

Directive 2007/59/EC of the European Parliament and of the Council
of 23 October 2007 on the certification of train drivers operating
locomotives and trains on the railway system in the Community

CHAPTER I

OBJECTIVE, SCOPE AND DEFINITIONS

Article 1

Objective

This Directive lays down the conditions and procedures for the certification of train drivers operating locomotives and trains on the railway system in the Community. It specifies the tasks for which the competent authorities of the Member States, train drivers and other stakeholders in the sector, in particular railway undertakings, infrastructure managers and training centres, are responsible.

Article 2

Scope

1 This Directive shall apply to train drivers operating locomotives and trains on the railway system in the Community for a railway undertaking requiring a safety certificate or an infrastructure manager requiring a safety authorisation.

2 Member States shall not, on the basis of national provisions pertaining to other staff on board freight trains, prevent freight trains from crossing borders or providing domestic transport in their territory.

3 Without prejudice to the Article 7, Member States may exclude from the measures they adopt in implementation of this Directive train drivers operating exclusively on:

- (a) metros, trams and other light rail systems;
- (b) networks that are functionally separate from the rest of the rail system and are intended only for the operation of local, urban or suburban passenger and freight services;
- (c) privately owned railway infrastructure that exists solely for use by the infrastructure owners for their own freight operations;
- (d) sections of track that are temporarily closed to normal traffic for the purpose of maintaining, renewing or upgrading the railway system.

Article 3

Definitions

For the purposes of this Directive:

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- (a) ‘competent authority’ means the safety authority referred to in Article 16 of Directive 2004/49/EC;
- (b) ‘train driver’ means a person capable and authorised to drive trains, including locomotives, shunting locomotives, work trains, maintenance railway vehicles or trains for the carriage of passengers or goods by rail in an autonomous, responsible and safe manner;
- (c) ‘other crew members performing safety-critical tasks’ means staff on board the train who are not train drivers but who help to ensure the safety of the train and of the passengers and goods being transported;
- (d) ‘railway system’ means the system composed of the railway infrastructures, comprising lines and fixed installations of the rail system plus the rolling stock of all categories and origin travelling on that infrastructure, as defined in Directives 96/48/EC and 2001/16/EC;
- (e) ‘infrastructure manager’ means any body or undertaking that is responsible in particular for establishing and maintaining railway infrastructure, or part thereof, as defined in Article 3 of Directive 91/440/EEC, which may also include the management of infrastructure control and safety systems. The functions of the infrastructure manager on a network or on part of a network may be allocated to different bodies or undertakings;
- (f) ‘railway undertaking’ means any railway undertaking as defined in Directive 2001/14/EC of the European Parliament and of the Council of 26 February 2001 on the allocation of railway infrastructure capacity and the levying of charges for the use of railway infrastructure⁽¹⁾, and any other public or private undertaking, the activity of which is to provide transport of goods and/or passengers by rail on the basis that the undertaking must ensure traction. The term also includes undertakings which provide traction only;
- (g) ‘technical specifications for interoperability’ or ‘TSIs’ means the specifications by which each subsystem or part of a subsystem is covered in order to meet the essential requirements and to ensure the interoperability of the trans-European high-speed and conventional rail systems as defined in Directives 96/48/EC and 2001/16/EC;
- (h) ‘Agency’ means the European Railway Agency established by Regulation (EC) No 881/2004⁽²⁾ of the European Parliament and of the Council of 29 April 2004;
- (i) ‘safety certificate’ means the certificate issued to a railway undertaking by a competent authority in accordance with Article 10 of Directive 2004/49/EC;
- (j) ‘certificate’ means the harmonised complementary certificate indicating the infrastructure on which the holder is authorised to drive and the rolling stock which the holder is authorised to drive;
- (k) ‘safety authorisation’ means the authorisation issued to an infrastructure manager by a competent authority in accordance with Article 11 of Directive 2004/49/EC;
- (l) ‘training centre’ means an entity accredited or recognised by the competent authority to give training courses.

CHAPTER II

CERTIFICATION OF DRIVERS*Article 4***Community certification model**

1 All train drivers shall have the necessary fitness and qualifications to drive trains and shall hold the following documents:

- (a) a licence demonstrating that the driver satisfies minimum conditions as regards medical requirements, basic education and general professional skills. The licence shall identify the driver and the issuing authority and shall state the duration of its validity. The licence shall comply with the requirements of Annex I, until the Community certification model is adopted, as provided for in paragraph 4;
- (b) one or more certificates indicating the infrastructures on which the holder is authorised to drive and indicating the rolling stock which the holder is authorised to drive. Each certificate shall comply with the requirements of Annex I.

2 However, the requirement to hold a certificate for a specific part of infrastructure shall not apply in the exceptional cases listed hereafter, provided that another train driver who possesses a valid certificate for the infrastructure concerned sits next to the driver during driving:

- (a) when a disturbance of the railway service necessitates the deviation of trains or maintenance of tracks, as specified by the infrastructure manager;
- (b) for exceptional, one-off services which use historical trains;
- (c) for exceptional, one-off freight services, provided that the infrastructure manager agrees;
- (d) for the delivery or demonstration of a new train or locomotive;
- (e) for the purposes of training and examining drivers.

The use of this possibility shall be a decision of the railway undertaking and may not be imposed by the relevant infrastructure manager or by the competent authority.

Whenever an additional driver is used as provided for above, the infrastructure manager shall be informed beforehand.

3 The certificate shall authorise driving in one or more of the following categories:

- (a) category A: shunting locomotives, work trains, maintenance railway vehicles and all other locomotives when they are used for shunting;
- (b) category B: carriage of passengers and/or of goods.

A certificate may contain an authorisation for all categories, covering all codes as referred to in paragraph 4.

4 By 4 December 2008 the Commission shall adopt, on the basis of a draft prepared by the Agency, a Community model for the licence, the certificate and the certified copy of the certificate, and also determine their physical characteristics, taking into account therein anti-forgery measures. These measures, designed to amend non-essential elements of this Directive

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by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 32(3).

By 4 December 2008, the Commission shall adopt the measures designed to amend non-essential elements of this Directive, by supplementing it, and concerning the Community Codes for the different types in categories A and B as referred to in paragraph 3 of this Article in accordance with the regulatory procedure with scrutiny referred to in Article 32(3) and on the basis of a recommendation from the Agency.

Article 5

Anti-fraud measures

Competent authorities and issuing bodies shall take all necessary steps to avoid the risks of falsification of licences and certificates and tampering with the registers provided for in Article 22.

Article 6

Ownership, language and issuing bodies

1 A licence shall be owned by its holder and shall be issued by the competent authority as defined in Article 3(a). Where a competent authority or its agent issues a licence in a national language which is not a Community language, it shall draw up a bilingual version of the licence using one of the Community languages.

2 A certificate shall be issued by the railway undertaking or the infrastructure manager who employs or contracts the driver. The certificate shall be owned by the undertaking or manager issuing it. However, in accordance with Article 13(3) of Directive 2004/49/EC, drivers shall be entitled to obtain a certified copy. Where a railway undertaking or an infrastructure manager issues a certificate in a national language which is not a Community language, it shall draw up a bilingual version of the certificate using one of the Community languages.

Article 7

Geographical validity

1 A licence shall be valid throughout the whole territory of the Community.

2 A certificate shall be valid only on those infrastructures and rolling stock identified on it.

Article 8

Recognition of certification documents of train drivers of third countries

The certification documents of train drivers of a third country operating exclusively on border-crossing sections of a Member State's railway system may be recognised by that Member State in accordance with any bilateral agreements with the third country in question.

CHAPTER III

CONDITIONS FOR OBTAINING THE LICENCE AND THE CERTIFICATE

Article 9

Minimum requirements

1 To obtain a licence, applicants shall satisfy the minimum requirements set out in Articles 10 and 11. To obtain a certificate and for it to remain valid, applicants shall hold a licence and satisfy the minimum requirements set out in Articles 12 and 13.

2 A Member State may apply more stringent requirements with regard to the issuing of licences on its own territory. Nevertheless, it shall recognise licences issued by other Member States, in accordance with Article 7.

Section I

Licence

Article 10

Minimum age

Member States shall prescribe the minimum age of licence applicants, which shall be at least 20 years. However, a Member State may issue licences to applicants from the age of 18 years, the validity of such a licence then being limited to the territory of the issuing Member State.

Article 11

Basic requirements

1 Applicants shall have successfully completed at least nine years' education (primary and secondary) and have successfully concluded basic training equivalent to level 3 referred to in Council Decision 85/368/EEC of 16 July 1985 on the comparability of vocational training qualifications between the Member States of the European Community⁽³⁾.

2 Applicants shall provide confirmation of their physical fitness by passing a medical examination conducted by, or under the supervision of — to be decided by the Member State — a medical doctor accredited or recognised in accordance with Article 20. The examination shall cover at least the criteria indicated in sections 1.1, 1.2, 1.3 and 2.1 of Annex II.

3 Applicants shall demonstrate their occupational psychological fitness by passing an examination conducted by, or under the supervision of — to be decided by the Member State — a psychologist or a medical doctor accredited or recognised in accordance with Article 20. The examination shall cover at least the criteria indicated in section 2.2 of Annex II.

4 Applicants shall have demonstrated their general professional competence by passing an examination covering at least the general subjects listed in Annex IV.

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Section II

Certificate

Article 12

Linguistic knowledge

The linguistic knowledge criterion referred to in Annex VI shall be met for the infrastructure for which the certificate is being applied.

Article 13

Professional qualifications

- 1 Applicants shall have passed an examination testing their professional knowledge and competence relating to the rolling stock for which the certificate is sought. This examination shall cover at least the general subjects listed in Annex V.
- 2 Applicants shall have passed an examination testing their professional knowledge and competence relating to the infrastructures for which the certificate is sought. This examination shall cover at least the general subjects listed in Annex VI. Where appropriate, the examination shall also cover linguistic knowledge, in accordance with section 8 of Annex VI.
- 3 Applicants shall be trained by the railway undertaking or the infrastructure manager in relation to its safety management system provided for by Directive 2004/49/EC.

CHAPTER IV

PROCEDURE FOR OBTAINING THE LICENCE AND THE CERTIFICATE

Article 14

Obtaining a licence

- 1 The competent authority shall publish the procedure to be followed for obtaining a licence.
- 2 All licence applications shall be lodged with the competent authority by the candidate driver or any entity on his behalf.
- 3 Applications submitted to the competent authority may be for the grant of a new licence, the updating of licence particulars, a renewal or a duplicate.
- 4 The competent authority shall issue the licence as soon as possible and no later than one month after receiving all the necessary documents.
- 5 A licence shall be valid for 10 years, subject to Article 16(1).
- 6 A licence shall be issued in a single original. Any duplication of a licence, other than by the competent authority where a duplicate is requested, shall be prohibited.

Article 15

Obtaining a certificate

Each railway undertaking and infrastructure manager shall set up its own procedures for issuing and updating certificates in accordance with this Directive, as part of its safety management system, as well as appeals procedures allowing drivers to request a review of a decision relating to the issue, updating, suspension or withdrawal of a certificate.

In the event of disagreement, the parties may appeal to the competent authority or any independent appeal body.

Railway undertakings and infrastructure managers shall update, without delay, a certificate whenever the certificate holder has obtained additional authorisations relating to rolling stock or infrastructure.

Article 16

Periodic checks

1 In order for a licence to remain valid, its holder shall undergo periodic examinations and/or tests relating to the requirements referred to in Article 11(2) and (3). With regard to medical requirements, the minimum frequency shall be observed in accordance with the provisions of section 3.1 of Annex II. These medical checks shall be conducted by, or under the supervision of, medical doctors accredited or recognised in accordance with Article 20. As far as general professional knowledge is concerned, the provisions of Article 23(8) shall apply.

When renewing a licence, the competent authority shall verify in the register provided for in Article 22(1)(a) that the driver has met the requirements referred to in the first subparagraph of this paragraph.

2 In order for a certificate to remain valid, its holder shall undergo periodic examinations and/or tests relating to the requirements referred to in Articles 12 and 13. The frequency of those examinations and/or tests shall be determined by the railway undertaking or the infrastructure manager employing or contracting the driver in accordance with its own safety management system, and respect the minimum frequencies set out in Annex VII.

For each of these checks the issuing body shall confirm by a statement on the certificate and in the register provided for in Article 22(2)(a) that the driver has met the requirements referred to in the first subparagraph of this paragraph.

3 Where a periodic check is missed or gives a negative result, the procedure laid down in Article 18 shall be applied.

Article 17

Cessation of employment

When a driver ceases to work for a railway undertaking or an infrastructure manager, it shall inform the competent authority without delay.

The licence shall remain valid, provided that the conditions in Article 16(1) remain fulfilled.

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A certificate shall become invalid when its holder ceases to be employed as a driver. However, the holder shall receive a certified copy of it and of all documents providing evidence of his training, qualifications, experience and professional competences. When issuing a certificate to a driver, a railway undertaking or infrastructure manager shall take account of all those documents.

Article 18

Monitoring of drivers by railway undertakings and infrastructure managers

1 Railway undertakings and infrastructure managers shall be required to ensure, and to check, that the licences and certificates of the drivers they employ or contract are valid.

They shall set up a system for monitoring their drivers. If the results of such monitoring call into question a driver's competence for the job and the continuing validity of his licence or certificate, railway undertakings and infrastructure managers shall immediately take the necessary action.

2 If a driver considers that his state of health calls into question his fitness for the job, he shall immediately inform the railway undertaking or infrastructure manager, whichever is appropriate.

As soon as a railway undertaking or infrastructure manager is aware or is informed by a medical doctor that the health of a driver has deteriorated to a point where his fitness for the job is called into question, it shall immediately take the necessary action, including the examination described in section 3.1 of Annex II and, if necessary, the withdrawal of the certificate and the updating of the register provided for in Article 22(2). Furthermore, it shall ensure that at no time during their service drivers are under the influence of any substance which is likely to affect their concentration, attention or behaviour. The competent authority shall be informed without delay of any cases of work incapacity of more than three months.

CHAPTER V

TASKS AND DECISIONS OF THE COMPETENT AUTHORITY

Article 19

Tasks of the competent authority

1 The competent authority shall fulfil the following tasks in a transparent and non-discriminatory manner:

- (a) issuing and updating licences, and providing duplicates, as provided for in Articles 6 and 14;
- (b) ensuring periodic examinations and/or tests as provided for in Article 16(1);
- (c) suspending and withdrawing licences, and notifying the issuing body of reasoned requests for the suspension of certificates, as provided for in Article 29;
- (d) if so designated by the Member State, recognising persons or bodies as provided for in Articles 23 and 25;

- (e) ensuring that a register of persons and bodies accredited or recognised as provided for in Article 20 is published and updated;
- (f) keeping and updating a register of licences as provided for in Articles 16(1) and 22(1);
- (g) monitoring the drivers' certification process as provided for in Article 26;
- (h) carrying out inspections as provided for in Article 29;
- (i) establishing national criteria for examiners as provided for in Article 25(5).

The competent authority shall respond quickly to requests for information and present any requests for additional information without delay when preparing licences.

2 The competent authority shall not delegate the tasks referred to in points (c), (g) and (i) of paragraph 1 to third parties.

3 Any delegation of tasks shall be transparent and non-discriminatory and shall not give rise to a conflict of interests.

4 Where a competent authority delegates or contracts tasks referred to in points (a) or (b) of paragraph 1 to a railway undertaking, at least one of the following conditions shall be complied with:

- (a) the railway undertaking issues licences only to its own drivers;
- (b) the railway undertaking does not enjoy exclusivity in the territory concerned for any of the delegated or contracted tasks.

5 Where a competent authority delegates or contracts tasks, the authorised representative or contractor shall be required, in performing such tasks, to comply with the obligations imposed on competent authorities by this Directive.

6 Where a competent authority delegates or contracts tasks, it shall set up a system for checking how those tasks have been carried out and shall ensure that the conditions laid down in paragraphs 2, 4 and 5 are complied with.

Article 20

Accreditation and recognition

1 Persons or bodies accredited under this Directive shall be accredited by an accreditation body appointed by the Member State concerned. The accreditation process shall be based on criteria of independence, competence and impartiality, such as the relevant EN 45 000 series European standards and on the evaluation of a dossier submitted by candidates which provides appropriate evidence of their skills in the area in question.

2 As an alternative to the accreditation provided for in paragraph 1, a Member State may provide that persons or bodies recognised under this Directive shall be recognised by the competent authority or a body appointed by the Member State concerned. Recognition shall be based on criteria of independence, competence and impartiality. However, in cases when the particular competence sought is extremely rare, an exception to this rule shall be allowed after a positive opinion is given by the Commission in accordance with the regulatory procedure referred to in Article 32(2).

The criterion of independence does not apply in the case of the training referred to in Article 23(5) and (6).

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3 The competent authority shall ensure the publication and updating of a register of persons and bodies which have been accredited or recognised under this Directive.

Article 21

Decisions of the competent authority

1 The competent authority shall state the reasons for its decisions.

2 The competent authority shall ensure that an administrative appeals procedure is set up allowing employers and drivers to request a review of a decision relating to any application under this Directive.

3 Member States shall take the necessary steps to ensure judicial review of the decisions taken by a competent authority.

Article 22

Registers and exchange of information

1 The competent authorities shall be required to:

- (a) keep a register of all licences issued, updated, renewed, amended, expired, suspended, withdrawn or reported lost, stolen or destroyed. This register shall contain the data prescribed in section 4 of Annex I for every licence, which shall be accessible using the national number allotted to each driver. It shall be regularly updated;
- (b) supply, upon reasoned request, information on the status of such licences to the competent authorities of the other Member States, the Agency or any employer of drivers.

2 Each railway undertaking and infrastructure manager shall be required to:

- (a) keep a register, or ensure that a register is kept, of all certificates issued, updated, renewed, amended, expired, suspended, withdrawn or reported lost, stolen or destroyed. This register shall contain the data prescribed in section 4 of Annex I for every certificate, as well as data relating to the periodic checks provided for in Article 16. It shall be regularly updated;
- (b) cooperate with the competent authority of the Member State where they are domiciled in order to exchange information with the competent authority and give it access to data required;
- (c) supply information on the content of such certificates to the competent authorities of the other Member States upon their request, when this is required as a consequence of their transnational activities.

3 Train drivers shall have access to the data concerning them which is stored in the registers of competent authorities and of railway undertakings, and shall be provided with a copy of that data on request.

4 The competent authorities shall cooperate with the Agency in order to ensure the interoperability of the registers provided for in paragraphs 1 and 2.

To this end, by 4 December 2008, the Commission shall adopt, on the basis of a draft prepared by the Agency, the basic parameters of the registers to be set up, such as data to be recorded, their format and the data exchange protocol, access rights, the duration of data retention and the procedures to be followed in cases of bankruptcy. These measures, designed to amend non-essential elements of this Directive by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 32(3).

5 The competent authorities, infrastructure managers and railway undertakings shall ensure that the registers provided for in paragraphs 1 and 2 and the modes of operation of such registers comply with Directive 95/46/EC.

6 The Agency shall ensure that the system set up in paragraph 2(a) and (b) complies with Regulation (EC) No 45/2001.

CHAPTER VI

TRAINING AND EXAMINATION OF DRIVERS

Article 23

Training

1 The training of drivers shall include a part relating to the licence and reflecting general professional knowledge as described in Annex IV, and a part relating to the certificate and reflecting specific professional knowledge, as described in Annexes V and VI.

2 The training method shall satisfy the criteria laid down in Annex III.

3 The detailed training objectives are defined in Annex IV for the licence, and in Annexes V and VI for the certificate. These detailed training objectives may be supplemented by either:

- (a) the relevant TSIs adopted in accordance with Directive 96/48/EC or Directive 2001/16/EC. In this case, the Commission shall ensure consistency between the TSIs and Annexes IV, V and VI; or
- (b) the criteria proposed by the Agency pursuant to Article 17 of Regulation (EC) No 881/2004. These criteria, designed to amend non-essential elements of this Directive by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 32(3).

4 Pursuant to Article 13 of Directive 2004/49/EC, Member States shall take steps to ensure that candidate drivers have fair and non-discriminatory access to the training needed to fulfil the conditions for obtaining the licence and the certificate.

5 Training tasks relating to general professional knowledge as provided for in Article 11(4), linguistic knowledge as provided for in Article 12 and professional knowledge relating to rolling stock as provided for in Article 13(1) shall be performed by persons or bodies accredited or recognised in accordance with Article 20.

6 Training tasks relating to infrastructure knowledge as provided for in Article 13(2), including route knowledge and operating rules and procedures, shall be performed by persons or bodies accredited or recognised by the Member State where the infrastructure is located.

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7 With regard to licences, the general system for the recognition of professional qualifications established by Directive 2005/36/EC shall continue to apply to the recognition of the professional qualifications of drivers who are nationals of a Member State and have obtained their training certificate in a third country.

8 A process of continuous training shall be set up in order to ensure that staff competences are maintained, in accordance with point 2(e) of Annex III to Directive 2004/49/EC.

Article 24

Cost of training

1 Member States shall ensure that the necessary measures are taken in order to ensure that investments made by a railway undertaking or an infrastructure manager for the training of a driver do not unduly benefit another railway undertaking or infrastructure manager in the case where that driver voluntarily leaves the former for the latter railway undertaking or infrastructure manager.

2 Particular attention shall be paid to the implementation of this Article in the report provided for in Article 33, in particular as regards point (f) thereof.

Article 25

Examinations

1 The examinations and examiners intended for the purpose of checking the requisite qualifications shall be determined:

- (a) for the part relating to the licence: by the competent authority when laying down the procedure to be followed to obtain a licence in accordance with Article 14(1);
- (b) for the part relating to the certificate: by the railway undertaking or the infrastructure manager when laying down the procedure to be followed to obtain a certificate in accordance with Article 15.

2 The examinations referred to in paragraph 1 shall be overseen by competent examiners, accredited or recognised in accordance with Article 20, and shall be organised in such a way as to avoid any conflict of interest.

3 Infrastructure knowledge evaluation, including route knowledge and operation rules, shall be performed by persons or bodies accredited or recognised by the Member State where the infrastructure is located.

4 The examinations referred to in paragraph 1 shall be organised in such a way that any conflict of interests is avoided, without prejudice to the possibility that the examiner may belong to the railway undertaking or infrastructure manager issuing the certificate.

5 The choice of examiners and examinations may be subject to Community criteria established on the basis of a draft prepared by the Agency. These measures, designed to amend non-essential elements of this Directive by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 32(3). On imperative grounds of urgency, the Commission may have recourse to the urgency procedure referred to in Article 32(4).

In the absence of such Community criteria, the competent authorities shall establish national criteria.

6 There shall be theoretical and practical examinations at the end of the training course. Driving ability shall be assessed during driving tests on the network. Simulators may also be used for examining the application of operational rules and driver performance in particularly difficult situations.

CHAPTER VII

ASSESSMENT

Article 26

Quality standards

The competent authorities shall ensure that all activities associated with training, the assessment of skills and the updating of licences and certificates are the subject of continuous monitoring under a quality standards system. This shall not apply to activities already covered by the safety management systems put in place by railway undertakings and infrastructure managers in accordance Directive 2004/49/EC.

Article 27

Independent assessment

1 An independent assessment of the procedures for the acquisition and assessment of professional knowledge and competences, and of the system for the issuing of licences and certificates, shall be carried out in each Member State at intervals of not more than five years. This shall not apply to activities already covered by the safety management systems put in place by railway undertakings and infrastructure managers in accordance with Directive 2004/49/EC. The assessment shall be carried out by qualified persons who are not themselves involved in the activities concerned.

2 The results of these independent assessments shall be duly documented and brought to the attention of the competent authorities concerned. If necessary, Member States shall take appropriate measures to remedy any shortcomings brought to light by the independent assessment.

CHAPTER VIII

OTHER CREW MEMBERS

Article 28

Report on other crew members

1 The Agency shall, in a report to be presented by 4 June 2009, and taking into account the TSI on operation and traffic management developed under Directives 96/48/EC and 2001/16/EC, identify the profile and tasks of other crew members performing safety-critical

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tasks whose professional qualifications accordingly contribute to railway safety which should be regulated at Community level by means of a system of licences and/or certificates which may be similar to the system established by this Directive.

2 On the basis of this report the Commission shall, by 4 June 2010, present a report and, if appropriate, bring forward a legislative proposal on a certification system for the other crew members referred to in paragraph 1.

CHAPTER IX

CONTROLS AND PENALTIES

Article 29

Controls by the competent authority

1 The competent authority may at any time take steps to verify, on board trains operating in its area of jurisdiction, that the train driver is in possession of the documents issued pursuant to this Directive.

2 Notwithstanding verification as provided for in paragraph 1, in the event of negligence at the workplace the competent authority may verify if the driver in question complies with the requirements set out in Article 13.

3 The competent authority may carry out enquiries regarding compliance with this Directive by drivers, railway undertakings, infrastructure managers, examiners and training centres pursuing their activities in its area of jurisdiction.

4 If the competent authority finds that a driver no longer satisfies one or more required conditions, it shall take the following measures:

- (a) if it concerns a licence issued by the competent authority, the competent authority shall suspend the licence. The suspension shall be temporary or permanent depending on the scale of the problems created for rail safety. It shall immediately inform the driver concerned and his employer of its reasoned decision, without prejudice to the right of review provided for in Article 21. It shall indicate the procedure to be followed for recovering the licence;
- (b) if it concerns a licence issued by a competent authority in another Member State, the competent authority shall approach that authority and provide a reasoned request either that a further inspection be carried out or that the licence be suspended. The requesting competent authority shall inform the Commission and the other competent authorities of its request. The authority that issued the licence in question shall examine the request within four weeks and notify the other authority of its decision. The authority that issued the licence shall also inform the Commission and the other competent authorities of the decision. Any competent authority may prohibit train drivers from operating in its area of jurisdiction pending notification of the issuing authority's decision;
- (c) if it concerns a certificate, the competent authority shall approach the issuing body and request either that a further inspection be carried out or that the certificate be suspended. The issuing body shall take appropriate measures and report back to the competent authority within a period of four weeks. The competent authority may prohibit train drivers from operating in its area of jurisdiction pending the report of the

issuing body, and shall inform the Commission and the other competent authorities thereof.

At all events, if the competent authority considers that a particular driver creates a serious threat to the safety of the railways, it shall immediately take the necessary action, such as asking the infrastructure manager to stop the train and prohibiting the driver from operating in its area of jurisdiction for as long as necessary. It shall inform the Commission and the other competent authorities of any such decision.

In all cases the competent authority, or the body designated for this, shall update the register provided for in Article 22.

5 If a competent authority considers that a decision taken by a competent authority in another Member State pursuant to paragraph 4 fails to comply with the relevant criteria, the matter shall be referred to the Commission which shall deliver its opinion within three months. If necessary, corrective measures shall be proposed to the Member State concerned. In the event of disagreement or dispute, the matter shall be referred to the Committee referred to in Article 32(1), and the Commission shall take whatever measures are necessary in accordance with the regulatory procedure referred to in Article 32(2). A Member State may maintain a prohibition on a driver driving on its territory in accordance with paragraph 4 until the matter is concluded in accordance with this paragraph.

Article 30

Penalties

Without prejudice to any other penalties or procedures established by this Directive, the Member States shall lay down rules on penalties applicable to infringements of the national provisions adopted pursuant to this Directive and shall take all measures necessary to ensure that they are implemented. The penalties provided for shall be effective, proportionate, non-discriminatory and dissuasive. The Member States shall notify the Commission of those provisions by the date specified in the first subparagraph of Article 36(1) at the latest and shall notify it without delay of any subsequent amendment affecting them.

CHAPTER X

FINAL PROVISIONS

Article 31

Adaptation of the Annexes

1 Measures designed to amend non-essential elements of this Directive by adapting the Annexes to scientific and technical progress shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 32(3). On imperative grounds of urgency, the Commission may have recourse to the urgency procedure referred to in Article 32(4).

2 Where the adaptations concern health and safety conditions, or professional competences, the Commission shall ensure that the social partners are consulted prior to their preparation.

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Article 32

Committee

1 The Commission shall be assisted by the Committee set up by Article 21 of Directive 96/48/EC.

2 Where reference is made to this paragraph, Articles 5 and 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.

The period laid down in Article 5(6) of Decision 1999/468/EC shall be set at three months.

3 Where reference is made to this paragraph, Article 5a(1) to (4), and Article 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.

4 Where reference is made to this paragraph, Article 5a(1), (2), (4) and (6), and Article 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.

Article 33

Report

The Agency shall evaluate the development of the certification of train drivers in accordance with this Directive. It shall submit to the Commission, not later than four years following the adoption of the basic parameters of the registers provided for in Article 22(4), a report containing, where appropriate, improvements to be made to the system as regards:

- (a) the procedures for issuing licences and certificates;
- (b) the accreditation of training centres and examiners;
- (c) the quality system put in place by the competent authorities;
- (d) the mutual recognition of certificates;
- (e) the adequacy of the training requirements specified in Annexes IV, V and VI in relation to the market structure and the categories mentioned in Article 4(2)(a);
- (f) the interconnection of registers and mobility in the employment market.

Furthermore, in this report the Agency may, if appropriate, recommend measures regarding the theoretical and practical examination of the professional knowledge of applicants for the harmonised certificate for rolling stock and relevant infrastructure.

The Commission shall take appropriate measures on the basis of these recommendations and shall propose, if necessary, changes to this Directive.

Article 34

Use of smartcards

By 4 December 2012, the Agency shall examine the possibility of using a smartcard combining the licence and certificates provided for in Article 4, and shall prepare a cost/benefit analysis thereof.

Measures designed to amend non-essential elements of this Directive and relating to the technical and operating specifications for such a smartcard shall be adopted on the basis of a draft prepared by the Agency and in accordance with the regulatory procedure with scrutiny referred to in Article 32(3).

If the implementation of the smartcard does not entail any modification to this Directive or the Annexes hereto, the specifications of the smartcard shall be adopted in accordance with the regulatory procedure referred to in Article 32(2).

Article 35

Cooperation

Member States shall assist one another in the implementation of this Directive. Competent authorities shall cooperate during this phase of implementation.

The Agency shall assist this cooperation and organise appropriate meetings with representatives of the competent authorities.

Article 36

Implementation

1 Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive before 4 December 2009. They shall forthwith inform the Commission thereof.

When Member States adopt those measures, they shall contain a reference to this Directive or shall be accompanied by such reference on the occasion of their official publication. The methods of making such reference shall be laid down by Member States.

2 Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive. The Commission shall inform the other Member States thereof.

3 The obligations for transposition and implementation of this Directive shall not apply to Cyprus and Malta as long as no railway system is established within their territory.

Article 37

Gradual phasing-in and transition periods

This Directive shall be phased in gradually as indicated below.

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1. The registers provided for in Article 22 shall be set up within two years of the adoption of the basic parameters of the registers provided for in Article 22(4).
2.
 - (a) Within two years of the adoption of the basic parameters of the registers provided for in Article 22(4), certificates or licences shall be issued in accordance with this Directive to drivers performing cross-border services, cabotage services or freight services in another Member State, or work in at least two Member States, without prejudice to the provisions of point 3.

 From that same date, all train drivers performing the services listed above, including those not yet licensed or certified in accordance with this Directive, shall comply with the periodic checks provided for in Article 16.
 - (b) Within two years of the setting-up of the registers provided for in point 1, all new licences and certificates shall be issued in accordance with this Directive, without prejudice to the provisions of point 3.
 - (c) Within seven years of the setting-up of the registers provided for in point 1, all drivers shall hold licences and certificates in conformity with this Directive. The issuing bodies shall take into account all professional competencies already acquired by each driver in such a way that this requirement does not generate unnecessary administrative and financial burdens. Entitlements to drive previously granted to drivers shall be safeguarded, as far as possible. The issuing bodies may nevertheless decide, for individual drivers or for groups of drivers, as appropriate, that additional examinations and/or training are necessary in order to obtain licences and/or certificates under this Directive.
3. Drivers authorised to drive in accordance with the provisions which applied prior to the application of point 2(a) or (b) may continue to pursue their professional activities on the basis of their entitlements, and without applying the provisions of this Directive, for up to seven years from the setting-up of the registers provided for in point 1.

 In the case of apprentices who started an approved education and training programme or an approved training course prior to the application of point 2(a) or (b), Member States may certify these apprentices in accordance with existing national provisions.

 For drivers and apprentices referred to in this point, the competent authority or authorities involved may, in exceptional cases, grant exemptions from the medical requirements laid down in Annex II. The validity of any licence issued with such exemption shall be limited to the territory of the Member States concerned.
4. Competent authorities, railway undertakings and infrastructure managers shall ensure the gradual application of periodic checks corresponding to those provided for by Article 16 to drivers who do not hold licences and certificates in conformity with this Directive.
5. Where a Member State so requests, the Commission shall ask the Agency, in consultation with that Member State, to carry out a cost/benefit analysis of the application of the provisions of this Directive to train drivers operating exclusively on the territory of that Member State. The cost/benefit analysis shall cover a period of 10 years. This cost/benefit analysis shall be submitted to the Commission within two years of the setting-up of the registers provided for in point 1.

If this cost/benefit analysis shows that the costs of applying the provisions of this Directive to such train drivers outweigh the benefits, the Commission shall, in

accordance with the regulatory procedure referred to in Article 32(2), adopt a decision within six months following the submission of the results of this cost/benefit analysis. The decision may be that the provisions of point 2(b) and (c) of this Article do not have to be applied to such train drivers for a period of up to 10 years on the territory of the Member State concerned.

No later than 24 months prior to the expiry of this temporary exemption period, the Commission, taking into account relevant developments in the railway sector in the Member State concerned, may, in accordance with the regulatory procedure referred to in Article 32(2), request the Agency to carry out another cost/benefit analysis, to be submitted to the Commission no later than 12 months prior to the expiry of this temporary exemption period. The Commission shall take a decision in accordance with the procedure described in the second subparagraph of this point.

Article 38

Entry into force

This Directive shall enter in force on the day following its publication in the *Official Journal of the European Union*.

Article 39

This Directive is addressed to the Member States.

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- (1) [OJ L 75, 15.3.2001, p. 29](#). Directive as last amended by Directive 2004/49/EC.
- (2) [OJ L 164, 30.4.2004, p. 1](#). Corrected version in [OJ L 220, 21.6.2004, p. 3](#).
- (3) [OJ L 199, 31.7.1985, p. 56](#).