

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 II

DEVELOPMENT AND MANAGEMENT OF RAILWAY SAFETY

Article 8

National rules in the field of safety

1 National rules notified by 15 June 2016 pursuant to Directive 2004/49/EC shall apply if they:

- a fall into one of the types identified under Annex II; and
- b comply with Union law, including in particular TSIs, CSTs and CSMs; and
- c would not result in arbitrary discrimination or a disguised restriction on rail transport operation between Member States.

2 By 16 June 2018, Member States shall review the national rules referred to in paragraph 1 and repeal:

- a any national rule which was not notified or which does not meet the criteria specified in paragraph 1;
- b any national rule which has been made redundant by Union law, including in particular TSIs, CSTs and CSMs.

To that end, Member States may use the rule management tool referred to in Article 27(4) of Regulation (EU) 2016/796 and may request Agency to examine specific rules against the criteria specified in this paragraph.

3 Member States may lay down new national rules pursuant to this Directive only in the following cases:

- a where rules concerning existing safety methods are not covered by a CSM;
- b where operating rules of the railway network are not yet covered by TSIs;
- c as an urgent preventive measure, in particular following an accident or an incident;
- d where an already notified rule needs to be revised;
- e where rules concerning requirements in respect of staff executing safety-critical tasks, including selection criteria, physical and psychological fitness and vocational training are not yet covered by a TSI or by Directive 2007/59/EC of the European Parliament and of the Council⁽¹⁾.

4 Member States shall submit the draft of a new national rule to the Agency and the Commission for consideration in due time and within the deadlines referred to in Article 25(1) of Regulation (EU) 2016/796, before the expected introduction into the national legal system of the proposed new rule, providing justification for its introduction, through the appropriate IT system in accordance with Article 27 of Regulation (EU) 2016/796. Member States shall ensure that the draft is sufficiently developed to allow the Agency to carry out its examination in accordance with Article 25(2) of Regulation (EU) 2016/796.

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5 In the case of urgent preventive measures, Member States may adopt and apply a new rule immediately. That rule shall be notified in accordance with Article 27(2) of Regulation (EU) 2016/796 and subject to the assessment of the Agency in accordance with Article 26(1), (2) and (5) of Regulation (EU) 2016/796.

6 If the Agency becomes aware of any national rule, whether notified or not, which has become redundant or is in conflict with the CSMs or any other Union law adopted after the application of the national rule concerned, the procedure provided for in Article 26 of Regulation (EU) 2016/796 shall apply.

7 Member States shall notify to the Agency and to the Commission the national rules adopted. They shall use the appropriate IT system in accordance with Article 27 of Regulation (EU) 2016/796. Member States shall ensure that existing national rules are easily accessible, in the public domain and formulated in terminology that all interested parties can understand. Member States may be requested to provide additional information on their national rules.

8 Member States may decide not to notify rules and restrictions of a strictly local nature. In such cases, Member States shall mention those rules and restrictions in the registers of infrastructure referred to in Article 49 of Directive (EU) 2016/797 or indicate in the network statement referred to in Article 27 of Directive 2012/34/EU where those rules and restrictions are published.

9 National rules notified in accordance with this Article shall not be subject to the notification procedure provided for by Directive (EU) 2015/1535 of the European Parliament and the Council⁽²⁾.

10 Draft national rules and existing national rules shall be examined by the Agency in accordance with the procedures laid down in Articles 25 and 26 of Regulation (EU) 2016/796.

11 Without prejudice to paragraph 8, national rules not notified in accordance with this Article shall not apply for the purposes of this Directive.

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- (1) 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 ([OJ L 315, 3.12.2007, p. 51](#)).
- (2) Directive (EU) 2015/1535 of the European Parliament and the Council of 9 September 2015, laying down a procedure for the provision of information in the field of technical regulations and of rules on Information Society services ([OJ L 241, 17.9.2015, p. 1](#)).