

Procedures during the settlement of claims

1 Introduction

Liability and compensation in the event of property damage or personal injury are specified in the Swedish Transport Administration's General Terms and Conditions. The purpose of these directions is to achieve uniform and correct management and settlement of claims. The directions do not apply to a party's claim for recourse for damages suffered by a third party.

1.1 Accident categories

Railway accidents are divided into the following categories with regard to the investigation and processing:

- Accidents during train journeys, blocked line operations or shunting.
- Collisions between railway vehicles and vehicles subject to insurance (level crossing accidents).

1.2 Reporting

1.2.1

When accidents occur during train journeys, blocked line operations or shunting, the Swedish Transport Administration submits information to:

- SOS Alarm (where applicable)
- Swedish Transport Administration's traffic centre which, where applicable, will contact recovery companies and concerned railway undertakings.

1.2.2

In the event of collisions between railway vehicles and vehicles subject to compulsory insurance (level crossing accidents), the Swedish Transport Administration provides information to the railway undertaking. The railway undertaking acts in accordance with the following:

a) Own insured railway vehicle

- Obtains the road vehicle's licence number through the Police or Swedish Transport Administration
- Contacts the road vehicle's insurance provider
- Lodges its claim for damages with the road vehicle's insurance provider.

b) Insured railway vehicle owned by another party

- Obtains the road vehicle's licence number through the Police or Swedish Transport Administration
- Contacts the railway vehicle owner's insurance provider or broker
- Compiles and submits its claim, costs from a period of inactivity, extra charge to the road vehicle's insurance provider.

1.3 Investigation

1.3.1

Accidents occurring during train journeys, blocked line operations or shunting are investigated by the Swedish Transport Administration and the railway undertaking.

Note:

Investigations shall also be conducted by the Police and/or the Swedish Accident Investigation Authority.

Collisions between railway vehicles and vehicles subject to insurance are investigated by the Swedish Transport Administration and the Police, and by railway undertakings when these incidents result in extensive damages for the railway undertaking.

Collisions between railway vehicles and vehicles subject to insurance (road vehicles) shall be regulated by the road vehicle's insurance provider in the first instance. The administration is performed by the railway undertaking involved in the case of vehicle damages, and by the Swedish Transport Administration if infrastructure is damaged.

1.3.2

Investigation reports are produced by the Swedish Transport Administration and the railway undertaking in accordance with the directions established by the Swedish Transport Agency and other entities. So that the damage can be regulated financially, the report must include descriptions of:

a) Facility

- Technical standard; rails, sleepers, ballast etc.
- Age of the facility.

b) Vehicle/machine

- Class and vehicle number,
- Age of vehicle/machine,
- Vehicle owner.

c) Equipment belonging to third party (including other railway undertakings)

Investigation reports must be produced as soon as possible, and may not be delayed due to uncertainty of the cost of the damage.

Note:

It is important to secure as much information as possible at the accident site in order to establish who, or what, has caused the damage. Approval for recovery or clearance may be given following a guarantee that the fact-finding is complete, in order to clarify the cause of the accident to the greatest extent possible.

1.4 Principles for damage assessment and property

1.4.1

Total damage has arisen when the cost for replacement or repair exceeds the calculated current value (V) below.

a) Object

b) Replacement value (SEK A)

The replacement value is what a damaged object, or an object of equivalent standard and function to the damaged object, would cost to replace including all costs involved in putting it in the right location, or into production.

If the object can be replaced, the replacement value is calculated by adjusting the value of the object on the date of acquisition in accordance with the index (CPI), from the stated point of time until the date on which the damages were incurred.

c) Service life (N years)

d) Age (Y years)

Number of full years from the first time the object was put into operation.

e) Depreciation percentage (P)

The object's age is divided by its service life to obtain the depreciation percentage $((Y / N) * 100) = P$. The maximum depreciation, however, is limited to 80 percent, which is practice for functioning objects that are in operation or production.

Note:

The cost of repairs on tracks with concrete sleepers is compensated with the replacement value if the length of damaged track is less than 5,000 track metres.

f) Current value (SEK V)

The object's current value is equal to the replacement value multiplied by the non-depreciated value in SEK, $V = (A \times (100-P))$.

1.4.2

The repair costs are the verified costs that arose during the restoration of the damaged object to the same level of function and condition that it had before the damage occurred. The repairs shall be performed using adequate measures and during normal working hours, under normal conditions.

The costs for repair may not exceed the value of total damage, in accordance with point 1.4.1 above. The cost for provisional measures to restore tracks following damages, for example, may be added under certain circumstances, such as when frozen ground prevents normal work being performed.

1.4.3

Increasing work speed entails overtime work, additional costs for transportation, materials and tools etc. purchased on site, meals delivered to the accident site, etc., all with the intention of speeding up repairs. The purpose of the supplement is to make the quicker pace the norm; i.e., the Swedish Transport Administration restores the service as quickly as possible after an accident. The cost of increasing work speed could be justified through savings in disrupted time, and shall be reported separately to normal repair costs.

1.4.4

It is the responsibility of the parties to attempt to minimise the total damage cost to the best of their ability.

1.4.5

Compensation for periods of inactivity is paid for the period of time during which the damaged vehicle or machine cannot be used for its purpose.

Daily compensation for periods of inactivity is calculated in accordance with the following formula for vehicles and machines:

$$\frac{RF * \frac{\text{Å}}{2}}{100} + \frac{\text{Å}}{A} \text{ [SEK/day]}$$

365

where RF = current reference interest rate + 2 [%]

R = replacement value [SEK]

D = depreciation period [years]

1.5 Principles for pricing of services

1.5.1

Compensation is paid out only for direct costs attributable to established damage.

1.5.2

No additional administrative costs are covered.

1.5.3

Each party is liable for its own investigation costs.

1.5.4

Purchased materials are invoiced at the charged price.

1.5.5

Reasonable costs are invoiced for machines and vehicles that are used in both train operations and track repairs, according to vouchers.

1.5.6

For machines and vehicles rented by the railway undertaking, the insurance value is that which was specified in the agreement between the railway undertaking and vehicle leaser.

1.5.7

Leased services, contractors, suppliers, transport services etc., are charged according to verified costs.

1.6 Forms for the regulation of damages (compensation rules)

Compensation is paid out for repair costs or costs for replacement, to a maximum value equalling the object's current value, in accordance with point 1.4.1. Costs shall always be verified in accordance with point 1.7.1, unless another special arrangement has been agreed upon.

If the damaged object is not repaired or replaced, compensation is paid at an amount corresponding to the costs for its restoration, to a maximum of the object's current value.

1.7 Payment

1.7.1

A claim for compensation made to the party that caused the accident shall be lodged using an invoice. Before the invoice is issued, the parties must be in agreement over which of them caused the damage. The agreement must be documented by both parties in a signed protocol. The signing will take place no later than 10 days after the agreement.

Invoicing includes the parties certifying their claims for compensation through e.g., a copy of the voucher. If the parties are in disagreement concerning parts of the invoice, the undisputed amount shall be paid within a given time frame.

The invoice shall be divided into the following individual items:

- recovery/clearance
- increasing work speed
- restoration of facility
- other direct cost (specify).

For each individual item, the reported costs are divided into:

- personnel costs (hours and rate)
- machine costs
- material costs
- external costs

Partial invoicing can take place after agreement between the parties.

If an amount of compensation is divided up into several invoices, it shall be stated on the last invoice that it is the final invoicing.

1.7.2

Interest for the claim is paid in accordance with the Interest Act.

1.7.3

No VAT is paid on damages.

1.7.4

Invoice address relating to property damage caused by:

- a) the Swedish Transport Administration, see Appendix 1 A

Trafikverket
FE 851, EF 1207
838 26 FRÖSÖN

- b) Railway undertaking; sent to the address stated in the track access agreement.

1.8 Limitation of time

If no invoice is issued within three years of the agreement regarding the matter of responsibility, the claim is considered to have expired.