Act Prohibiting the Operation of Noisy Freight Wagons  
(Railway Noise Mitigation Act)

This Act was adopted by the Bundestag, with the consent of the Bundesrat, as Article 1 of the Act of 20 July 2017 (Federal Law Gazette I, p. 2804) In accordance with Article 3 of that Act, it entered into force on 29 July 2017.

Section 1 Scope of application

This Act shall apply to noisy freight wagons operated on the standard-gauge public railway infrastructure in Germany.

Section 2 Definitions


(2) For the purposes of this Act, "maximum permissible acoustic emission" means an acoustic emission that does not exceed the fictitious sound power level.

(3) For the purposes of this Act, "fictitious sound power level" means the value that results when the level of the length-related sound power is calculated for a train that:

1. in terms of the number of vehicles and design of the vehicles, with the exception of the braking equipment, is identical to the freight train for which a path is requested and allocated; and

2. consists entirely of freight wagons that are not noisy freight wagons.

The calculation shall consider only rolling stock referred to in line 5, 8, 18 or 21 of Category 10 of Appendix 1 of Annex 2 to the Traffic Noise Mitigation Regulations of 12 June 1990
Section 3 Prohibition of noisy freight wagons

(1) With the start of the 2020/2021 working timetable on 13 December 2020, it shall be prohibited to operate freight trains in which noisy freight wagons are marshalled, or to allow such trains to be operated, on the German rail network.

(2) The following freight wagons shall be deemed equivalent to a freight wagon which, when placed in service, met the conditions set out in the provisions contained in section 2(1):

1. without proof being furnished, a freight wagon that has been converted from cast-iron brake blocks to composite brake blocks or disc brakes; or

2. with proof being furnished, a freight wagon that has been converted in a manner different to that referred to in paragraph (1) in such a way that it meets the emission limits set out in the provisions contained in section 2(1) that have to be proven before it can be placed in service.

(3) A passenger train in which one or more noisy freight wagons have been marshalled shall be deemed equivalent to a freight train in which one or more noisy freight wagons have been marshalled.

Sections 4 Exceptions to the prohibition

By derogation from section 3, the operation of noisy freight wagons shall be permissible:

1. if the acoustic emission caused by the operation of a freight train with noisy wagons does not exceed the fictitious sound power level due to a low speed resulting from the allocation of railway infrastructure capacity and stipulated in the timetable; or

2. on railway infrastructure on which the outdoor immission limits of the Traffic Noise Mitigation Regulations are, because of the following characteristics, also complied with from end to end if the freight trains operating there comprise noisy freight wagons:

   a) nature and scope of railway operations;
b) noise mitigation measures;

c) noise-screening buildings;

d) topography; or

e) gap between railway infrastructure and uses requiring protection.

Sections 5 Exemptions from the prohibition

(1) The competent authority may, if a request is made by an access beneficiary or a keeper of rolling stock, grant exemptions from the prohibition referred to in section 3 for the operation of individual freight wagons:

1. if proof is furnished that there is not yet any approved technology that could be used to turn the freight wagons into quiet freight wagons;

2. if the freight wagons, on the sections of line preceding or following the main leg of their journey, operate on steep gradients and are used exclusively for movements with a portion of their journey on steep gradients, for as long as no operating licence has been issued for a technology that can be used in place of cast iron brake blocks on steep gradients; the freight wagons shall be marked;

3. if the freight wagons are operated exclusively for reasons of historical interest or for tourist purposes; this shall also include marshalling these freight wagons in trains to move them to or from railway heritage or tourist events.

(2) In the cases referred to in subsection (1)(1) and (2), the exemption shall be time-limited for a duration of five working timetable periods following the working timetable period in which the exemption was granted. It may be revoked ahead of expiration as soon as a certified technology is available the use of which would mean that the exempted freight wagons were no longer noisy freight wagons and the exemption still has more than 18 months to run.

(3) In the cases referred to in subsection (1)(3), the exemption shall be granted for an indefinite period. It shall expire if the freight wagon is no longer used exclusively for one of the two purposes mentioned in subsection (1)(3).
Section 6 Calculating acoustic emission and acoustic immission

(1) When the fictitious sound power level is calculated, it shall be assumed that the train is running at the maximum speed permissible for this design of freight wagon. If the maximum permissible line speed is below the maximum design speed, the maximum permissible line speed shall be used for calculating the fictitious sound power level. The comparative calculation shall be based on the track characteristics mentioned in Annex 2 to the Traffic Noise Mitigation Regulations.

(2) The noise emission caused by operation, as referred to in paragraph (1) of section 4, shall be determined by calculating the level of the length-related acoustic emission in accordance with the procedures, values and definitions set out in Annex 2 to the Traffic Noise Mitigation Regulations. In the cases referred to in paragraph (2) of section 4, the noise rating level for any given measurement period and for the complete operating programme, including all trains comprising noisy freight wagons scheduled to be operated on this railway infrastructure, shall be authoritative.

(3) A freight train comprising at least one noisy freight wagon shall be included in the calculation as a train consisting entirely of noisy freight wagons. The calculation of a noisy freight train shall consider only freight wagons referred to in line 2 or 15 of Category 10 of Appendix 1 of Annex 2 to the Traffic Noise Mitigation Regulations.

Section 7 Obligations of railway infrastructure managers and access beneficiaries

(1) The exceptions set out in section 4 shall apply exclusively to non-scheduled services. The railway infrastructure capacity for noisy freight trains may be allocated to the access beneficiary no more than five days prior to the intended track access. The capacity that has not been used for other train paths up to five days prior to the intended track access shall be taken into account when designing the train path.

(2) Railway infrastructure managers may only use railway infrastructure capacity whose speed profile is such that the maximum permissible sound power level is not exceeded. If, when applying for railway infrastructure capacity, the access beneficiary cannot rule out that a freight train for which the allocation of railway infrastructure capacity is being requested will also comprise noisy freight wagons, it may only apply for the allocation of railway infrastructure capacity which, on the basis of its design, especially through a special
alignment of the infrastructure or reduced speed, can ensure that the maximum permissible
acoustic emission is not exceeded by the freight train in question. This shall not apply if an
exemption under section 5 has been granted for all the noisy freight wagons scheduled to be
used. Railway infrastructure managers shall support the access beneficiaries in submitting
proper applications for railway infrastructure capacity.

(3) In the case of freight trains with noisy freight wagons, railway infrastructure managers
may only allocate railway infrastructure capacity and allow uses of the railway infrastructure
capacity for which an exception under section 4 or an exemption under section 5(1) has been
granted. Railway infrastructure managers must conduct regular random checks of the way in
which the railway infrastructure capacity is being used to verify that the conditions set out in
the first sentence are being met.

(4) Freight trains in which noisy freight wagons are also marshalled my only operate with the
speed profile specified by the railway infrastructure manager in accordance with the first
sentence of subsection (2). The access beneficiaries must make the speed profiles available to
the train driver before the start of the journey.

Section 8 Obligations of railway infrastructure managers and access beneficiaries to
provide information

(1) When requesting railway infrastructure capacity, for both the working timetable and non-
scheduled services, access beneficiaries shall be obliged to inform the railway infrastructure
manager whether noisy freight wagons are to be marshalled in the train. If an exemption has
been granted for the noisy freight wagons under section 5, reference shall be made to this
exemption when the request is submitted and proof of it shall be furnished to the railway
infrastructure manager prior to the use of the railway infrastructure capacity.

(2) Railway infrastructure managers and access beneficiaries shall be obliged to
communicate the following data to the competent authorities, if these authorities so request,
within one month:

1. data required for monitoring compliance with the prohibition referred to in section 3(1);
2. data required for substantiating the exception granted under section 5;
3. data required for substantiating the exemption granted under section 5(1).
(3) The data shall be communicated free of charge. The competent authority may specify details regarding the type and format of the data. The data referred to in the first sentence shall be communicated electronically if the competent authority so requests.

(4) Railway infrastructure managers and access beneficiaries shall be obliged to retain the data referred to in the first sentence of subsection (2) for at least twelve months after the operation of the train on the allocated path.

Section 9 Competent authorities

The competent authority for the implementation and enforcement of this Act on the federal railway infrastructure shall be the Federal Railway Authority. On other infrastructure, this function shall be performed by the authority responsible under federal state law. This shall be without prejudice to the competence of the regulatory authority.

Section 10 Monitoring by the competent authorities

(1) The competent authorities shall monitor compliance with the prohibition referred to in section 3. For several line sections on the route network of the railway infrastructure manager and for a selected date (daytime and night-time), they shall check, using wagon lists and timetable documents, whether freight wagons have been deployed that are not certified for operation under this Act or do not comply with the maximum permissible sound power level on a journey at the speed stipulated in the timetable. When stipulating the line sections on which noise emission levels are to be checked, the main railway lines shall be taken into consideration. This check may also be performed retroactively.

(2) The competent authorities shall monitor compliance by access beneficiaries and railway infrastructure managers with the obligation under section 7 to request and allocate proper train paths. To this end, they shall check whether the information required for a train path request was complete and correct and whether the allocated train path meets the requirements set out in this Act. This check shall be performed retroactively.

(3) The authority responsible for federal railways shall perform the check at least once per quarter. The authority responsible for non-federally owned railways shall perform the check at least once a year for freight trains that do not cross over onto federal railway infrastructure.
Section 11 Measures to be imposed in the event of infringements

(1) If the competent authority ascertains that, for a specific line section, the prohibition referred to in the first sentence of section 3(1) or the obligations set out in the first sentence of section 7(2), section 7(3) or section 7(4), or in section 8(1), the first and fourth sentences of section 8(2) and section 8(3) have been repeatedly infringed, it may impose the following measures on the railway infrastructure manager and the access beneficiary for this line section:

1. maximum speeds on certain line sections and at certain times of day; or

2. night-time operating bans.

If the conditions mentioned in the first sentence are met, it may require the railway infrastructure manager to check the freight wagons of the access beneficiary before the start of the journey to ascertain whether the train comprises solely freight wagons with which the maximum permissible sound power level is possible if the speeds stipulated in the timetable profile are complied with.

(2) If access to railway infrastructure is affected, the competent authorities shall consult the competent regulatory authority before any measures are taken.

Section 12 Coercive fine

The authority responsible under this Act may enforce its orders in accordance with the provisions governing the enforcement of administrative measures. The level of the fine shall not exceed 500,000 euros.

Section 13 Administrative fines regulations

(1) An administrative offence shall be deemed to have been committed by any person who, intentionally or negligently:
Translation

1. in contravention of section 3(1), operates a freight wagon or allows a freight wagon to be operated;

2. in contravention of the first sentence of section 7(2), allocates railway infrastructure capacity;

3. in contravention of the first sentence of section 7(3), allows use of railway infrastructure capacity;

4. in contravention of the first sentence of section 7(4), does not comply with a speed profile referred to therein;

5. in contravention of the second sentence of section 7(4), fails to make a speed profile accessible, makes a speed profile accessible that is incorrect or incomplete, or fails to make a speed profile accessible in a timely manner;

6. in contravention of the first and fourth sentences of section 8(2), fails to communicate data, communicates data that are incorrect or incomplete, fails to communicate data in the prescribed manner or fails to communicate data in a timely manner;

7. in contravention of section 8(3), does not retain the data or does not retain them for at least twelve months.

(2) In the cases referred to in subsection (1)(1) to (3), (5) and (7), persons committing an administrative offence shall be liable to a fine not exceeding fifty thousand euros; in the cases referred to in subsection (1)(6), they shall be liable to a fine not exceeding thirty thousand euros; and in the cases referred to in subsection (1)(4), they shall be subject to a fine not exceeding one thousand euros.

(3) The Federal Railway Authority shall be the administrative authority within the meaning of section 36(1)(1) of the Act on Administrative Offences for federal railways.

Section 14 No derogation

Federal state law must not derogate from the rules of administrative procedure made in section 10.