

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 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.

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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).

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.