

Directive (EU) 2016/797 of the European Parliament and of the Council of 11 May 2016 on the interoperability of the rail system within the European Union (recast) (Text with EEA relevance)

CHAPTER V

PLACING ON THE MARKET AND PLACING IN SERVICE

Article 18

Authorisation for the placing in service of fixed installations

1 The trackside control-command and signalling, energy and infrastructure subsystems shall be placed in service only if they are designed, constructed and installed in such a way as to meet the essential requirements, and the relevant authorisation is received in accordance with paragraphs 3 and 4.

2 Each national safety authority shall authorise the placing in service of the energy, infrastructure and trackside control-command and signalling subsystems which are located or operated in the territory of its Member State.

3 National safety authorities shall provide detailed guidance on how to obtain the authorisations referred to in this Article. An application guidance document describing and explaining the requirements for those authorisations and listing the documents required shall be made available to applicants free of charge. The Agency and the national safety authorities shall cooperate in disseminating such information.

4 The applicant shall submit a request for authorisation of the placing in service of fixed installations to the national safety authority. The application shall be accompanied by a file which includes documentary evidence of:

- a the declarations of verification referred to in Article 15;
- b the technical compatibility of the subsystems with the system into which they are being integrated, established on the basis of the relevant TSIs, national rules and registers;
- c the safe integration of the subsystems, established on the basis of the relevant TSIs, national rules, and the common safety methods ('CSMs') set out in Article 6 of Directive (EU) 2016/798;
- d in the case of trackside control-command and signalling subsystems involving European Train Control System (ETCS) and/or Global System for Mobile Communications — Railway (GSM-R) equipment, the positive decision of the Agency issued in accordance with Article 19 of this Directive; and, in the case of a change to the draft tender specifications or to the description of the envisaged technical solutions that occurred after the positive decision, the compliance with the result of the procedure referred to in Article 30(2) of Regulation (EU) 2016/796.

5 Within one month of receipt of the applicant's request, the national safety authority shall inform the applicant that the file is complete or ask for relevant supplementary information, setting a reasonable deadline for the provision thereof.

The national safety authority shall verify the completeness, relevance and consistency of the file, and, in the case of trackside ERTMS equipment, compliance with the positive decision of the Agency issued in accordance with Article 19 of this Directive and, where

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.

appropriate, compliance with the result of the procedure referred to in Article 30(2) of Regulation (EU) 2016/796. Following such verification, the national safety authority shall issue the authorisation for placing in service of fixed installations, or inform the applicant of its negative decision, within a pre-determined, reasonable time, and, in any case, within four months of receipt of all relevant information.

6 In the event of renewal or upgrading of existing subsystems, the applicant shall send a file describing the project to the national safety authority. Within one month of receipt of the applicant's request, the national safety authority shall inform the applicant that the file is complete or ask for relevant supplementary information, setting a reasonable deadline for the provision thereof. The national safety authority, in close cooperation with the Agency in the case of trackside ERTMS projects, shall examine the file and shall decide whether a new authorisation for placing in service is needed, on the basis of the following criteria:

- a the overall safety level of the subsystem concerned may be adversely affected by the works envisaged;
- b it is required by the relevant TSIs;
- c it is required by the national implementation plans established by the Member States; or
- d changes are made to the values of the parameters on the basis of which the authorisation was already granted.

The national safety authority shall take its decision within a predetermined, reasonable time, and, in any case, within four months of receipt of all relevant information.

7 A decision refusing a request for an authorisation for the placing in service of fixed installations shall be duly substantiated by the national safety authority. The applicant may, within one month of receipt of the negative decision, submit a request that the national safety authority review its decision. The request shall be accompanied by a justification. The national safety authority shall have two months from the date of receipt of the request for review in which to confirm or reverse its decision. If the negative decision of a national safety authority is confirmed, the applicant may bring an appeal before the appeal body designated by the relevant Member State under Article 18(3) of Directive (EU) 2016/798.

Article 19

Harmonised implementation of ERTMS in the Union

1 In the case of trackside control-command and signalling subsystems involving ETCS and/or GSM-R equipment, the Agency shall ensure the harmonised implementation of ERTMS in the Union.

2 In order to ensure the harmonised implementation of ERTMS and interoperability at Union level, before any call for tenders relating to ERTMS track-side equipment, the Agency shall check that the technical solutions envisaged are fully compliant with the relevant TSIs and are therefore fully interoperable.

3 The applicant shall submit a request for the Agency's approval. The application relating to individual ERTMS projects or for a combination of projects, a line, a group of lines or a network, shall be accompanied by a file which includes:

- a the draft tender specifications or the description of the envisaged technical solutions;
- b documentary evidence of the conditions necessary for technical and operational compatibility of the subsystem with the vehicles intended to operate on the relevant network;

- c documentary evidence of the compliance of technical solutions envisaged with the relevant TSIs;
- d any other relevant documents, such as national safety authority opinions, declarations of verification or conformity certificates.

That application and information about all applications, the stages of the relevant procedures and their outcome, and, where applicable, the requests and decisions of the Board of Appeal, shall be submitted through the one-stop shop referred to in Article 12 of Regulation (EU) 2016/796.

The national safety authorities may issue an opinion on the request for approval either to the applicant before the submission of the request or to the Agency after such a submission.

4 Within one month of receipt of the applicant's request, the Agency shall inform the applicant that the file is complete or ask for relevant supplementary information, setting a reasonable deadline for the provision thereof.

The Agency shall issue a positive decision, or inform the applicant of possible deficiencies, within a predetermined, reasonable time period, and in any case, within two months of receipt of all relevant information. The Agency shall base its opinion on the file of the applicant and on possible opinions from the national safety authorities.

If the applicant agrees with the deficiencies identified by the Agency, the applicant shall rectify the project design and introduce a new request for approval to the Agency.

If the applicant does not agree with the deficiencies identified by the Agency, the procedure referred to in paragraph 5 shall apply.

In the case referred to in point (a) of Article 7(1), the applicant shall not request a new assessment.

5 If the decision of the Agency is not positive, it shall be duly substantiated by the Agency. The applicant may, within one month of receipt of such a decision, submit a reasoned request that the Agency review its decision. The Agency shall confirm or reverse its decision within two months of the date of receipt of the request. If the Agency confirms its initial decision, the applicant is entitled to bring an appeal before the Board of Appeal established under Article 55 of Regulation (EU) 2016/796.

6 In the case of a change to the draft tender specifications or to the description of the envisaged technical solutions that occurred after the positive decision, the applicant shall inform, without undue delay, the Agency and the national safety authority through the one-stop shop referred to in Article 12 of Regulation (EU) 2016/796. In that case, Article 30(2) of that Regulation shall apply.

Article 20

Placing on the market of mobile subsystems

1 Mobile subsystems shall be placed on the market by the applicant only if they are designed, constructed and installed in such a way as to meet the essential requirements.

2 In particular, the applicant shall ensure that the relevant declaration of verification has been provided.

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.

Article 21

Vehicle authorisation for placing on the market

1 The applicant shall place a vehicle on the market only after having received the vehicle authorisation for placing on the market issued by the Agency in accordance with paragraphs 5 to 7 or by the national safety authority in accordance with paragraph 8.

2 In its application for a vehicle authorisation for placing on the market, the applicant shall specify the area of use of the vehicle. The application shall include evidence that the technical compatibility between the vehicle and the network of the area of use has been checked.

3 The application for a vehicle authorisation for placing on the market shall be accompanied by a file concerning the vehicle or vehicle type and including documentary evidence of:

- a the placing on the market of the mobile subsystems of which the vehicle is composed in accordance with Article 20, on the basis of the 'EC' declaration of verification;
- b the technical compatibility of the subsystems referred to in point (a) within the vehicle, established on the basis of the relevant TSIs, and where applicable, national rules;
- c the safe integration of the subsystems referred to in point (a) within the vehicle, established on the basis of the relevant TSIs, and where applicable, national rules, and the CSMs referred to in Article 6 of Directive (EU) 2016/798;
- d the technical compatibility of the vehicle with the network in the area of use referred to in paragraph 2, established on the basis of the relevant TSIs and, where applicable, national rules, registers of infrastructure and the CSM on risk assessment referred to in Article 6 of Directive (EU) 2016/798.

That application and information about all applications, the stages of the relevant procedures and their outcome, and, where applicable, the requests and decisions of the Board of Appeal, shall be submitted through the one-stop shop referred to in Article 12 of Regulation (EU) 2016/796.

Whenever tests are necessary in order to obtain documentary evidence of the technical compatibility referred to in points (b) and (d) of the first subparagraph, the national safety authorities involved may issue temporary authorisations to the applicant to use the vehicle for practical verifications on the network. The infrastructure manager, in consultation with the applicant, shall make every effort to ensure that any tests take place within three months of receipt of the applicant's request. Where appropriate, the national safety authority shall take measures to ensure that the tests take place.

4 The Agency or, in the case of paragraph 8, the national safety authority shall issue vehicle authorisations for placing on the market or inform the applicant of its negative decision within a predetermined, reasonable time, and in any case within four months of receipt of all relevant information from the applicant. The Agency, or, in the cases provided for in paragraph 8, the national safety authority, shall apply the practical arrangements on the authorisation procedure to be established in an implementing act, as referred to in paragraph 9. Those authorisations shall allow vehicles to be placed on the Union market.

5 The Agency shall issue vehicle authorisations for placing on the market in respect of vehicles having an area of use in one or more Member States. In order to issue such authorisations, the Agency shall:

- a assess the elements of the file specified in points (b), (c) and (d) of the first subparagraph of paragraph 3 in order to verify the completeness, relevance and consistency of the file in relation to the relevant TSIs; and
- b refer the applicant's file to the national safety authorities concerned by the intended area of use for assessment of the file in order to verify its completeness, relevance and consistency in relation to point (d) of the first subparagraph of paragraph 3 and to the elements specified in points (a), (b) and (c) of the first subparagraph of paragraph 3 in relation to the relevant national rules.

As part of the assessments pursuant to points (a) and (b) and in the case of justified doubts, the Agency or the national safety authorities may request that tests be conducted on the network. In order to facilitate those tests, the national safety authorities involved may issue temporary authorisations to the applicant to use the vehicle for tests on the network. The infrastructure manager shall make every effort to ensure that any such test takes place within three months of the request of the Agency or the national safety authority.

6 Within one month of receipt of the applicant's request, the Agency shall inform the applicant that the file is complete or ask for relevant supplementary information, setting a reasonable deadline for the provision thereof. With regard to the completeness, relevance and consistency of the file, the Agency may also assess the elements specified in point (d) of paragraph 3.

The Agency shall take full account of the assessments under paragraph 5 before taking its decision on the issuance of the vehicle authorisation for placing on the market. The Agency shall issue the authorisation for placing on the market, or inform the applicant of its negative decision, within a predetermined, reasonable time, and in any case within four months of receipt of all relevant information.

In the event of non-application of one or more TSIs or parts of them as referred to in Article 7, the Agency shall issue the vehicle authorisation only after application of the procedure laid down in that Article.

The Agency shall take full responsibility for the authorisations it issues.

7 When the Agency disagrees with a negative assessment carried out by one or more national safety authorities pursuant to point (b) of paragraph 5, it shall inform the authority or authorities in question, giving reasons for its disagreement. The Agency and the national safety authority or authorities shall cooperate with a view to reaching a mutually acceptable assessment. Where necessary, as decided by the Agency and the national safety authority or authorities, this process shall also involve the applicant. If no mutually acceptable assessment can be agreed on within one month after the Agency has informed the national safety authority or authorities of its disagreement, the Agency shall take its final decision unless the national safety authority or authorities have referred the matter for arbitration to the Board of Appeal established under Article 55 of Regulation (EU) 2016/796. The Board of Appeal shall decide whether to confirm the Agency's draft decision within one month of the request of the national safety authority or authorities.

Where the Board of Appeal agrees with the Agency, the Agency shall take a decision without delay.

Where the Board of Appeal agrees with the negative assessment of the national safety authority, the Agency shall issue an authorisation with an area of use excluding the parts of the network which received a negative assessment.

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.

Where the Agency disagrees with a positive assessment of one or more national safety authorities pursuant to point (b) of paragraph 5, it shall inform the authority or authorities in question, giving reasons for its disagreement. The Agency and the national safety authority or authorities shall cooperate with a view to agreeing on a mutually acceptable assessment. Where necessary, as decided by the Agency and the national safety authority or authorities, this process shall also involve the applicant. If no mutually acceptable assessment can be agreed on within one month after the Agency has informed the national safety authority and authorities of its disagreement, the Agency shall take its final decision.

8 Where the area of use is limited to a network or networks within one Member State only, the national safety authority of that Member State may, under its own responsibility and when the applicant so requests, issue the vehicle authorisation for placing on the market. In order to issue such authorisations, the national safety authority shall assess the file in relation to the elements specified in paragraph 3 and in accordance with the procedures to be established in the implementing act adopted pursuant to paragraph 9. Within one month of receipt of the request of the applicant, the national safety authority shall inform the applicant that the file is complete or ask for relevant supplementary information. The authorisation shall also be valid without extension of the area of use for vehicles travelling to stations in neighbouring Member States with similar network characteristics, when those stations are close to the border, following consultation of the competent national safety authorities. This consultation may be carried out on a case-by-case basis or set out in a cross-border agreement between national safety authorities.

If the area of use is limited to the territory of one Member State and in the event of non-application of one or more TSIs or parts of them as referred to in Article 7, the national safety authority shall issue the vehicle authorisation only after application of the procedure laid down in that Article.

The national safety authority shall take full responsibility for the authorisations it issues.

9 By 16 June 2018, the Commission shall adopt by means of implementing acts practical arrangements specifying:

- a how the requirements for the vehicle authorisation for placing on the market and for vehicle type authorisation laid down in this Article shall be fulfilled by the applicant and listing the documents required;
- b the details of the authorisation process, such as procedural stages and timeframes for each stage of the process;
- c how the requirements laid down in this Article shall be complied with by the Agency and the national safety authority through the different stages of the application and authorisation process including in the assessment of applicants' files.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 51(3). They shall take into account the experience gained during the preparation of the cooperation agreements referred to in paragraph 14 of this Article.

10 Vehicle authorisations for placing on the market shall state:

- a the area(s) of use;
- b the values of the parameters set out in the TSIs and, where applicable, in the national rules, for checking the technical compatibility between the vehicle and the area of use;
- c the vehicle's compliance with the relevant TSIs and sets of national rules, relating to the parameters referred to in point (b);
- d the conditions for use of the vehicle and other restrictions.

11 Any decision refusing the vehicle authorisation for placing on the market or excluding part of the network in accordance with a negative assessment as referred to in paragraph 7 shall be duly substantiated. The applicant may, within a period of one month from receipt of the negative decision, request that the Agency or the national safety authority, as appropriate, review the decision. The Agency or the national safety authority shall have two months from the date of receipt of the request for review in which to confirm or reverse its decision.

If the negative decision of the Agency is confirmed, the applicant may bring an appeal before the Board of Appeal designated under Article 55 of Regulation (EU) 2016/796.

If the negative decision of a national safety authority is confirmed, the applicant may bring an appeal before an appeal body in accordance with the national law. Member States may designate the regulatory body referred to in Article 55 of Directive 2012/34/EU for the purpose of this appeal procedure. In that case, Article 18(3) of Directive (EU) 2016/798 shall apply.

12 In the event of renewal or upgrading of existing vehicles which already have a vehicle authorisation for placing on the market, a new vehicle authorisation for placing on the market shall be required if:

- a changes are made to the values of the parameters referred to in point (b) of paragraph 10 which are outside the range of acceptable parameters as defined in the TSIs;
- b the overall safety level of the vehicle concerned may be adversely affected by the works envisaged; or
- c it is required by the relevant TSIs.

13 Where the applicant wishes to extend the area of use of a vehicle which has already been authorised, it shall supplement the file with the relevant documents referred to in paragraph 3 concerning the additional area of use. The applicant shall submit the file to the Agency, which shall, after following the procedures laid down in paragraphs 4 to 7, issue an updated authorisation covering the extended area of use.

If the applicant has received a vehicle authorisation in accordance with paragraph 8 and wishes to extend the area of use within that Member State, it shall supplement the file with the relevant documents referred to in paragraph 3 concerning the additional area of use. It shall submit the file to the national safety authority which shall, after following the procedures laid down in paragraph 8, issue an updated authorisation covering the extended area of use.

14 For the purposes of paragraphs 5 and 6 of this Article, the Agency shall conclude cooperation agreements with national safety authorities in accordance with Article 76 of Regulation (EU) 2016/796. Those agreements may be specific or framework agreements, and may involve one or more national safety authorities. They shall contain a detailed description of tasks and conditions for deliverables, the time limits applying to their delivery, and an apportionment of the fees payable by the applicant. They may also include specific cooperation arrangements in the case of networks requiring specific expertise for geographical or historical reasons, with a view to reducing administrative burdens and costs to the applicant. Where such networks are isolated from the rest of the Union rail system, such specific cooperation arrangements may include the possibility of contracting tasks to the relevant national safety authorities when this is necessary in order to ensure the efficient and proportionate allocation of resources for authorisation. Those agreements shall be in place before the Agency shall undertake the authorisation tasks in accordance with Article 54(4) of this Directive.

15 In the case of those Member States whose rail networks have a track gauge that is different from that of the main rail network within the Union and share identical technical and operational requirements with neighbouring third countries, in addition to the cooperation

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.

agreements referred to in paragraph 14, all national safety authorities concerned in those Member States shall conclude with the Agency a multilateral agreement with a view to defining the conditions under which a vehicle authorisation issued in one of those Member States is also valid for the other Member States concerned.

16 This Article shall not apply to freight wagons or passenger coaches which are in shared use with third countries, the track gauge of which is different from that of the main rail network within the Union and authorised in accordance with a different vehicle authorisation procedure. The rules governing the procedure for authorisation of such vehicles shall be published and notified to the Commission. The conformity of those vehicles with the essential requirements of this Directive shall be ensured by the railway undertaking concerned in the context of its safety management system. The Commission, on the basis of the report by the Agency may give an opinion on whether such rules are compliant with the objectives of this Directive. If such rules are not compliant, the Member States concerned and the Commission may cooperate in order to lay down appropriate actions to be taken, involving relevant international bodies, if necessary.

17 A Member State may decide not to apply this Article to locomotives or self-propelling trains arriving from third countries and intended to run until a station that is situated close to the border in its territory and designated for cross-border operations. The conformity of such vehicles with the essential requirements of this Directive shall be ensured by the railway undertaking concerned in the context of its safety management system and, where relevant, in accordance with Article 10(9) of Directive (EU) 2016/798.

Article 22

Registration of vehicles authorised to be placed on the market

1 Before a vehicle is used for the first time, and after the authorisation to be placed on the market in accordance with Article 21 is granted, it shall be registered in a vehicle register as referred to in Article 47 at the request of the keeper.

2 When the area of use of the vehicle is restricted to the territory of one Member State, it shall be registered in that Member State.

3 When the area of use of the vehicle covers the territory of more than one Member State, it shall be registered in one of the Member States concerned.

Article 23

Checks before the use of authorised vehicles

1 Before a railway undertaking uses a vehicle in the area of use specified in its authorisation for placing on the market, it shall check:

- a that the vehicle has been authorised for placing on the market in accordance with Article 21 and is duly registered;
- b that the vehicle is compatible with the route on the basis of the infrastructure register, the relevant TSIs or any relevant information to be provided by the infrastructure manager free of charge and within a reasonable period of time, where such a register does not exist or is incomplete; and
- c that the vehicle is properly integrated in the composition of the train where it is intended to operate, taking into account the safety management system set out in Article 9 of Directive (EU) 2016/798 and the TSI on operation and traffic management.

2 For the purposes of paragraph 1, the railway undertaking may carry out tests in cooperation with the infrastructure manager.

The infrastructure manager, in consultation with the applicant, shall make every effort to ensure that any tests take place within three months of receipt of the applicant's request.

Article 24

Type authorisation of vehicles

1 The Agency or a national safety authority may, where appropriate, in accordance with the procedure laid down in Article 21, grant vehicle type authorisations. The application for a vehicle type authorisation and information about all applications, the stages of the relevant procedures and their outcome, and, where applicable, the requests and decisions of the Board of Appeal, shall be submitted through the one-stop shop referred to in Article 12 of Regulation (EU) 2016/796.

2 If the Agency or a national safety authority issues a vehicle authorisation for placing on the market, it shall at the same time as the applicant's request issue the vehicle type authorisation, which is related to the same area of use of the vehicle.

3 In the event of changes to any relevant provisions in TSIs or national rules, on the basis of which an authorisation of a vehicle type has been issued, the TSI or national rule shall determine whether the vehicle type authorisation already granted remains valid or needs to be renewed. If that authorisation needs to be renewed, the checks performed by the Agency or by a national safety authority may only concern the changed rules.

4 The Commission shall establish, by means of implementing acts, the model of declaration of conformity to type. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 51(3).

5 The declaration of conformity to type shall be established in accordance with:

- a the verification procedures of the relevant TSIs; or
- b where TSIs do not apply, the conformity assessment procedures as defined in modules B+D, B+F and H1 of Decision No 768/2008/EC of the European Parliament and of the Council⁽¹⁾.

6 Where appropriate, the Commission may adopt implementing acts establishing ad hoc modules for conformity assessment. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 51(3).

7 The authorisation of vehicle types shall be registered in the European register of authorised vehicle types referred to in Article 48.

Article 25

Conformity of vehicles with an authorised vehicle type

1 A vehicle or a series of vehicles which is in conformity with an authorised vehicle type shall, without further checks, receive a vehicle authorisation in accordance with Article 21 on the basis of a declaration of conformity to that vehicle type submitted by the applicant.

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.

2 The renewal of the authorisation of a vehicle type as referred to in Article 24(3) shall not affect vehicle authorisations for placing on the market already issued on the basis of the previous authorisation to place that vehicle type on the market.

Article 26

Non-compliance of vehicles or vehicle types with essential requirements

1 When a railway undertaking finds, during operation, that a vehicle it is using does not meet one of the applicable essential requirements, it shall take the necessary corrective measures in order to bring the vehicle into conformity. Furthermore, it may inform the Agency and any national safety authorities concerned of the measures taken. If the railway undertaking has evidence that the non-compliance existed already at the time when the authorisation for placing on the market was issued, it shall inform the Agency and any other national safety authorities concerned.

2 When a national safety authority becomes aware, for instance within the process of supervision provided for in Article 17 of Directive (EU) 2016/798, that a vehicle or a vehicle type to which an authorisation for placing on the market was granted either by the Agency, in accordance with Article 21(5) or Article 24, or by the national safety authority, in accordance with Article 21(8) or Article 24, when used as intended, does not meet one of the applicable essential requirements, it shall inform the railway undertaking using the vehicle or the vehicle type and ask it to take the necessary corrective measures in order to bring the vehicle(s) into conformity. The national safety authority shall inform the Agency and any other national safety authorities concerned, including those in a territory where application for authorisation for placing on the market for a vehicle of the same type is ongoing.

3 When, in the cases set out in paragraphs 1 or 2 of this Article, the corrective measures applied by the railway undertaking do not ensure conformity with the applicable essential requirements and that non-conformity leads to a serious safety risk, the national safety authority concerned may apply temporary safety measures under its supervision tasks, in accordance with Article 17(6) of Directive (EU) 2016/798. Temporary safety measures in the form of a suspension of type authorisation of a vehicle may be applied in parallel by the national safety authority or by the Agency and shall be subject to judicial review and the arbitration procedure laid down in Article 21(7).

4 In the cases referred to in paragraph 3, the Agency or the national safety authority which issued the authorisation, following a review of the effectiveness of any measures taken to address the serious safety risk, may decide to revoke or amend the authorisation when it is proven that an essential requirement was not met at the time of authorisation. To that end, they shall notify their decision to the holder of the authorisation for placing on the market or of the vehicle type authorisation, giving the reasons for their decisions. The holder may, within a period of one month from receipt of the decision of the Agency or the national safety authority, request them to review the decision. In that case, the decision to revoke shall be temporarily suspended. The Agency or the national safety authority shall have one month from the date of receipt of the request for review in which to confirm or reverse their decision.

Where relevant, in the event of disagreement between the Agency and the national safety authority concerning the need to restrict or revoke the authorisation, the arbitration procedure provided for in Article 21(7) shall be followed. If the result of that procedure is that the vehicle authorisation is neither to be restricted nor revoked, the temporary safety measures referred to in paragraph 3 of this Article shall be suspended.

5 If the decision of the Agency is confirmed, the holder of the vehicle authorisation may bring an appeal before the Board of Appeal designated under Article 55 of Regulation (EU) 2016/796 within the time limit referred to in Article 59 of that Regulation. If the decision of a national safety authority is confirmed, the holder of the vehicle authorisation may bring an appeal, within two months of the notification of that decision, under the national judicial review referred to in Article 18(3) of Directive (EU) 2016/798. Member States may designate the regulatory body set out in Article 56 of Directive 2012/34/EU for the purpose of this appeal procedure.

6 When the Agency decides to revoke or amend an authorisation for placing on the market which it has granted, it shall directly inform all national safety authorities, giving the reasons for its decision.

When a national safety authority decides to revoke an authorisation for placing on the market which it has granted, it shall forthwith inform the Agency thereof and give the reasons for its decision. The Agency shall then inform the other national safety authorities.

7 The decision of the Agency or the national safety authority to revoke the authorisation shall be reflected in the appropriate vehicle register, in accordance with Article 22 or, in the case of an authorisation of a vehicle type, in the European register of authorised vehicle types in accordance with Article 24(7). The Agency and the national safety authorities shall ensure that railway undertakings using vehicles of the same type as the vehicle or type subject to the revocation are properly informed. Such railway undertakings shall first check whether the same problem of non-compliance applies. In that event, the procedure provided for in this Article shall apply.

8 When an authorisation for placing on the market is revoked, the vehicle concerned shall no longer be used and its area of use shall not be extended. When a vehicle type authorisation is revoked, vehicles built on the basis of it shall not be placed on the market or, if they had already been placed on the market, they shall be withdrawn. A new authorisation may be requested on the basis of the procedure provided for in Article 21 in the case of individual vehicles or Article 24 in the case of a vehicle type.

9 When, in the cases provided for in paragraphs 1 or 2, the non-compliance with the essential requirements is limited to part of the area of use of the vehicle concerned and such non-compliance already existed at the time when the authorisation for placing on the market was issued, the latter shall be amended to exclude the parts of the area of use concerned.

***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.*

- (1) Decision No 768/2008/EC of the European Parliament and of the Council of 9 July 2008 on a common framework for the marketing of products, and repealing Council Decision 93/465/EEC (OJ L 218, 13.8.2008, p. 82).