infrastructure manager (hereinafter referred to as the invoice).

17. The invoice is sent to railway undertakings and the performer of the essential functions via official electronic means of communication. At the same time, detailed invoicing information (hereinafter referred to as the invoicing information) is sent, including:

17.1. the invoicing period for which the parameters of the Scheme were attributed;

17.2. detailed information regarding applied values of the parameters of the Scheme and amounts of the charges during the invoicing period (including information about the respective parameter of the Scheme and its thresholds);

17.3. the total payment.

18. The infrastructure manager sends the invoice once a month - not later than the 10th day of a month, but if this date is a weekend or a holiday, then on the next working day.

19. A railway undertaking and the performer of the essential functions pay the invoice issued by the infrastructure manager within five working days after receiving the invoice, transferring the money to the financial institution account of the infrastructure manager indicated in the invoice.

20. The day when a railway undertaking or the performer of the essential functions has received an invoice issued by the infrastructure manager and sent via official electronic means of communication is deemed as the day of receiving the invoice.

21. The date on which the payment from a railway undertaking or the performer of the essential functions is received at the financial institution according to the invoice issued by the infrastructure manager is deemed the date of paying the invoice.

V. Dispute settlement procedure

22. If a railway undertaking or the performer of the essential functions does not agree with the invoice issued by the infrastructure manager or its invoicing information, a railway undertaking or the performer of the essential functions is entitled to send a request with justified objections regarding the relevant invoice or invoicing information to the infrastructure manager within five working days via official electronic means of communication.

23. The infrastructure manager reviews the objections submitted in written form by a railway undertaking or the performer of the essential functions within five working days after the date of receiving the respective request and eliminates the identified discrepancies within two working days or provides the justification for the invoice or the invoicing information to the railway undertaking or the performer of the essential functions in a written form. The infrastructure manager informs the railway undertaking or the performer of the essential functions in a written form via official electronic means of communication without delay.

24. In case of the application of the dispute settlement procedure, a railway undertaking or the performer of the essential functions is not exempted from paying the invoice within the time period and the amount laid down in the Chapter “Network performance supporting charges” of the Charging Scheme.

25. The infrastructure manager makes a decision on the invoice or invoicing information within ten working days after the beginning of the dispute settlement procedure (receiving objections).

26. If a railway undertaking or the performer of the essential functions does not agree with the detailed justification of the invoice or invoicing information, it is entitled to submit a complaint to the State Railway Administration in accordance with the Railway Law.

VI. Procedure for publishing information

27. The infrastructure manager annually till 1 February publishes on its website on the internet the information on the parameters of the Scheme at the beginning and at the end of the previous year as well as their monthly dynamics (if it makes a difference) where the parameters

of the Scheme of the infrastructure manager and the performer of the essential functions are indicated separately, but those of applicants as average.

VII. Closing provisions

28. The performer of the essential functions publishes the Scheme on its website on the internet and submits the Scheme to the infrastructure manager for inclusion in the railway infrastructure network statement.

29. The Scheme enters into force upon its publication and it is applied from the moment when the Charging Scheme enters into force.

30. The infrastructure manager has the right to reasonably request that the decision on the amendments of the Chapter “Network performance supporting charges” of the Charging Scheme has phased implementation time not exceeding one working timetable period. The infrastructure manager submits such a request to the performer of the essential functions within three working days after it receives the notice mentioned in Paragraph 7 of the Scheme that it is not possible to agree on the parameters of the Scheme.

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