

APPROVED  
by the Executive Board of the  
Joint Stock Company LatRailNet  
in a meeting held on 30 June 2017,  
min. no. JALP-1.2/33-2016  
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.<sup>2</sup> 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 for 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.<sup>1</sup> of the Railway Law;

2.2. **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 decision-making on infrastructure charging and on the allocation of railway infrastructure capacity, including the definition and the assessment of availability of the railway infrastructure and the assignment of train paths;

*(Amended by regulations of 29.09.2017.)*

2.3. **railway transportation dispatcher** – a dispatcher at the Train Movement Control Centre of the infrastructure manager;

2.4. **charges** – the charges for the minimum access package mentioned in Article 12.<sup>1</sup> 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.<sup>2</sup> 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.<sup>2</sup> 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 negotiations 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) and if necessary on amendments to 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, the number of non-provided traction, etc.);

6.3. the allowed thresholds of causes - the maximum (minimum) number of occurrences in a time period (day, month, year, etc.) or a functional period (along 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. the amount of penalties for actions which disrupt the operation of the railway network, compensations to those who suffer losses from disruption and bonuses (charge reductions to applicants with better-than-planned performance of the parameters specified in the Scheme).

*(Amended by regulations of 29.09.2017.)*

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(2<sup>1</sup>) of the Railway Law is publicly available on the infrastructure manager's website on the internet. The following are considered as delays:

8.1. for trains that are sent according to the annual working timetable:

8.1.1. the time difference between the main accounting document referred to in Paragraph 9 of the Scheme and:

8.1.1.1. the actual time when the train is dispatched;

8.1.1.2. the actual arrival time of the train at the final station;

8.1.2. the deviation from the working timetable in intermediate stations;

8.2. for trains to which train paths are assigned within the operational railway infrastructure capacity allocation procedure:

8.2.1. the time difference between the main accounting document referred to in Paragraph 9 of the Scheme and:

8.2.1.1. the actual time when the train is dispatched;

8.2.1.2. the actual arrival time of the train at the final station;

8.2.2. the deviation from the train pass time on a specific railway section within the annual working timetable.

The delays are attributed to the classes or subclasses of the causes if they exceed the limit allowed in the Charging Scheme.

*(Amended by regulations of 29.09.2017.)*

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 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 initial network user 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 initial 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 attributed to the infrastructure manager.

14. Network disruption causes are recorded within 5 working days. When determining the causes of delays mentioned in the Annex to the Cabinet Regulations, it is assumed that:

14.1. the cause of Sub-paragraph 1.2 is attributed to the infrastructure manager if within the railway infrastructure the train is assembled by an operator of a service facility, which is also the infrastructure manager;

14.2. the cause of Sub-paragraph 1.3 is attributed to the performer of the essential functions if the train path is not assigned in time or the operational railway infrastructure capacity allocation procedure has not been followed, in other operational cases it is attributed to the infrastructure manager;

14.3. the cause of Sub-paragraph 1.4 is attributed to the performer of the essential functions;

14.4. if a delay occurs due to the quality of the railway infrastructure (the working capacity indicated in the railway infrastructure network statement, such as speed, permissible axle load or train length, is reduced), then it is attributed to the whole class of causes of delays referred to in Paragraph 2 without decoding;

14.5. the cause of Sub-paragraph 3.1 is attributed only to delays at the final station in passenger traffic and at the arrival station of a railway section in freight traffic if they occur due to the fact that a technological break exceeds the time declared in the procedure established by the performer of the essential functions;

14.6. the cause of Sub-paragraph 3.2 is attributed only to delays at the final station in passenger traffic and at the final station of a railway section in freight traffic, if they occur due to the fact that a technological break is not announced in the order specified by the performer of the essential functions;

14.7. the cause of Sub-paragraph 3.3 is attributed only to delays at the final station in passenger traffic and at the final station of a railway section in freight traffic, if they are related to technological limitations exceeding the duration announced in the order specified by the performer of the essential functions – the capacity allocation body;

14.8. the cause of Sub-paragraph 4.1 is attributed to a delay, if train of the international traffic has been awaited on the railway network with delay;

14.9. the cause of Sub-paragraph 4.2 is attributed to a delay, if train of the international traffic is denied on the next railway network;

14.10. the cause of Sub-paragraph 5.1 is attributed to a delay if the train departure from an intermediate station is delayed by a railway undertaking;

14.11. the cause of Sub-paragraph 5.2 is attributed to a delay, if a train set is suspended at the request of a railway undertaking;

14.12. the causes of Sub-paragraphs 5.3, 5.4 and 5.5 are attributed to delays if relevant operations were not carried out due to the fault of an operator of a service facility, which is also the infrastructure manager;

14.13. if the delay has been caused by the rolling stock of a railway undertaking, it is attributed to the whole class of causes of delays referred to in Paragraph 6 without decoding;

14.14. the class of causes of delays referred to in Paragraph 7 are attributed only if the delay is caused by an intentional activity of the railway undertaking.

*(Amended by regulations of 29.09.2017.)*

15. A capacity allocation dispatcher and a railway transportation dispatcher promptly examine the results of the attribution of the parameters of the Scheme and inform the railway undertaking, which has caused the delay exceeding the limits of the allowed delays by the official electronic means of communication. 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.

*(Amended by regulations of 29.09.2017.)*

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 – no later than the 10<sup>th</sup> 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 values.

#### **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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