

Approval Scheme for companies that provide safety functions

Date: 15th November 2021

Case ref.:

Bane NOR is introducing an approval scheme for any companies that provide safety functions, which will come into force as of 15th March 2022. Functions included in the scheme are: Chief Safety Officer, Local Safety Officer and Electrical Safety Supervisor.

1. Bane NOR's responsibility for safety

The Norwegian Railway Authority has granted Bane NOR safety approval to function as Infrastructure Manager for the national railway network. This means that Bane NOR is responsible for operating such safety functions in every respect.

Each safety function ensures that the work carried out on and beside the railway can be done in a safe and secure manner. Mistakes could lead to dangerous situations.

Bane NOR sets out the framework for the operating of its safety functions in its governing documents, instructions and circulars, determines competence requirements through its curricula, conducts the training, and issues and revokes approvals at the level of the individual.

Bane NOR is also responsible for ensuring that any contractors hired to perform the safety function are capable of carrying out said work. The Norwegian Railway Authority supervises Bane NOR's management of its contractors.

2. Reasons for introducing the company approval scheme

The approval scheme has been introduced as a result of a number of incidents involving the safety functions. Inadequate conduct has been revealed at several companies, including: inadequate exercise of the safety function, inadequate levels of safety competence and management, non-compliance with the governing documents, inadequate continuation of Bane NOR's corporate social responsibility requirements through the supply chain and the breaching of working hours regulations, as well as deviations and remarks regarding poor business operations.

Such conditions have come to light among companies that supply Bane NOR with safety functions, either directly or through subcontractors.

Bane NOR does not consider the contractor market's current structure, with over 65% of companies running as sole proprietorships or as AS companies with one to three employees, as appropriate.

The current practice of working with short-term commitments and the high degree of hiring without contractual obligations prevalent throughout the supply chain does not support legitimate industry and commerce, nor does it uphold the respectable working life that Bane NOR promotes in its corporate social responsibility requirements.

Companies hired to perform the safety functions must henceforth meet the requirements, which shall be assessed proportionately depending on the importance of the function they will carry out.

3. Purpose of the company approval scheme

In order to provide a safe and credible safety function, the companies must: be of a certain size and be organised appropriately; have the capacity and durability to deliver the requirements set out for such safety services; have systems in place for internal control, quality assurance, safety management, timekeeping and competence management. These conditions are vital in order to maintain control over the planning, performing and following up of the safety function, such that the contractors/suppliers, their subcontractors and Bane NOR's employees can work safely on and beside the tracks.

The approval scheme helps to clarify the company's responsibility when it comes to safety management and safety competence. This will help to reduce the likelihood of deviations occurring in regard to the operating requirements and breaches of the working hours regulations.

The approval scheme will ensure that the company meets the requirements and expectations laid out at the time of which the application has been submitted, and throughout the entirety of the approval period.

Companies that do not meet the requirements, or that have repeatedly deviated from and breached the requirements will not be granted the opportunity to perform the safety function as either a contractor or as a subcontractor for Bane NOR.

4. Approval scheme on the company level

4.1. Date of commencement

The approval scheme enters into force from 15th March 2022.

Information about the application process and the criteria will be published on banenor.no from 15th November 2021.

4.2. Application deadlines

The deadline for applying to the first round of approvals will be the 15th January 2022. The application form will be made available via banenor.no.

Anyone who has applied within this deadline will receive a response to their application by the 15th February 2022.

As of the 1st March 2022, companies will be able to submit applications on an ongoing basis, and approval will be granted throughout the year. During the continuous application process, the expected processing time will be 2–4 weeks from the date of which the application has been received.

4.3. Application process

All companies who believe that they meet the criteria may apply for approval.

The company will receive a confirmation that the application has been received, and if the company's application is successful, it will also receive an approval letter.

Documentation must be available for submission at the time of which the company is submitting the application. Bane NOR may request further documentation when required and will make independent inquiries in public registers and other open databases during the application's processing period.

4.4. Appeals for rejected applications

Applicants who have applied to the scheme and have had their application rejected will receive a rejection letter, which will specify which criteria have not been met. The company holds the right to appeal the rejected application. The appeal will be processed by a separate interdisciplinary group within Bane NOR. A final decision made by this group cannot be appealed.

The company is permitted to reapply when it believes that it has met the criteria that were not fulfilled prior to the previous application.

4.5. Duration of the approval period

Approval is valid for 36 months following the date of which the company has been approved. A list of companies that have received approval will be made public on banenor.no.

4.6. Renewal of the approval

The applicant is solely responsible for applying for the renewal of its approval, and this must be done no later than 3 months before the approval expires.

When applying for renewal, the same process applies as for applying for the initial approval. The applicant is also responsible for submitting the renewed documentation for any documents that may have an expiry date.

4.7. Verification of requirement fulfilment and compliance

The company must expect that an inspection will be carried out during the application process regarding whether they have met the requirements, as well as the inspection and auditing of their compliance throughout the approval period. Bane NOR may request submission of documentation that proves that the requirements have been met.

4.8. Revocation of approval

The criteria must be upheld throughout the entire period of approval. Bane NOR reserves the right to verify whether the company has continued to fulfil the requirements, and to request additional documentation if necessary.

If one or more of the criteria are no longer considered to have been fulfilled, the company shall be given a short deadline in order to rectify the issue. If one or more of the criteria have still not been fulfilled by the date of the deadline, Bane NOR will have the right to revoke their approval.

Repeated and/or serious breaches of the governing documents as published on banenor.no and the conditions listed under Sections § 20-2 (2) and § 20-2 (3) letters a, b, c and i of the Forsyningsforskriften [the Supply Regulations] may lead to the revocation of approval.

The basis of which a company's approval may be revoked will be assessed by an interdisciplinary group. The contractor will be given the opportunity to defend their company before a final decision is made.

The decision can be appealed. The deadline for appeals is 1 month after the date of which the company was informed about the decision to revoke its approval. The appeal must be fully justified. If a suspension has been requested, the appeal must address this. Following a detailed assessment, Bane NOR may decide whether the appeal can be suspended.

In the event of any gross violations, Bane NOR may revoke a company's approval with immediate effect. Examples of gross violations include serious and/or repeated breaches of regulations concerning the working hours of the employees working for the company, and/or inadequate internal control or whether individuals within the management team have had their approval revoked.

The revocation of a contractor's approval is regarded as a material breach of the contractual obligations and Bane NOR will be entitled to terminate the contract without further notice. This will be regulated in the contract.

Revocation of a subcontractor's approval is regarded as justified grounds for replacing the subcontractor with immediate effect.

Notification of the revocation will be sent to the company's registered company address and/or the registered email address.

A company may be denied approval for a period of up to 3–5 years. If the company believes that the criteria required to reapply for approval has been met, then the company may submit a new application.

4.9. Transitional arrangement

Once the scheme comes into force, it will apply to the operating of any safety function in both ongoing and new contracts. In order for the company to adapt to the new requirements, a transitional arrangement will be introduced.

Until 31st December 2022, contractors who hold an ongoing contract with Bane NOR may apply for approval regarding the continued operation of safety functions either under their own auspices or for the continued use of subcontractors that have not obtained approval.

In order for the company to apply for inclusion in the transitional agreement, the condition must be met that they either hold a signed contract with Bane NOR or have received approval from a subcontractor for the contract(s) for which the application is being sought, before the approval scheme has come into force.

Through its contract templates, Bane NOR is able to request, on justified grounds, the replacement of key personnel and subcontractors with other personnel who hold, at a minimum, the equivalent expertise.

4.10. Exemption from the requirements for a certain number of employees

Companies with 6 or more permanent employees can apply for an exemption from the requirement that companies must have 10 permanent employees, on the condition that all other requirements have been met and are upheld during the approval period.

The duration of approval for companies applying for exemption from the requirement to employ a minimum of 10 permanent employees will be 12 months.

4.11. Requirements for the approval scheme

Applicants are responsible for ensuring that they fulfil the criteria, and that the criteria has been met at the time at which the applicant is submitting the application, and that they are upheld through the entirety of the approval period.

Additional documentation must be available for submission upon request.

Bane NOR will conduct independent inquiries into public registers and open databases during the processing of applications.

Subject	Criteria	Documented by
Structure and size of the organisation	<ul style="list-style-type: none"> The company must be registered in a register of business enterprises, a professional register or a trade register in the country of which the company was established The company must employ a minimum of 10 permanent employees 	<p>Certificate of registration</p> <p>A written statement of the permanent employees and their full-time equivalent percentage, description of the organisation</p>
Corporate social responsibility and professionalism	<ul style="list-style-type: none"> StartBANK membership The company shall operate in such a manner that Bane NOR's corporate social responsibility requirements for contractors are met and are adhered to throughout the supply chain. The company must have an auditor 	<p>StartBANK membership number</p> <p>Confirmation</p> <p>Printouts from the Brønnøysund Register Centre</p>
Organisation and management	<ul style="list-style-type: none"> The company has their own safety function that encompasses its safety responsibilities, including traffic safety ref. STY-604160 Management responsibility for drivers, chief safety officers, signallers and brakemen – instructions. The company must have a system in place for internal training, competence management and valid certifications that include functions that are relevant to traffic safety within the framework of Bane NOR's safety approval. Requirements are published via banenor.no and its circulars. 	<p>Statement (relevant governing documents from the company itself) and name of the person responsible for safety management</p> <p>An account of the system.</p>
Quality system	<ul style="list-style-type: none"> Documented quality system that adheres to EN ISO 9001:2015 or equivalent The company must have an efficient internal inspection system that also includes safety related tasks and functions that are applicable to the railway The company must have an adequate timekeeping system that is capable of showing the total, actual working hours logged for all customers 	<p>An account of the system</p> <p>An account of the system</p> <p>Account of the system, with name of the system, links and images that illustrate the system</p>
Suitability and loss of approval	<ul style="list-style-type: none"> The organisation must be suitable such that it can perform the safety functions in accordance with the governing documents in force at any given time, ref. Bane NOR's own transport and safe work with vehicles. 	<p>Declaration</p>

	<ul style="list-style-type: none"> Employees who hold senior positions (chairman, board members, general managers, deputies, owners or contact persons) can not have had their approval/certification revoked for functions that are relevant to safety within the framework of Bane NOR's safety approval. This limitation applies to the period of which they have been refused approval / certification. This also includes companies for which people who have previously lost their approval are currently holding senior positions, even if they are not formally registered as holding said senior position. 	Confirmation
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5. Timeline for implementation of the approval scheme

The following timeline serves as a basis for the implementation of the approval scheme.

Activity	Deadline
Information about the approval scheme made available on banenor.no and an email will be sent to all registered companies	15th November 2021
Start of the first round of applications	1st December 2021
Deadline for applying for approval in the first round of applications	15th January 2022
Processing and approval of applications for the first round of applications	16th January – 15th February 2022
Appeals processing for the first round of applications	20th February – 10th March 2022
Processing of continuous applications with a processing time of around 2–4 weeks	From 1st March 2022
Scheme comes into force	15th March 2022
Transitional arrangement (applies to companies that currently hold a contract with Bane NOR, or who are registered and approved as a subcontractor for Bane NOR on an existing contract)	15th March – 31st December 2022

6. Input regarding consultation

In the preparatory work for the approval scheme, a draft was sent out for external consultation to the following contractors:

EBA jernbaneutvalget
 Veidekke
 NRC Group AS
 Infranord Norge AS
 Spordrift AS
 Aarsleff/Banedrift AS
 RIAS (Mesta)
 Alstom

Baneservice
 Gjermundshaug AS
 Anlegg Øst
 Rallarservice AS
 Banefjell AS
 Olav Kyte AS
 Totalprosjekt Namskogan AS
 Aasen linjerydding AS

Jordalen entreprenør AS
 BMO Entreprenør AS
 Splide entreprenør AS
 Øynebråten Anleggsteknikk AS
 Consolvo AS
 Nettpartner

6 responses were received from those chosen for consultation.

Information about the approval scheme has been posted on banenor.no and as a result, we received inputs from 18 individuals as well as identical responses from a further 22 companies.