

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 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.

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;

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- (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.

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

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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.