

1. Context

In accordance with articles 98 to 103 of the Programme Law of 27 December 2021 and the Royal Decree of 18 October 2022 *fixing the coming into force of articles 98 to 102 of the Programme Law of 27 December 2021*, the Belgian government has decided to put in place measures relating to rail freight transport for the period from 1 January 2022 to 31 December 2025, organising the modal shift.

2. Scope

In order to benefit from the reduction in the user charge for rail freight transport organising the modal shift, the applicant's activities must:

- be covered by an agreement concluded with Infrabel as part of the process of allocating railway infrastructure capacity referred to in Article 27 et seq. of the Railway Codex ;
- involve the transport of freight, excluding empty runs, runs organised by tourist associations and the running of other trains such as notified bodies, technical trains and trains organised for the transfer of equipment between facilities;
- be carried out in the application period from 1 January 2022 to 31 December 2025.

In addition, in order to be able to benefit from the reduction in the user charge for rail freight transport organising the modal shift, applicants must first provide Infrabel with a declaration on honour (see appendix B.2.4 or B.3.2 of the network statement) confirming that they comply with the special conditions set out in point 5 below. This declaration is attached to the Track Access Agreement for railway undertakings and to the Capacity Agreement for non-railway undertaking applicants and is forwarded by Infrabel to the Federal Public Service Mobility and Transport.

3. Nature of the intervention

These measures consist of a system of reductions in the user charge. In practical terms, this means a linear reduction of a maximum of 1.20 euros per train-kilometre actually travelled on the Belgian network during the application period.

If, in the course of a trimester¹, the total of the reductions to which the applicants concerned are entitled exceeds the advance payments available to Infrabel in application of Article 100 of the Programme Law of 27 December 2021, the reductions for that trimester shall be limited in proportion to the advance payments available, uniformly over all the train-kilometres travelled in the course of the trimester that benefit from the reduction in the user charge for rail freight transport organising the modal shift. In such a case, the linear reduction is less than 1.20 euros per train kilometre actually travelled.

4. Method of payment for interventions

The reduction is calculated on the basis of the train-kilometres travelled each trimester and is made by Infrabel in the form of a credit note to applicants who meet the above conditions. Infrabel's

¹ A trimester means the period from 1 January to 31 March, or from 1 April to 30 June, or from 1 July to 30 September, or from 1 October to 31 December.

payments will be made at the end of the trimester during which the trains ran and no later than one month after the State has paid Infrabel the advance payments referred to in Article 100 of the Programme Law of 27 December 2021.²

5. Special conditions to be respected by the beneficiaries

Applicants against whom repayment orders have been issued by the European Commission shall not be entitled to the reduction of the user charge for rail freight transport organising the modal shift insofar as the amounts covered by the order have not been repaid.

Undertakings in difficulty, as defined by the European Commission in the guidelines on State aid for rescuing and restructuring undertakings in difficulty other than financial institutions, are not entitled to the reduction of the rail infrastructure charge for rail freight transport organising the modal shift.

Applicants must provide any additional information required by the competent minister or the FPS Mobility and Transport to verify compliance with the granting conditions within 15 working days.

Please note that if the competent Minister or the FPS Mobility and Transport finds that a reduction in charges has benefited an undertaking that did not meet the conditions for granting the reduction at the time the reduction was applied, this reduction is reimbursed to the State by the beneficiary within one month. If no payment is made within the period referred to in the first paragraph, the King or his delegate instructs the General Administration of Collection and Recovery to recover the unduly received aid concerned by means of a constraint, in accordance with Article 3 of the Law on State property of 22 December 1949. The undue amounts thus recovered shall revert to the Treasury.

² By way of exception, payments relating to the first three trimesters of 2022 will be made in the month following receipt by Infrabel of the advance payments referred to in Article 100 of the programme law of 27 December 2021 (planned for the end of 2022).