

Directive (EU) 2016/798 of the European Parliament and of the Council
of 11 May 2016 on railway safety (recast) (Text with EEA relevance)

CHAPTER V

ACCIDENT AND INCIDENT INVESTIGATION

Article 22

Investigating body

1 Each Member State shall ensure that investigations of the accidents and incidents referred to in Article 20 are conducted by a permanent body, which shall comprise at least one investigator able to perform the function of investigator-in-charge in the event of an accident or incident. That body shall be independent in its organisation, legal structure and decision-making from any infrastructure manager, railway undertaking, charging body, allocation body and conformity assessment body and from any party whose interests could conflict with the tasks entrusted to the investigating body. It shall, furthermore, be functionally independent from the national safety authority, from the Agency and from any regulator of railways.

2 The investigating body shall perform its tasks independently of the other entities referred to in paragraph 1 and shall be able to obtain sufficient resources to do so. Its investigators shall be afforded status giving them the necessary guarantees of independence.

3 Member States shall provide for railway undertakings, infrastructure managers and, where appropriate, the national safety authority to be obliged to immediately notify the accidents and incidents referred to in Article 20 to the investigating body and to provide all available information. Where appropriate, this notification shall be updated as soon as any missing information becomes available.

The investigating body shall decide, without delay and in any event no later than 2 months after receipt of the notification concerning the accident or incident, whether or not to start the investigation.

4 The investigating body may combine its tasks under this Directive with the work of investigating occurrences other than railway accidents and incidents as long as such other investigations do not endanger its independence.

5 If necessary, and provided it does not undermine the independence of the investigating body as provided for in paragraph 1, the investigating body may request the assistance of investigating bodies from other Member States or from the Agency to supply expertise or to carry out technical inspections, analyses or evaluations.

6 Member States may entrust the investigating body with the task of carrying out investigations of railway accidents and incidents other than those referred to in Article 20.

7 The investigating bodies shall conduct an active exchange of views and experience for the purposes of the development of common investigation methods, drawing up common principles for follow up of safety recommendations and adaptation to the development of technical and scientific progress.

Status: EU Directives are being published on this site to aid cross referencing from UK legislation. After IP completion day (31 December 2020 11pm) no further amendments will be applied to this version.

Without prejudice to paragraph 1, the Agency shall support the investigating bodies in the performance of this task in accordance with Article 38(2) of Regulation (EU) 2016/796.

The investigating bodies, with the support of the Agency in accordance with Article 38(2) of Regulation (EU) 2016/796, shall establish a programme of peer reviews where all investigating bodies are encouraged to participate so as to monitor their effectiveness and independence. The investigating bodies, with the support of the secretariat referred to in Article 38(2) of Regulation (EU) 2016/796, shall publish:

- a the common peer-review programme and the review criteria; and
- b an annual report on the programme, highlighting identified strengths and suggestions for improvements.

The peer review reports shall be provided to all investigating bodies and to the Agency. Those reports shall be published on a voluntary basis.