

COMMISSION RECOMMENDATION

of 7 April 2004

on the use of a common European format for licence documents issued in accordance with Council Directive 95/18/EC on the licensing of railway undertakings*(notified under document number C(2004) 1279)*

(2004/358/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community, and in particular Article 211, second indent, thereof,

Whereas:

(1) Article 4 of Council Directive 95/18/EC of 19 June 1995 on the licensing of railway undertakings⁽¹⁾, as amended by Directive 2001/13/EC of the European Parliament and of the Council of 26 February 2001⁽²⁾, states that a licence shall be valid throughout the territory of the Community and Article 11(8) obliges Member States to inform the Commission of licences that have been issued, suspended, revoked or amended and the Commission to inform the other Member States forthwith. A common format for the licence document and communications on licences would therefore facilitate the work of the Member States and of the Commission and would provide easier access to information on licences by all interested parties, in particular the licensing authorities and the infrastructure managers.

(2) Directive 2001/13/EC extends the obligation on Member States to grant railway licences from railway undertakings providing services according to Article 10 of Council Directive 91/440/EEC of 29 July 1991 on the development of the Community's railways⁽³⁾, as amended by Directive 2001/12/EC of the European Parliament and Council⁽⁴⁾, to all relevant railway undertakings. The railway licence will hereafter consequently become more widely recognised and used within the Community.

(3) Directive 2001/12/EC provides access for licensed railway undertakings to the Trans-European Rail Freight Network for the purpose of operating international freight services as from 15 March 2003 and to the entire rail network as from 15 March 2008. Member States will increasingly exchange information on licences and carry out checks that railway undertakings exercising these access rights have a valid licence and there is therefore a need to standardise the licence document and information on licences and make them more easily available.

(4) The railway licences issued by the provisions of Directives 95/18/EC and 2001/13/EC are valid also in the European Economic Area through Decision No 118/2001 of the EEA Joint Committee of 28 September 2001 amending Annex XIII to the EEA Agreement⁽⁵⁾. Licences issued in the European Economic Area are equally valid in the Community through the same Decision.

(5) All necessary information that confirms that an identified railway undertaking has been duly licensed for a certain type of rail transport services can be contained within a one-page standardised document. The standard format for the licence document would facilitate publication of all relevant information on licences on the website of the Commission. The standard format could be modified in the future depending on experience of its use and the development of the needs for further information on licences.

(6) However, the requirements of Article 9 of Directive 95/18/EC on insurance, or equivalent arrangements for cover for liability, can vary between Member States depending on national law and therefore proof that the railway undertaking meets these national requirements should be provided for by an annex to the licence document. In case the legal requirements on financial cover for liability make it necessary a separate annex should be added for each of the Member States where access rights are exercised by the licensed railway undertaking.

(7) In addition to the requirements of Directive 95/18/EC a Member State may impose national legal and regulatory provisions on railway undertakings, as described in Article 12 of Directive 95/18/EC. These provisions may be referred to in the licensing document, but should not be required to be communicated to the Commission in connection with the standard licence document. It should, however, be noticed in that document that they exist and they should be available on request by the Commission.

⁽¹⁾ OJ L 143, 27.6.1995, p. 70.

⁽²⁾ OJ L 75, 15.3.2001, p. 26.

⁽³⁾ OJ L 237, 24.8.1991, p. 25.

⁽⁴⁾ OJ L 75, 15.3.2001, p. 1.

⁽⁵⁾ OJ L 322, 6.12.2001, p. 32.

- (8) The provisions of this recommendation have been submitted to The Developing European Railways Committee established by Article 11a of Directive 91/440/EEC and by Article 35 of Directive 2001/14/EC of the European Parliament and of the Council of 26 February 2001 on the allocation of railway infrastructure capacity and the levying of charges for the use of railway infrastructure and safety certification ⁽¹⁾, as amended by Commission Decision 2002/844/EC ⁽²⁾. The Committee has given a positive opinion on the recommendation.
- (9) Where Member States, in applying the requirements of Directive 95/18/EC, establish rules on the format of railway licences, this should be based on the standard format
- (10) The licensing authority of the Member State communicates information on the issuing, suspension, revocation and amendment of rail licences to the railway undertaking concerned and the European Commission using the standard format for the licence document.

HEREBY RECOMMENDS:

1. Licence documents issued in accordance with Directive 95/18/EC should use the standard format set out in Annex I to this Recommendation.

A document should be issued in the case a particular licence is amended, suspended, revoked or replaced by a temporary licence and should be presented in the standard format.

2. The proof that a licensed railway undertaking complies with national requirements concerning insurance or has made equivalent arrangements for cover for its liabilities should be set out in an annex to the licence document, using the standard format laid down in Annex II to this Recommendation.
3. This Recommendation is addressed to the Member States.

Done at Brussels, 7 April 2004.

For the Commission
Loyola DE PALACIO
Vice-President

⁽¹⁾ OJ L 75, 15.3.2001, p. 29.

⁽²⁾ OJ L 289, 26.10.2002, p. 30.

*ANNEX I***Standard format for railway licence**

The standard format for the railway licence document and the explanations and instructions that are necessary for the user of the form are laid out on the following pages.



LICENCE FOR THE PERFORMANCE OF RAIL TRANSPORT SERVICES

Within the European Union and the European Economic Area according to Directive 95/18/EC, as amended by Directive 2001/13/EC and the relevant national legislation.

1. Licence issuing State

Issuing State	<input type="checkbox"/> New licence <input type="checkbox"/> Amended licence
National licence No	Decision identification
Applicable legislation	
Licensing authority	Phone No
Postal address	Facsimile No
Post Code and city	E-mail

2. Licence holder

Railway undertaking	Phone No
Postal address	Facsimile No
Post code and city	E-mail
Registration No	VAT No

3. Validity

Valid from	Temporary licence: <input type="checkbox"/> YES <input type="checkbox"/> NO If yes: valid until
Type of services: <input type="checkbox"/> freight <input type="checkbox"/> passenger	
Suspended on	Revoked on

4. Amendments

Amended on
Description of amendment

5. Conditions and obligations

Conditions according to Articles 10(2) and/or 12 of Directive 95/18/EC should be mentioned here, or reference should be given to where documentation is available

Date

Signature

Name

EC licence-notification No

Explanations and instructions for use

The relevant EU legislation is laid down in Council Directive 95/18/EC of 19 June 1995 on the licensing of railway undertakings (OJ L 143, 27.6.1995, p. 70) and Directive 2001/13/EC of the European Parliament and of the Council of 26 February 2001 amending Council Directive 95/18/EC on the licensing of railway undertakings (OJ L 75, 15.3.2001, p. 26).

The railway licences issued by the provisions of Directives 95/18/EC and 2001/13/EC are valid also in the European Economic Area through Decision No 118/2001 of the EEA Joint Committee of 28 September 2001 amending Annex XIII (Transport) to the EEA Agreement (OJ L 322, 6.12.2001, p. 32). Licences issued in the European Economic Area are equally valid in the Community through the same Decision.

Each time a decision concerning a particular licensed railway undertaking is taken, i.e. by amending, suspending, revoking or replacing a permanent licence by a temporary one, a new document shall be submitted.

A licence document shall always be accompanied by the annex on financial cover for liability.

The detailed explanations below refer to the numbered fields of the form. References are made to Articles in Directive 95/18/EC.

1. **Licence issuing State.** It shall always be indicated if a document concerns a new licence or any kind of amendment to an existing licence. The legislation applicable in the issuing state shall be identified by reference to law or other legal provisions. The licence identification number used in the issuing State shall be entered and, where applicable, the identification of the authority decision through a reference number or other relevant reference. The licensing authority is designated by Member States according to Article 3. It shall be identified in a way that makes it possible for interested parties to get in contact with the body in question. Telephone numbers should indicate the number to the switchboard, where applicable, and not to the person in charge of licensing issues. Telephone and fax numbers should indicate the country code. The e-mail address should be the general mail box of the authority.
2. **Licence holder.** The contact details of the licence holder should, in a similar way as the details of the authority, indicate the general addresses of the railway undertaking, avoiding giving reference to a certain person. If several registration numbers are attributed to the holder under national law there are possibilities in the form to enter both the VAT number and a second registration number. Telephone and fax numbers should indicate the country code.
3. **Validity.** According to Article 10 a licence is valid as long as the railway undertaking fulfils the obligations of the Directive. The reviews that are allowed according to Article 10(1) do not require that the licence document as such is amended. If the review leads to suspension, revocation or amendment, it shall be indicated in the relevant fields and a new document shall be submitted.

The issuing authority shall indicate the first date of validity and the type(s) of services that the licence is valid for. In the case of a temporary licence, issued according to the provisions of Article 11(3), an end date must be entered. The maximum validity of a temporary licence is six months. In the case of suspension or revocation the dates shall be entered in the form. Dates shall be entered in a common format (ddmmyy).

4. **Amendments.** If the licensed railway undertaking significantly changes or extends its activities the licence shall be resubmitted for review (Article 11.6). Such a review might cause that the licence is amended and if so, the date of the amendment shall be entered in the field together with a short description. Dates shall be entered in a common format (ddmmyy).
 5. **Conditions and obligations.** Article 10(2) states that specific provisions governing the suspension or revocation of a licence may be incorporated in the licence itself. If that is the case, the provisions shall be indicated in this field. Article 12 provides for additional requirements on a railway undertaking imposed by a Member State by national law and regulatory provisions. A reference to these additional requirements or to the authority decision should be made in the field, if they have relevance for the licence.
 6. **Signature.** A person authorised to decide on licences shall sign the licence document delivered to the railway undertaking. A copy of the signed document shall be sent to the Commission and an electronic version of the document shall be transmitted to the Commission. The name of the signing person shall be spelled out. The Commission will attribute an EC licence notification number to the licence before publication and communicate the attributed number to the licensing authority.
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*ANNEX II***Standard format for insurance annex to railway licence**

The standard format for the annex to the railway licence document and the explanations and instructions that are necessary for the user of the form are laid out on the following pages.



LICENCE

Insurance Annex No

Financial cover for liability

Concerning licence to perform rail transport services within the European Union and the European Economic Area according to directive 95/18/EC, as amended by directive 2001/13/EC and the relevant national legislation

1. Licence issuing State

Issuing state	Licensing authority
National licence No	Decision identification
Applicable legislation	

2. Licence holder

Railway undertaking	
Registration No	VAT No

3. Licensing authority approving financial cover (if other than licensing authority in 1)

Licensing authority	Phone No
Postal address	Facsimile No
Post code and city	E-mail
State	Applicable legislation

4. Financial cover for liability

Financial cover, amount	Equivalent arrangements (short description)
Geographical coverage	
Valid from	Valid until

5. Conditions and obligations

National conditions according to Articles 10(2) and/or 12 of Directive 95/18/EC should be mentioned here, or reference should be given to where documentation is available

Date Signature

Name

EC licence-notification No

Explanations and instructions for use

According to Article 9 of Directive 95/18/EC a railway undertaking shall be adequately insured or make equivalent arrangements for cover, in accordance with national and international law, of its liabilities in the event of accidents. The maximum insurance amount that is requested by Member States to fulfil this requirement varies in accordance with national legislation and other regulatory requirements. Thus an insurance taken by a railway undertaking in one Member State may not be sufficient in another Member State. The body issuing the licence shall therefore attach an annex to the licence, using the format provided for by Annex II to this Recommendation. This first insurance annex should be given the number one (1) and should be submitted by the licensing authority.

Through the information provided for by the insurance annex the licensing authority in a particular Member State is able to check whether the insurance originally taken by the railway undertaking and approved in the licensing state is sufficient in the other Member State. If that is not the case the concerned licensing authority may request an additional insurance policy to be taken out by the railway undertaking and can thereafter submit a new insurance annex to the licence, using the standard format of this Annex II and giving it a new number (2, 3, 4 etc.). It shall be noted that the railway undertaking is obliged by Article 5 of Directive 95/18/EC to demonstrate to the licensing authorities that it will be able to meet the requirements.

The detailed explanations below refer to the numbered fields of the form. References are made to Articles in Directive 95/18/EC:

1. **Licence issuing State.** The information given in the licence shall be repeated here to enable a correct identification of the licence. The licensing authority is designated by Member States according to Article 3. Since the annex is linked to a licence document according to Annex I of this Recommendation it is not necessary to repeat all information given on the licensing authority. The name is sufficient.
2. **Licence holder.** Since the annex is linked to a licence it is not necessary to repeat all information given on the licence holder. The name and possible registration numbers are sufficient.
3. **Licensing body responsible for validation of financial cover.** If the insurance annex is submitted by the body granting the licence to the railway undertaking this field should not be filled in. In case a licensing authority in another Member State has required and approved additional insurance cover, the relevant contact details of that licensing authority should be entered in this field. Telephone and fax numbers should indicate the country code.
4. **Financial cover for liability.** The maximum insurance amount that is required and approved shall be entered in this field, stating the currency in which it is noted. If the railway undertaking has not taken out an insurance policy but demonstrated its cover by equivalent arrangements (e.g. a financial guarantee), the nature of this cover shall be described. If the geographical coverage is limited to a specific country or to a region or if certain countries or regions are specifically excluded it shall be described. The first date of validity of the insurance policy shall be entered. The railway undertaking has an obligation to maintain its cover for liability. The licence is not valid if the railway undertaking does not fulfil this requirement (Article 5). However, in exceptional cases an insurance might be taken for a limited time. In such a case an end date of the validity may be introduced. Dates shall be entered in a common format (ddmmyy). The licensing authority may check that the railway undertaking complies with the requirements (Article 11). If the financial cover for liability is changed and resubmitted to the licensing authority a new annex shall be issued to replace the old one.
5. **Conditions and obligations.** The cover for liability may be linked to national conditions or obligations imposed on the railway undertaking by the provisions of Article 12. In such case it should be indicated in this field.
6. **Signature.** A person authorised to approve insurance arrangements shall sign the document delivered to the railway undertaking. A copy of the signed document shall be sent to the Commission. An electronic version of the document shall be transmitted to the Commission. The name of the signing person shall be spelled out.
7. **EC licence notification-number.** To enable a positive identification of the licence holder the EC licence notification number shall be introduced in the annex by the authority approving the insurance cover. In the case where a new licence is issued the Commission will attribute an EC licence notification number and communicate the attributed number to the licensing authority.