

English version of
Executive Order on Authorisation for Placing in Service of Subsystems in the
Railway Infrastructure

(Bekendtgørelse nr. 1187 af 12. december 2012)

Preface

Please note that the English version is for informational purposes only. Where the wording in the Danish and English versions may conflict, the Danish version prevails.

Appendices have not been translated. Please refer to the relevant chapters of (EC) Regulation 352/2009 (CSM-RA) instead.

Executive Order on Authorisation for Placing in Service of Subsystems in the Railway Infrastructure

The following provisions are laid down pursuant to section 21 h(1) first sentence, section 21 k(5) and (6), section 22(6), section 24 c(2) and section 26(1) first sentence of the Danish Railway Act, cf. Consolidated Act No. 1249 of 11 November 2010, and by order pursuant to section 24 h(1):

Part 1

Scope and definitions

Scope

1(1). This Executive Order lays down procedures for application for authorisations for placing in service in the railway infrastructure. Authorisations for placing in service may be made conditional, including conditions limited to a certain period of time.

(2). The Executive Order applies to railway infrastructure covered by the Interoperability Directive, see section 4(9), and the Regulation on the Common Safety Method on Risk Assessment (CSM-RA), see section 4(3), and to railway infrastructure not covered by the Directive and CSM-RA.

2. Railway infrastructure not covered by the Regulation on the Common Safety Method on Risk Assessment (CSM-RA) is required to fulfil the risk assessment requirements stipulated in Appendices 1-3 of this Executive Order.

3. The Executive Order does not apply to:

- 1) Heritage railway lines and
- 2) Privately owned railway infrastructure used exclusively for the owner's own freight services.

Definitions

4. For the purposes of this Executive Order the following definitions shall apply:

- 1) Applicant: a contracting entity as defined in Article 2 (r) of the Interoperability Directive.
- 2) Assessor: an independent and competent person, organisation or unit that performs investigations with a view to reaching a documented decision on the suitability of a system with regard to fulfilling the safety requirements for such system.
- 3) CSM-RA: Commission Regulation EC No. 352/2009 of 24 April 2009 on the adoption of a common safety method on risk evaluation and assessment as referred to in Article 6(3)(a) of Directive 2004/49/EC of the European Parliament and of the Council.
- 4) Subsystems: the result of the rail system's division into structurally or functionally defined subsystems, see Article 2(e) and Annex II of the Interoperability Directive.
- 5) Parts of the subsystem: defined parts of a subsystem.
- 6) EEA country: means a country which has fully accepted EU law in the area.
- 7) Renewal: major substitution work on a subsystem or a part of a subsystem, which does not change the overall performance of the subsystem.
- 8) Authorisation for placing in service a subsystem in the railway infrastructure: an authorisation of the safety characteristics of the subsystem and of the subsystem's compliance with applicable law.
- 9) The Interoperability Directive: Directive 2008/57/EC of 17 June 2008 of the European Parliament and of the Council on the interoperability of the rail system within the Community, implemented by Executive Order No. 459 of 28 April 2010 as amended.
- 10) Railway infrastructure: infrastructure as defined in Article 3 of Council Directive 91/440/EEA on the development of the Community's railways.
- 11) Upgrade: major modification work on a subsystem or a part of a subsystem, which improves the overall performance of the subsystem.
- 12) Risk assessment: the whole process consisting of a risk analysis and a risk evaluation, see Article 3(4) of CSM RA and Appendix 1, section 2 of this Executive Order.
- 13) Significant change: a change that has an impact on safety as specified in Article 4 in CSM-RA and Appendix 1, section 3 of this Executive Order.
- 14) Safety assessment report: a document containing the conclusions of an assessment made by an assessor of the assessed system.
- 15) System definition: the description of a subsystem or a part of a subsystem and its application, the interfaces and interacting with all surroundings, the reason for the renewal or upgrade and all identified requirements made on the subsystem or a part of the subsystem as described in Annex 1, section 2.1.2 in CSM RA and Appendix 2, item 3.1.2 of this Executive Order.

16) Technical Specification for Interoperability (TSI): a specification adopted in accordance with the Interoperability Directive by which each subsystem or part subsystem is covered in order to meet the essential requirements and ensure the interoperability of the railway system.

17) Heritage railway line: infrastructure in the preserved railway line area as defined in section 2(3) of the Executive Order No. 1354 of 2 December 2010 on Non-Commercial Railway Operation.

Part 2

Requirements for documentation upon application

5(1). If the applicant forwards documentation drawn up in other languages than Danish or English, the Transport Authority may demand that the applicant translate the documentation into either of the two languages mentioned.

(2). An application for authorisation for placing in service shall be in the form of the Transport Authority's application form.

Part 3

Application for authorisation for placing in service

6(1). Railway infrastructure may not be placed in service before the Transport Authority has issued an authorisation for placing in service of the structural subsystems used in the railway infrastructure and the requirements in section 11 below have been complied with.

(2). The following documents shall accompany an application for authorisation for placing in service of a structural subsystem in the railway infrastructure:

1) System definition

2) A safety assessment report pursuant to CSM RA or Appendices 1-2 of this Executive Order prepared by an assessor approved by the Transport Authority, see section 10, and

3) An EC declaration of verification pursuant to Article 18 of the Interoperability Directive if the subsystem is covered by a TSI.

Part 4

Change of existing railway infrastructure

Evaluation of change

7(1). Before a change in an existing railway infrastructure is implemented, the undertaking planning such change shall consider according to the principles of Article 4(1) and (2) in CSM RA or Appendix 1 of this Executive Order as to whether or not the change is significant.

(2). If the change is considered to be significant, cf. subsection (1) above, the undertaking shall submit the change to the Transport Authority as described in section 8 below.

(3). If the change is considered to be a renewal or an upgrade, the undertaking shall submit the change to the Transport Authority as described in section 8 below.

(4). If the change is not covered by subsection (2) or (3) above, the documentation of the evaluation and the associated preliminary system definition shall be forwarded to the Transport Authority before 31 December 2013.

(5). If the Transport Authority does not agree with the undertaking's evaluation, see subsection (4) above, the Authority shall notify the undertaking thereabout within four weeks.

Submission of changes in the railway infrastructure

8(1). In case of a change of an existing subsystem, see section 7(2) or (3) above, a project description shall be forwarded to the Transport Authority before the change is implemented, whereupon the Transport Authority will make a decision as to whether or not a new authorisation for placing in service is required in pursuance of section 6 above.

(2). The project description shall include the following information:

1) Documentation of the undertaking's evaluation of the significance of the change, see section 7 above and

2) A preliminary system definition of the change of the subsystem, including information about:

a) whether the undertaking wishes to use documentation from a similar change that was previously authorised in Denmark, an EU or EEA country according to identical requirements under similar operating conditions

b) whether the change, in the undertaking's evaluation, is covered by TSI requirements

Changes that do not require a new authorisation for placing in service

9. A change of a subsystem that is not covered by the assessment in section 7(2) or (3) above does not require authorisation for placing in service from the Transport Authority. Such changes are carried out in accordance with the safety management system of the railway infrastructure manager.

Part 5

Approval and use of assessor

10(1). The applicant shall use an assessor for assessing the applicant's risk assessment in connection with an application for authorisation for placing in service.

(2). The assessor shall prepare a safety assessment report which must be included in the application.

(3). Assessors shall be approved by the Transport Authority.

(4). In order to obtain approval of an assessor, the applicant shall submit the following information to the Transport Authority:

1) The preliminary system definition and

2) Documentation that the assessor for the task in question fulfils the criteria applicable to assessors stipulated in Annex II in CSM RA or Appendix 3 of this Executive Order.

Part 6

Placing in service of the railway infrastructure

11(1). A structural subsystem in the railway infrastructure authorised for placing in service by the Transport Authority can only be placed in service by a railway infrastructure manager.

(2). Before a structural subsystem in the railway infrastructure is placed in service, the railway infrastructure manager shall implement the necessary risk measures in pursuance of the rules on authorisation of railway infrastructure managers.

Part 7

Dispensation

12. The Transport Authority may grant dispensations from the provisions of this Executive Order if otherwise compatible with relevant EU regulations.

Part 8

Penalty and complaints

Penalty

13(1). Violation of section 6(1), first sentence is punishable by a fine unless subject to a more severe penalty under section 22 of the Danish Railway Act.

(2). Anyone implementing a change without making an evaluation as mentioned in section 7 above will be fined unless subject to a more severe penalty under section 22 of the Danish Railway Act.

(3). Disregard of terms or conditions laid down pursuant to section 1(2) is punishable by a fine.

(4). Companies etc. (legal persons) may be held criminally liable in pursuance of the rules in Part 5 of the Danish Criminal Code.

Complaints

14(1). Anyone who has received a decision for a rejection or for granting in part of an application may request the Transport Authority to reconsider the matter within four weeks.

(2). If the reconsideration of the matter according to subsection (1) above does not lead to the application being fully granted, the decision may be brought before the Railway Appeals Board (Jernbanenævnet) within four weeks after receipt.

Part 9

Entry into force and interim provisions

15(1). The Executive Order comes into force on 1 January 2013.

(2). The Executive Order No. 1031 of 7 November 2011 on Authorisation for Placing in Service of Subsystems in the Railway Infrastructure is repealed.

(3). For applications received before entry into force of the Executive Order, the rules applicable so far shall apply.

The Danish Transport Authority, 12 December 2012

Carsten Falk Hansen

/ Lise Aaen Kobberholm