According to the Article 81, paragraphs 17 and 18 and Article 83, paragraph 16 of the Railway Act (“Official Gazette of the RS“, No 41/18),

The Directorate for Railways has adopted the

**RULEBOOK**

**on the Licensing of Railway Undertakings**

**Subject**

Article 1

This Rulebook sets out the details on the manner of demonstrating that the requirements related to licensing of railway undertakings have been fulfilled, the amount of the minimum cover from Article 81 paragraphs 9 and 10 of the Railway Act, minimum amounts and amounts relevant for the fulfilment of conditions related to the financial fitness of the applicant, content of the licence, manner of verifying whether the prescribed conditions and obligations of the railway undertaking related to the submission of documentation for the needs of periodical checks of financial activities and fulfilment of other conditions have been met, licence format and content and format of the document containing the information on the issued licence.

A licence for the performance of rail transport services (hereinafter referred to as: licence) is issued upon the submission of proofs demonstrating that the requirements relating to good repute, financial fitness, professional competence and cover for civil liability have been met according to the law regulating railways.

**Manner of demonstrating that the requirements related to the issuance of a licence have been fulfilled**

Article 2

The fulfilment of the conditions for issuing a licence relating to good repute shall be demonstrated by the following proofs:

1) an act of the competent authority certifying that the applicant or persons in charge of management have not been convicted of serious criminal offences, crimes affecting the economy and commercial offences;

2) an act of the competent authority certifying that the applicant or persons in charge of management have not been convicted of serious offences against legislation applicable to railway transport, labour-law obligations, occupational safety and health legislation, as well as customs legislation if the applicant wishes to perform cross-border freight service, which is subject to customs procedures;

3) an act of the competent authority certifying that bankruptcy or liquidations proceedings have not been instituted against the applicant.

Article 3

The fulfilment of the conditions for issuing a licence relating to financial fitness shall be demonstrated by the appropriate economic-financial documentation confirming that the applicant is able to meet its actual and potential obligations, established under realistic assumptions, for a period of 12 months, which shall particularly include:

1) an act of the competent authority certifying that the applicant has paid its taxes and social security contributions, which cannot be more than two months old;

2) Business plan for 12 months relating to the railway activities of the applicant established under realistic assumptions, which shall particularly include:

1. Plan of realization of business activities
2. Profit and loss account
3. Revenue structure
4. Costs structure
5. Balance sheet

3) The applicant who has been in business for two or more years prior to applying for a licence shall also provide:

(1) certificates of commercial banks on realized turnover and daily average balance of funds in all current accounts of the applicant for the previous two years;

(2) standardized credit rating reports: BON-1Full report on credit rating indicators and BON-2 Report on financial situation and business performance, issued by the competent authority, according to the law.

The applicant who has been in business for less than two years prior to applying for a licence shall also provide:

(1) certificates of commercial banks on realized turnover and daily average balance of funds in all current accounts of the applicant from the date of the opening of the current account until the date of submission of the request to the commercial bank;

(2) balance sheet and profit and loss account for the previous year, i.e. the initial balance sheet if it is starting a business;

(3) an appropriate proof demonstrating that it can provide the financial resources necessary to fulfil its actual and potential obligations (confirmation by a commercial bank that it can make available to the applicant the necessary financial resources or other means of security according to the scope of the planned activities, etc).

Besides the proofs from paragraph 1 of this Article, the Directorate for Railways (hereinafter referred to as: Directorate) can request a report on expert opinion and appropriate documents issued by a foreign bank, internal auditor or certified auditor, as well as proofs on the available resources, received and given guarantees and warranties (surety contract, loan agreement, etc).

If the difference between the working capital and shot-term liabilities (net working capital) is negative, it shall be examined whether the applicant has access to additional funds and collateral available as a possible form of payment, which can cover the negative net working capital (allowed overdraft, loan agreement, surety contract, etc).

According to the evidence from paragraphs 1-4 of this Article it shall be assessed whether the applicant is financially capable to fulfil its obligations.

For railway undertakings which have been issued a licence prior to the entry into force of this rulebook with an annual income under five million euros (RDS equivalent to the middle exchange rate of the National Bank of Serbia) from railway transport activities, the Directorate can consider that the requirement relating to its ability to fulfil actual and potential obligations for the period of 12 months from the beginning of the activity has been met if the company can prove that its net capital is at least 100.000 euros (RDS equivalent to the middle exchange rate of the National Bank of Serbia).

A minimum amount of the net capital which shall be provided by the applicant applying for a licence at the moment of the submission of the request is 50.000 euros (RDS equivalent to the middle exchange rate of the National Bank of Serbia) and the Directorate will assess its ability to fulfil its actual and potential obligations for the period of 12 months from the beginning of the activity.

Article 4

The fulfilment of the conditions for issuing a licence relating to professional competence shall be demonstrated by the following proofs:

1) schematic representation of the organizational structure directly concerning the performance of activities, operational control and monitoring of the activities stated in the application for issuing a licence and persons responsible for those activities;

2) school certificates with a resume and other relevant documentation (certificates, licences, etc) for persons responsible for the work directly related to the activities, operational control and monitoring of the activities (hereinafter referred to as: responsible persons), which confirm that the administration has the necessary knowledge and experience to perform, in a safe and reliable manner, operational control and monitoring of the activities stated in the application for issuing a licence;

3) written proofs of work engagement for responsible persons (contract, certificate, etc).

According to the paragraph 1 of this Article at least two responsible persons shall be employed by the applicant with permanent contracts and they shall have acquired at least the level of high education in the appropriate field of technical-technology sciences, after having completed basic academic studies and obtained at least 240 ESPB points, master academic studies, specialised academic studies, specialized professional studies, i.e. basic studies of at least four years or specialized studies at the faculty and at least five years of working experience in the field of railway transport obtained by working at the appropriate educational level.

Article 5

The fulfilment of the conditions for issuing a licence relating to cover for civil liability shall be demonstrated by an insurance policy or other appropriate document certifying that the applicant is adequately insured or that it has appropriate market-based guarantees for coverage, in accordance with the applicable legislation and confirmed international treaties, for its liability in case of accident, especially concerning passengers, luggage, goods, postal items or third persons.

A minimum coverage for civil liability from paragraph 1 of this Article for obtaining a licence for freight transport, for general third party liability insurance, for all harmful events, on an annual basis, cannot be less than 1.500.000 euros in RDS equivalent to the middle exchange rate of the National Bank of Serbia on the day the insurance agreement or any other appropriate contract is signed. If the applicant applying for a licence for freight transport plans to transport dangerous goods, the minimum coverage is 3.000.000 euros in RDS equivalent to the middle exchange rate of the National Bank of Serbia on the day the insurance agreement or any other appropriate contract is signed.

A minimum coverage for civil liability from paragraph 1 of this Article for obtaining a licence for passenger transport, for general third party liability insurance, for all harmful events, on an annual basis, cannot be less than 1.000.000 euros in RDS equivalent to the middle exchange rate of the National Bank of Serbia on the day the insurance agreement or any other appropriate contract is signed. The amount of the lowest sum insured that can be contracted for passengers in public transport against consequences of an accident is prescribed by the law regulating compulsory insurance in transport.

A minimum coverage for civil liability from paragraph 1 of this Article for obtaining a licence for transport for own use, for general third party liability insurance, for all harmful events, on an annual basis, cannot be less than 1.000.000 euros in RDS equivalent to the middle exchange rate of the National Bank of Serbia on the day the insurance agreement or any other appropriate contract is signed.

When assessing the fulfilment of the requirements from paragraph 1 of this Article, the Directorate can take into account specific details and risk levels for the different types of transport.

For the purpose of this Article an accident shall mean any unwanted or unplanned sudden event or a specific sequence of such events with harmful consequences (train collision, derailment, accidents at level-crossings, accidents including the participation of persons caused by railway vehicles in motion, fires etc).

**Licence application**

Article 6

A licence application shall be submitted to the Directorate in writing, by mail or handed over at the office.

The application from paragraph 1 of this Article shall include:

1) business name, headquarters, registration number and tax identification number of the applicant;

2) information about the type of railway service for which the licence is requested;

3) information about the fulfilment of requirements set out in Article 81 of the Railway Act;

4) the way of providing traction;

5) the way of providing railway vehicles intended for the performance of railway services;

6) planned date of the beginning of freight and / or passenger services, i.e. transport for own use, which shall be within the period up to six months from the day of submission of the application;

7) signature of the authorised person by the applicant.

Besides the proofs from Articles 2-5 of this rulebook, the application from paragraph 1 of this article shall also include:

1) extract from the register of the competent authority (Agency for Business Registers);

2) founding act and statute;

3) statement on the way of providing wagons;

4) proof of the way of providing traction vehicles and / or traction vehicles for special use (lease agreement, purchase contract, etc) including the list of those vehicles signed by the authorised person of the applicant;

5) proof of the paid tax for the issuance of licence.

The applicant who will perform services only by traction shall clearly state this in the application.

The licence application with attachments shall be in Serbian language.

The evidence from Article 2, Article 3 paragraph 1, point 19 and paragraph 3, point 1) of this Article shall be provided in accordance with the law regulating general administrative proceedings.

Article 7

After receiving a licence application the Directorate shall check whether the application has been prepared in accordance with Article 6 of this rulebook and if all the evidence provided for by Article 2-5 of this rulebook have been submitted, i.e. if the application is complete.

If the application from paragraph 1 of this Article is complete, it shall be determined whether the applicant fulfils the legal requirements for the issuance of the licence and the licence shall be issued accordingly or the application shall be refused within 30 days from the date of application.

If, during the procedure of examination of the application, it is determined that the file is not complete, the applicant shall be asked to complete the application within a time limit and warned of the consequences of non-compliance with the order.

If the applicant completes the file within the defined time limit, it shall be determined whether the applicant fulfils the legal requirements for the issuance of the licence and the licence shall be issued accordingly or the application shall be refused within 30 days from the date of application.

If the applicant fails to comply with the order referred to in paragraph 3 of this Article, the request shall be rejected.

**Content of the decision on issuing a licence**

Article 8

The decision on issuing a licence shall contain:

1) information on the licensing authority;

2) number and date of issuance

3) information on the licensed railway undertaking or railway undertaking for its own use (hereinafter referred to as: licence holder), business name, headquarters, registration number, tax identification number etc);

4) railway service for which the licence is issued;

5) other data according to the law.

Article 9

The format of the licence is set out in Annex 1 of this rulebook and it forms its integral part.

The content and format of the document containing information on the issued licence are set out in Annex 2 and 3 of this rulebook and they form its integral part.

**Ways of checking licensed railway undertakings**

Article 10

The Directorate shall check whether a licence holder complies with the prescribed requirements for the issuance of a licence ex officio:

1) every 12 months;

2) immediately after finding out that there is a serious doubt that a licence holder still complies with the requirements prescribed for the issuance of a licence;

3) upon reception of a written information or complaint that a licence holder does no longer comply with the prescribed requirements for the performance of the activity the licence has been issued for.

In order to establish relevant facts, the Directorate shall ask the licence holder to provide evidence and proofs demonstrating that it still complies with the prescribed conditions related to the issuance of a licence and it can also ask the necessary information and evidence from other competent authorities.

**Suspension, amendment or revocation of a licence**

Article 11

If during the procedure of verification referred to in Article 10 of this rulebook it is determined that a licence holder does no longer comply with one or more requirements prescribed for the issuance of a licence, an ex officio procedure for suspension or revocation of the licence shall be initiated.

If it is assessed that the licence holder can remedy the identified omission within a reasonable period of time, the Directorate shall suspend the licence and set out a deadline for removal of the omissions. If the licence holder does not comply with the decision within the prescribed deadline, the Directorate shall revoke the licence.

In case that it finds out that a licence holder does no longer comply one or more prescribed requirements, which is why it can no longer smoothly perform the activities it has been licensed for, the Directorate shall revoke the licence.

Article 12

The procedure for amendment of a licence is instituted at the request of the licence holder planning to significantly change or extend its activity.

Article 13

The licence holder shall inform the Directorate about statutory changes, changes related to the legal form or reorganisation, which have taken place after the issuance of the licence, within 30 days after the change occurred.

The Directorate, after the reception of the information referred to in paragraph 1 of this Article starts an ex officio procedure in order to decide whether it is necessary for the licence holder to submit a new licence application. If the Directorate issues a decision stating that the licence holder shall submit a new licence application, the same decision shall also revoke the issued licence if the Directorate considers that the safety of railway transport is in danger.

Article 14

The Directorate shall publish on it internet page the information on issuing, suspension, amendment and revocation of licences and the documents containing information on the issued licences.

Article 15

By the entrance into force of this rulebook, the Rulebook on licences to perform rail transport services (“Official Gazette of the RS”, No 9/14) is repealed.

Article 16

This rulebook shall enter into force on the eighth day after its publication in the “Official Gazette of the Republic of Serbia”.

I No 340-1029/2019

In Belgrade, 18 July 2019

Acting director

Lazar Mosurović

Annex 1.



According to Article 81, paragraphs 1 and 15 and Article 82, paragraph 2 of the Railway Act (“Official Gazette of the RSˮ, No 41/18), the Directorate for Railways issues

LICENCE FOR THE PERFORMANCE OF RAIL TRANSPORT SERVICES

No \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

*\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_*

(Name and headquarters of the railway undertaking)

and certifies that the holder of this licence meets the requirements from Article 81 of the Railway Act for \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

(providing of rail freight/passenger transport services or performance of railway transport for its own use).

Note:

This licence is issues for an indefinite time period, until the railway undertaking fulfils the requirements set out by the Railway Act and it is non-transferable.

|  |  |  |  |
| --- | --- | --- | --- |
| \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  Date of issuance | stamp | \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  Director |  |

Annex 2.

LICENCE INFORMATION FOR THE PERFORMANCE OF RAIL TRANSPORT SERVICES

|  |  |  |
| --- | --- | --- |
| 1. Licence-issuing State |  | |
| Issuing State: | New licence | Amended licence |
| National licence No: | Decision identification: | |
| Applicable legislation: |  | |
| Licensing authority: | Phone No: | |
| Postal address: |  | |
| Postcode and city: | Е-mail: | |

|  |  |
| --- | --- |
| 1. Licence holder |  |
| Railway undertaking: | Phone No: |
| Postal address: |  |
| Postcode and city: | Е-mail: |
| Registration No: | VAT No: |

|  |  |  |  |
| --- | --- | --- | --- |
| 1. Validity | | |  |
| Valid from: | | | Temporary licence: YES NO  If yes, valid until: |
| Type of services: | | |
| passenger | freight | traction only |
| transport for its own use | | |
| Suspended on: | | | Revoked on: |

|  |  |
| --- | --- |
| 4. Amendments |  |
| Amended on: | |
| Description of amendments: |  |

5. Conditions and obligations:

|  |  |  |
| --- | --- | --- |
|  | Date: | Signature: |
|  | Name: | |

Annex 3.

ANNEX ON COVER FOR CIVIL LIABILITY TO RAILWAY LICENCE

|  |  |  |
| --- | --- | --- |
| 1. Licence-issuing State |  | |
| Issuing State: | Licensing authority: |  |
| National licence No: | Decision identification: | |
| Applicable legislations: |  | |

|  |  |
| --- | --- |
| 1. Licence holder |  |
| Railway undertaking: | |
| Registration No: | VAT No: |

1. Licensing authority (if other than licensing authority in point 1)

|  |  |  |
| --- | --- | --- |
| Licensing authority: | Phone No: |  |
| Postal address: | | |
| Postcode and city: | Е-mail: |  |
| State: | Applicable legislation: |  |

1. Financial cover for liability

|  |  |  |
| --- | --- | --- |
| Amount of the financial cover: | Guarantees under market conditions (short description): |  |
| Geographical coverage: | | |
| Valid from: | Valid until: |  |

5. Conditions and obligations:

|  |  |
| --- | --- |
| Date : Signature: | Name: |