

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

CHAPTER VI

**TRANSITIONAL AND FINAL PROVISIONS**

*Article 27*

**Exercise of delegation**

1 The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.

2 The power to adopt delegated acts referred to in Article 6(6) and Article 7(6) shall be conferred on the Commission for a period of 5 years from 15 June 2016. The Commission shall draw up a report in respect of the delegation of power not later than 9 months before the end of the 5-year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than 3 months before the end of each period.

3 It is of particular importance that the Commission follow its usual practice and carry out consultations with experts, including Member States' experts, before adopting those delegated acts.

4 The delegation of power referred to in Article 6(6) and Article 7(6) may be revoked at any time by the European Parliament or by the Council. A decision of revocation shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in *the Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

5 As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.

6 A delegated act adopted pursuant to Article 6(6) and Article 7(6) shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of 2 months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by 2 months at the initiative of the European Parliament or of the Council.

[<sup>F17</sup> The power to adopt delegated acts referred to in Article 6a shall be conferred on the Commission from 28 May 2020 to 31 October 2020.]

**Textual Amendments**

**F1** Inserted by [Directive \(EU\) 2020/700 of the European Parliament and of the Council of 25 May 2020 amending Directives \(EU\) 2016/797 and \(EU\) 2016/798, as regards the extension of their transposition periods \(Text with EEA relevance\).](#)

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### *F1* Article 27a

#### **Urgency procedure**

1 Delegated acts adopted under this Article shall enter into force without delay and shall apply as long as no objection is expressed in accordance with paragraph 2. The notification of a delegated act to the European Parliament and to the Council shall state the reasons for the use of the urgency procedure.

2 Either the European Parliament or the Council may object to a delegated act in accordance with the procedure referred to in Article 27(6). In such a case, the Commission shall repeal the act immediately following the notification of the decision to object by the European Parliament or by the Council.]

#### **Textual Amendments**

- F1** Inserted by [Directive \(EU\) 2020/700 of the European Parliament and of the Council of 25 May 2020 amending Directives \(EU\) 2016/797 and \(EU\) 2016/798, as regards the extension of their transposition periods \(Text with EEA relevance\).](#)

### Article 28

#### **Committee procedure**

1 The Commission shall be assisted by the committee referred to in Article 51 of Directive (EU) 2016/797. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.

2 Where reference is made to this paragraph, Article 4 of Regulation (EU) No 182/2011 shall apply.

3 Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply. Where the committee delivers no opinion, the Commission shall not adopt the draft implementing act and the third subparagraph of Article 5(4) of Regulation (EU) No 182/2011 shall apply.

### Article 29

#### **Report and further Union action**

1 The Commission shall submit to the European Parliament and to the Council by 16 June 2021, and every 5 years thereafter, a report on the implementation of this Directive, in particular to monitor the effectiveness of the measures for the issuing of single safety certificates.

The report shall be accompanied where necessary by proposals for further Union action.

2 The Agency shall evaluate the development of a safety culture including occurrence reporting. It shall submit to the Commission, by 16 June 2024, a report containing, where appropriate, improvements to be made to the system. The Commission shall take appropriate measures on the basis of these recommendations and shall propose, if necessary, amendments to this Directive.

3 By 16 December 2017, the Commission shall report to the European Parliament and to the Council on the actions taken with a view to achieving the following objectives:

- a the obligation for manufacturers to mark with an identification code the safety-critical components circulating on the European rail networks, ensuring that the identification code clearly identifies the component, the name of the manufacturer and the significant production data;
- b the full traceability of the safety-critical components, the traceability of their maintenance activities and the identification of their operational life; and
- c the identification of common mandatory principles for the maintenance of those components.

#### *Article 30*

#### **Penalties**

The Member States shall lay down the 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 must be effective, proportionate, non-discriminatory and dissuasive. The Member States shall notify those rules to the Commission by the date specified in Article 33(1) and shall notify it without delay of any subsequent amendment affecting them.

#### *Article 31*

#### **Transitional provisions**

1 Annex V to Directive 2004/49/EC shall apply until the date of application of the implementing acts referred to in Article 24(2) of this Directive.

2 Without prejudice to paragraph 3 of this Article, railway undertakings which need to be certified between 15 June 2016 and 16 June 2019, shall be subject to Directive 2004/49/EC. Such safety certificates shall be valid until their date of expiry.

[<sup>F23</sup> At the latest from 16 June 2019 the Agency shall carry out the certification tasks pursuant to Article 10 in respect of areas of operation in the Member States that have not notified the Agency or the Commission in accordance with Article 33(2). By way of derogation from Article 10, national safety authorities of the Member States which have notified the Agency and the Commission pursuant to Article 33(2) may continue to issue certificates in accordance with Directive 2004/49/EC until 16 June 2020. By way of derogation from Article 10, national safety authorities of the Member States which have notified the Agency and the Commission pursuant to Article 33(2a) may continue to issue certificates in accordance with Directive 2004/49/EC until 31 October 2020.]

#### **Textual Amendments**

- F2** Substituted by Directive (EU) 2020/700 of the European Parliament and of the Council of 25 May 2020 amending Directives (EU) 2016/797 and (EU) 2016/798, as regards the extension of their transposition periods (Text with EEA relevance).

## Article 32

### Recommendations and opinions of the Agency

The Agency shall provide recommendations and opinions in accordance with Article 13 of Regulation (EU) 2016/796 for the purpose of the application of this Directive. Those recommendations and opinions may be taken into account when the Union adopts legal acts pursuant to this Directive.

## Article 33

### Transposition

[<sup>X1</sup> Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with Articles 2, 3, 4, Articles 8 to 11, Article 12(5), Article 15(3), Articles 16 to 19, Article 21(2), Article 22(3) and (7), Article 23(3), Article 24(2), Article 26(3) and Annexes II and III by 16 June 2019. They shall immediately communicate the text of those measures to the Commission.]

2 Member States may extend the transposition period referred to in paragraph 1 by 1 year. For that purpose, by 16 December 2018, Member States which do not bring into force the laws, regulations and administrative provisions within the transposition period referred to in paragraph 1 shall notify the Agency and the Commission thereof and present the reasons for such an extension.

[<sup>F12a</sup> Member States that have extended the transposition period in accordance with paragraph 2 may further extend it until 31 October 2020. Their transposition measures shall apply from that date. Those Member States shall notify the Agency and the Commission thereof by 29 May 2020.]

3 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. They shall also include a statement that references in existing laws, regulations and administrative provisions to the Directive repealed by this Directive shall be construed as references to this Directive. Member States shall determine how such reference is to be made and how that statement is to be formulated.

4 The obligation to transpose and implement this Directive shall not apply to Cyprus and Malta for as long as no rail system is established within their territories.

However, as soon as a public or private entity submits an official application to build a railway line with a view to its operation by one or more railway undertakings, the Member States concerned shall put in place measures to implement this Directive within 2 years of the receipt of the application.

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#### Editorial Information

- X1 Substituted by [Corrigendum to Directive \(EU\) 2016/798 of the European Parliament and of the Council of 11 May 2016 on railway safety \(Official Journal of the European Union L 138 of 26 May 2016\)](#).

#### Textual Amendments

- F1** Inserted by [Directive \(EU\) 2020/700 of the European Parliament and of the Council of 25 May 2020 amending Directives \(EU\) 2016/797 and \(EU\) 2016/798, as regards the extension of their transposition periods \(Text with EEA relevance\).](#)

#### Article 34

##### Repeal

Directive 2004/49/EC, as amended by the Directives listed in Annex IV, Part A, is repealed with effect from [<sup>F2</sup>31 October 2020], without prejudice to the obligations of the Member States concerning the time limits for transposition into national law and application of the Directives set out in Annex IV, Part B.

References to the repealed Directive shall be construed as references to this Directive and shall be read in accordance with the correlation table in Annex V.

#### Textual Amendments

- F2** Substituted by [Directive \(EU\) 2020/700 of the European Parliament and of the Council of 25 May 2020 amending Directives \(EU\) 2016/797 and \(EU\) 2016/798, as regards the extension of their transposition periods \(Text with EEA relevance\).](#)

#### Article 35

##### Entry into force

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

#### Article 36

##### Addressees

This Directive is addressed to the Member States.