



**COUNCIL OF  
THE EUROPEAN UNION**

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**17074/12**

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**TRANS 436  
CODEC 2879**

**NOTE**

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From: General Secretariat  
To: Delegations

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No. prev. doc.: 16238/12 TRANS 396 CODEC 2672  
No. Cion prop.: 12786/12 TRANS 249 CODEC 1954

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Subject: Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF  
THE COUNCIL on periodic roadworthiness tests for motor vehicles and their  
trailers and repealing Directive 2009/40/EC

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CZ/DK/UK have parliamentary scrutiny reservations.

At this stage, all delegations have a general scrutiny reservation.

Changes compared to the previous Presidency compromise proposals (doc. 16238/12) are marked with **bold/underline** and ~~strikethrough~~.

**CHAPTER I**  
**SUBJECT MATTER, DEFINITIONS AND SCOPE**

*Article 1*

**Subject matter**

This Directive<sup>1</sup> establishes minimum requirements for a regime of periodic roadworthiness tests of vehicles used on public roads.

*Article 2<sup>2</sup>*

**Scope<sup>3</sup>**

1. This Directive shall apply to vehicles with a design speed exceeding 25 km/h of the following categories, as referred to in Directive 2002/24/EC, Directive 2007/46/EC and Directive 2003/37/EC:
  - motor vehicles having at least four wheels, designed and constructed primarily for the carriage of persons and their luggage comprising not more than eight seats in addition to the driver's seat – vehicle category M1,
  - motor vehicles designed and constructed primarily for the carriage of persons and their luggage comprising more than eight seats, excluding the driver's seat – vehicle category M2 and M3,

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<sup>1</sup> RO/BG/MT/IT prefer a Regulation instead of a Directive. Commission reservation about the change of legal form.

<sup>2</sup> RO/Commission reservation on the deletion of any category. Presidency explanation: text aligned to Framework Directive 2007/46/EC on type approval, as amended by Commission Regulation (EU) N° 678/2011.

<sup>3</sup> The following text will be added as a recital: "Testing during the lifecycle of a vehicle should be relatively simple, quick and inexpensive."

- motor vehicles designed and constructed primarily for the road carriage of goods and having a maximum mass not exceeding 3,5 tonnes – vehicle category N1,
- motor vehicles designed and constructed primarily for the road carriage of goods and having a maximum mass exceeding 3,5 tonnes – vehicle categories N2 and N3,
- ~~trailers designed and constructed for the carriage of goods or of persons, as well as for the accomodation of persons, having a maximum mass exceeding 0,75 tonnes but not exceeding 3,5 tonnes – vehicle category O2,~~<sup>4</sup>
- trailers designed and constructed for the carriage of goods or of persons, as well as for the accomodation of persons, having a maximum mass exceeding 3,5 tonnes – vehicle categories O3 and O4,
- ~~two or three wheel vehicles – vehicle categories L3e, L4e, L5e and L7e,~~<sup>5</sup>
- wheeled tractors **of category T5 used mainly on public roads** ~~with a maximum design speed exceeding 40 km/h – vehicle category T5.~~<sup>6</sup>

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<sup>4</sup> Commission reservation.

<sup>5</sup> RO/CZ/Commission reservation. IT: include L1e, L2e and L6e.

<sup>6</sup> PT/EE/NL/LV/CZ: against the inclusion of category T5. RO: add: "and vehicles of category Rb (Rb3, Rb4). EE proposal: "wheeled tractors of category T5 used for commercial transport that have a maximum design speed exceeding 50 km/h".

2. Member States may exempt the following vehicles registered in their territory from the application of this Directive:

- **vehicles operated or used in exceptional conditions and vehicles which are never, or hardly ever, used on public roads, such as** vehicles of historic interest **or competition vehicles,**
- vehicles used by armed forces, forces responsible of law and order, <sup>7</sup> fire services, civil protection, emergency or rescue services,
- vehicles under diplomatic immunity,
- vehicles used for agricultural, horticultural, forestry, farming or fishery purposes with a maximum design speed not exceeding 50 km/h<sup>8</sup>,
- specialised vehicles transporting circus and funfair equipment with a maximum design speed not exceeding 40 km/h and only operating on the territory of the Member State,
- vehicles used exclusively in small islands or sparsely populated areas<sup>9 10</sup>.

3. Member States may introduce national requirements concerning roadworthiness tests for vehicles not covered by the scope of this Directive or vehicles listed in paragraph 2.

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<sup>7</sup> PL: insert: "government services".

<sup>8</sup> LV/LU/BE/FR: in favour of 40 km/h. FI/IT/ES: in favour of 50 km/h (given that it provides for optional flexibility for those MS only wishing to use it).

<sup>9</sup> LU/NL/LV/RO: reservation. EL/UK/EE: in favour of this wording.

<sup>10</sup> The following recital to be inserted: "Vehicles used exclusively on remote territories of Member States, notably on small islands with less than 5 000 inhabitants or in sparsely populated areas with a population density below five persons per square kilometer, are used under conditions that may require a specific roadworthiness testing regime. Therefore, Member States should be empowered to exempt these vehicles from the application of this Directive." The concept of "small islands" derives from the Guidelines on National Regional Aid for 2007-2013 (JO C 54, 4.3.2006, p. 13). The concept of "sparsely populated areas" derives from Article 13(3) of Regulation (EC) N° 561/2006 related to driving and resting time.

*Article 3*  
**Definitions**

**The following definitions shall only apply for the purpose of this Directive:**

- (1) ‘vehicle’ means any not rail-borne motor vehicle or its trailer;
- (2) ‘motor vehicle’ means any power-driven vehicle on wheels which is moved by its own means with a maximum design speed exceeding 25 km/h;
- (3) ‘trailer’ means any non-self-propelled vehicle on wheels which is designed and constructed to be towed by a motor vehicle;
- (4) ‘semi-trailer’ means any trailer designed to be coupled to a motor vehicle in such a way that part of it rests on the motor vehicle and that a substantial part of its mass and the mass of its load is borne by the motor vehicle;
- ~~(5) ‘two or three wheel vehicles’ means any power-driven vehicle on two wheels with or without sidecar, tricycles and quadricycles;~~
- (6) ‘vehicle registered in a Member State’ means a vehicle which is registered <sup>11</sup> or entered into service in a Member State;<sup>12</sup>
- (7) ‘vehicle of historic interest’ means any vehicle which ~~has been declared~~ **is considered** as historical by a **the** Member State **of registration** or one of its appointed authorising bodies and fulfils all the following conditions:
  - It was manufactured or registered for the first time at least 30<sup>13</sup> years ago,<sup>14</sup>

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<sup>11</sup> ES: delete the rest of the sentence.

<sup>12</sup> LU/SK: delete this definition.

<sup>13</sup> PL: 25 years.

<sup>14</sup> BE: keep the first indent and delete the others.

- Its **specific** type is no longer in production,
- It is in its original state and has not sustained substantial changes in the technical characteristics of its main components such as engine, brakes, steering, suspension or body.

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- (8) 'holder of a registration certificate' means the legal or natural person in whose name the vehicle is registered;<sup>16</sup>
- (9) 'roadworthiness test' means an inspection to ensure that a vehicle is safe to be used on public roads and complies with required environmental characteristics;
- (10) "approval" means a procedure whereby a Member State certifies that a vehicle satisfies the relevant administrative provisions and technical requirements referred to in Directive 2002/24/EC, Directive 2003/37/EC and Directive 2007/46/EC;<sup>17</sup>
- (11) 'deficiencies' means technical defects and other non-compliances found during a roadworthiness test;
- (12) "roadworthiness certificate" means a <sup>18</sup> roadworthiness test report issued by the competent authority or a testing centre containing the result of the **roadworthiness** test ~~and the overall assessment of the vehicle~~;

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<sup>15</sup> PL: add a new definition 7a: "government services means any services like state security services, services fighting against corruption, custom services, border guards and other specified in Member States' national regulations."

<sup>16</sup> CZ/SK: delete point (8). AT: against deletion.

<sup>17</sup> FR: delete point (10).

<sup>18</sup> NL/UK: insert "paper or digital".

- (13) 'inspector' means a person authorised by a Member State or its competent authority to carry out roadworthiness tests in a testing centre or, where appropriate, on behalf of a competent authority;
- (14) 'competent authority' means an authority or public body entrusted ~~with the task~~ by the **Member State and** responsible for managing the system of roadworthiness testing, including, when appropriate, the carrying out of roadworthiness tests;
- (15) 'testing centre' means public or private bodies or establishments<sup>19</sup> authorised by a Member State to carry out roadworthiness tests;
- (16) 'supervising body' means a body or bodies set up by a Member State, responsible for the supervision of testing centres. A supervising body or supervising bodies can be part of the competent authority or competent authorities,
- (16a) 'small island' means an island with fewer than 5 000 inhabitants and not linked to the other parts of the territory by road bridges or road tunnels,<sup>20</sup>
- (16aa) 'sparsely populated area' means a predefined area with a population density of less than five persons per square kilometre,<sup>21</sup>
- (16aaa) 'public road' means a road that is **of general public utility such as local, regional or national roads, highways, expressways or motorways** ~~made available for the use by the public.~~

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<sup>19</sup> LV: enter a definition on National Contact Point (Art. 14).

<sup>20</sup> The concept of "small islands" derives from the Guidelines on National Regional Aid for 2007-2013 (JO C 54, 4.3.2006, p. 13). LU/NL/LV/RO reservation. EL/UK/EE: in favour of this wording.

<sup>21</sup> The concept of "sparsely populated areas" derives from Article 13(3) of Regulation (EC) N° 561/2006 related to driving and resting time. LU/NL/LV/RO reservation. EL/UK/EE: in favour of this wording.

## CHAPTER II

### GENERAL OBLIGATIONS

#### *Article 4*

#### **Responsibilities**

1. Member States shall ensure that vehicles are periodically tested in accordance with this Directive by testing centres authorised by the Member State where these vehicles are registered.
2. Roadworthiness tests shall be carried out by the Member State, or by a public body entrusted with the task by the State or by bodies or establishments designated and ~~directly~~ supervised by the State, including ~~only~~ authorised private bodies.<sup>22</sup>
3. **With reference to** Regulations (EC) N°715/2007 and (EC) N° 595/2009, the Commission shall adopt, before the date of application of this Directive, the technical information<sup>23</sup> necessary for roadworthiness testing, in accordance with Annex II, point 3 to be made available by the manufacturers and the detailed rules concerning the procedures on access to the relevant technical information. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 16(2).<sup>24</sup>
4. The holder of the registration certificate and, where applicable, the operator of the vehicle shall be responsible for keeping the vehicle in a roadworthy condition.<sup>25</sup>

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<sup>22</sup> The following recital (10a) will be inserted: "When authorising testing centres on their territory, Member States should take into account that Directive 2006/123/EC on services in the internal market excludes from its scope services of general interest in the field of transport."

<sup>23</sup> AT/MT/HU: make it clear that the access to this information will be free of charge or at a reasonable price.

<sup>24</sup> CZ/IT/SK: this kind of information could be helpful. UK: strong reservation. Delete (costs studied in the IA?).

<sup>25</sup> DE/ES: delete point 4. SE: delete. Not well placed in this Directive.

## CHAPTER III

### REQUIREMENTS CONCERNING ROAD WORTHINESS TESTS

#### *Article 5<sup>26</sup>*

#### **Date and frequency of testing**

1. Vehicles shall be subject to a roadworthiness test at least within the following intervals:
  - a) ~~Vehicles of categories L3e, L4e, L5e and L7e: on the fourth, sixth, eighth and tenth year after the date on which the vehicle was first registered, and thereafter annually;~~<sup>27</sup>
  - b) Vehicles of category M1, N1<sup>28</sup> and O2<sup>29</sup>: **four years after the date on which the vehicle was first registered and thereafter every two years** ~~on the fourth, sixth, eighth and tenth year after the date on which the vehicle was first registered, and thereafter annually;~~
  - c) Vehicles of category M1 **used** ~~registered~~ as taxis, ambulances, vehicles of categories M2, M3, N2, N3, O3 and O4: one year after the date on which the vehicle was first registered, and thereafter annually.
  - d) Vehicles of category T5 used **mainly on public roads for** commercial transport<sup>30</sup> **with a maximum speed exceeding 50 km/h: four years after the date on which the vehicle was first registered and thereafter every two years** ~~fourth, sixth, eighth and tenth year after the date on which the vehicle was first registered, and thereafter annually.~~<sup>31</sup>

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<sup>26</sup> AT/Commission reservation on any changes to the frequency of tests.

<sup>27</sup> Commission reservation.

<sup>28</sup> PL/LV/SI/LU/BE/AT/ES: include N1 in point c).  
NL/DE/UK/DK/FI/FR/SE/PL/CZ/PT/HU/LT: keep N1 in point b).

<sup>29</sup> Commission reservation.

<sup>30</sup> Commission reservation.

<sup>31</sup> DE/NL/ES/EL: delete T5. BG: reservation on T5.

3. The **Member State or the** competent authority may establish the period during which the roadworthiness test shall be carried out in accordance with the intervals defined in paragraphs 1 and 2.
4. Notwithstanding the date of its last roadworthiness test, the **Member State or the** competent authority may require that a vehicle be subject to a roadworthiness test before the date referred to in paragraphs 1 and 2, in the following cases:
- after an accident affecting the main safety related components of the vehicle such as wheels, suspension, deformation zones, **airbag systems**, steering or brakes,
  - when the safety and environmental systems and components of the vehicle have been altered or modified,
  - where the holder of the registration certificate of a vehicle has changed,
  - where a vehicle of category M1 or N1 exceeds a mileage of 160 000 km,
  - in other cases where road safety is seriously affected.

## Article 6

### Contents and methods of testing

1. Member States shall ensure that roadworthiness tests cover at least the areas referred to in Annex II, point 2.
2. For each area referred to in paragraph 1, the competent authorities of the Member State or the testing centre shall carry out a roadworthiness test covering at least the items and using the **recommended** method applicable to the testing of those items, as set out in Annex II, point 3. The test may also include a verification whether the respective parts and components of that vehicle correspond to the required safety and environmental characteristics that were in force at the time of approval or, if applicable, at the time of retrofitting.
3. **Where appropriate, the Commission shall update, in accordance with the examination procedure referred to in Article 16(2), the list of test items, methods, reasons for failure and assessment of deficiencies referred to in Annex II, point 3, without extending its scope.**

## Article 7

### Assessment of deficiencies

1. For each item to be tested, Annex II provides a minimum list of possible deficiencies and their level of severity.
2. Deficiencies that are found during periodic testings of vehicles shall be categorised into one of the following groups:
  - minor deficiencies having no significant effect on the safety of the vehicle or impact the environment and other minor non-compliances,

- major deficiencies that may prejudice the safety of the vehicle or impact the environment or put other road users at risk or other more significant non-compliances,
  - dangerous deficiencies that constitute a direct and immediate risk to road traffic safety or impact the environment, which justify that **a Member State or its** competent authorities may prohibit the use of the vehicle on public roads.
3. A vehicle having deficiencies falling into more than one deficiency group referred to in paragraph 2 shall be classified into the group corresponding to the more serious deficiency. A vehicle showing several deficiencies within the same inspection elements as defined in scope of test in Annex II may be classified in the next serious deficiency group if it can be demonstrated that the combined effect of those deficiencies result in a higher risk to road traffic safety.

#### *Article 8*

#### **Roadworthiness certificate**

1. Member States shall ensure that testing centres or, if relevant, the competent authorities that has conducted a roadworthiness test on a vehicle shall issue a roadworthiness certificate to that vehicle that contains at least the elements laid down in Annex IV<sup>32</sup>.
2. Member States shall ensure that testing centres or, if relevant, the competent authorities, shall provide the person presenting the vehicle to the test with the roadworthiness certificate or, in case of electronic established roadworthiness certificate, a certified printout of such certificate.

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<sup>32</sup> EE: certificate to be issued only in case of deficiency.

- 2a. **Without prejudice to Article 5**, in case of re-registration of a vehicle originating from another Member State, Member State shall ~~recognise~~ **acknowledge** a **verified** roadworthiness certificate issued by any other Member State, **as if it had itself issued the roadworthiness certificate, provided the certificate is valid within the frequency of the re-registering Member State.**

Member States shall communicate to the Commission a description of the roadworthiness certificate before the date of application of this Directive. The Commission shall inform the Committee referred to in Article 16.

3. As from the date of entry into force of this Directive and at the latest 3 years afterwards, the testing centres shall communicate electronically, to the competent authority of the Member State the information mentioned in roadworthiness certificates which they deliver. This communication shall take place within a reasonable time after the issuance of the roadworthiness certificates. Until this date, the testing centres may communicate this information to the competent authority by any other means. Member States shall determine the period during which the competent authority shall keep this information. This period shall not be less than 36 months, **without prejudice to the national tax systems of the Member States.**
4. Member States shall ensure that, for the purposes of checking the odometer, where normally fitted, the information of the previous roadworthiness test shall be made available to the inspectors as soon as it is available electronically<sup>33</sup>.
5. Member States shall ensure that the results of the roadworthiness test shall be notified to the registration authority of the vehicle. This notification shall contain the information mentioned in the roadworthiness certificate.

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<sup>33</sup> ES/SE/EE: delete this paragraph.

## Article 9

### Follow-up of deficiencies

1. In the case of minor deficiencies only, the test shall be deemed to have been passed and the vehicle shall not be re-tested. The holder of the registration certificate shall ensure that such deficiencies are rectified.
2. In the case of major deficiencies, the test shall be deemed to have been failed. The Member State or the competent authority shall decide on the timespan under which such a vehicle may be used before undergoing another roadworthiness test.
3. In the case of dangerous deficiencies, the test shall be deemed to have been failed. The **Member State or the** competent authority may decide that such a vehicle shall not be used on public roads and that the authorisation to be used in road traffic is suspended for a limited period of time, without involving a new process of registration,<sup>34</sup> until the deficiencies are rectified and a new roadworthiness certificate is issued testifying that the vehicle is in a roadworthy condition.

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<sup>34</sup> OJ L XXX, XX.XX.XXXX, p. XX.

*Article 10*

**Proof of test**

1. The testing centre or, if relevant, the competent authority of the Member State that has carried out a roadworthiness test on a vehicle registered in its territory shall provide a proof, such as a sticker, a certificate or any other easily accessible information, for each vehicle having passed such a test. The proof shall indicate the date by which the next roadworthiness test shall take place.

Member States shall communicate to the Commission a description of the proof before the date of application of this Directive. The Commission informs the Committee referred to in Article 16.

2. **For the purpose of free circulation,** Each Member State shall recognise the proof issued in accordance with paragraph 1.

## CHAPTER IV

### ADMINISTRATIVE PROVISIONS

#### *Article 11*

##### **Testing facilities and equipment**

1. Member States shall ensure that testing facilities and equipment used for carrying out roadworthiness tests comply with the minimum technical requirements laid down in Annex V.
2. Member States shall ensure that the testing centres or, if relevant, the competent authority, ~~shall~~ maintain the testing facilities and equipment in accordance with the specifications provided by the manufacturer of the equipment.
3. Equipment that is used for measurements shall be periodically calibrated in line with Annex V and verified in accordance with the specifications provided by the **Member State or by the** manufacturer of the equipment.
4. **Where appropriate, the Commission shall update, in accordance with the examination procedure referred to in Article 16 (2), the list of methods, facilities and equipment referred to in Annex V in the light of technical progress or to take into account the modifications in international or European standards or Union legislation.**

#### *Article 11a*

##### **Testing centres**

1. Testing centres, in which inspectors perform roadworthiness tests, shall be authorised by a Member State or its competent authority.

2. To meet minimum requirements in terms of quality management, testing centres shall comply with the requirements of the authorising Member State. Testing centres ~~in particular those which also perform motor vehicles repairs~~<sup>35</sup> shall ensure the objectivity and the high quality of the vehicle testing.

## *Article 12*

### **Inspectors**

1. Member States shall ensure that roadworthiness tests are carried out by inspectors fulfilling the minimum competence and training requirements laid down in Annex VI.
2. The competent authorities, or, where applicable, approved training centres shall provide a certificate to inspectors who fulfil the minimum competence and training requirements. This certificate shall include at least the information mentioned in Annex VI, point 3.
3. Inspectors employed or authorised by competent authorities of the Member States or a testing centre at the date of application of this Directive shall be exempted from the requirements laid down in Annex VI, point 1.
4. When carrying out a roadworthiness test, the inspector shall be free of any conflict of interests.

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<sup>35</sup> The second sentence is taken from Art. 2 of Dir. 2009/40/EC.  
Recital (10) to be amended as follows: "Roadworthiness testing is a sovereign activity and should therefore be done by the Member States or by public or private entrusted bodies under their supervision. Member States should remain responsible for roadworthiness testing in any cases even if the national system allows for authorisation of private bodies, including those **which also** ~~involved~~ in performing **vehicle** repairs."

5. The person presenting the vehicle to the test shall be informed of the deficiencies to be rectified.
6. The results of a roadworthiness test ~~performed by an inspector~~ can only be modified, where appropriate, by the supervising body<sup>i</sup> or according to the procedure set up by the competent authority, if the findings of the roadworthiness test ~~performed by the inspector~~ are manifestly incorrect.

### *Article 13*

#### **~~Authorisation and Supervision of testing centres~~**

0. Member States shall ensure that testing centres are ~~authorised and~~ supervised.<sup>36</sup>
1. A supervising body shall perform at least the tasks provided for in Annex VII, point 1, and fulfil the requirements laid down in points 2 and 3 of the same Annex.

Member States shall make publicly available the rules and procedures covering the organisation, tasks and requirements, including the terms of independency, applicable to the personnel of a supervising body.

2. Testing centres directly operated by a competent authority shall be exempted from the requirements regarding authorisation and supervision, in the cases where the supervising body is part of the competent authority.

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<sup>36</sup> The following recital will be inserted: "Member States should be empowered to authorise testing centres not located in their territory to perform roadworthiness tests for vehicles registered in their territory, if these testing centres have already been authorised by the Member State in which they are located."

**3. The above requirements are assumed to be fulfilled by Member States which require that testing centers are accredited under Regulation (EC) No 765/2008 on the requirements for accreditation and market surveillance relating to the marketing of products.**

**CHAPTER V**  
**COOPERATION AND EXCHANGE OF INFORMATION**

*Article 14*

**Administrative cooperation between Member States**

1. Member States shall designate a national contact point responsible for the exchange of information with the other Member States and the Commission with regard to the application of this Directive.
  
2. Member States shall forward to the Commission the names and contact details of their national contact point at the latest [*one year after the entry into force of this Directive*] and inform it without delay about any changes thereof. The Commission shall draw up a list of all updated contact points and forward it to the Member States.

*Article 15*

**~~Electronic vehicle information platform~~**<sup>37 38</sup>

~~The Commission shall examine the feasibility, costs and benefits of the establishment of an electronic vehicle information platform that shall link the existing national systems with a view to exchange information on data related to roadworthiness testing and odometer readings between the competent authorities of Member States responsible for testing, registration and vehicle approval, the testing centres and the vehicle manufacturers.~~

~~It shall, on the basis of that examination, put forward and evaluate different policy options. Within three years after the date of application of this Directive, the Commission shall report to the European Parliament and to the Council on the results of the examination, and accompany it with a legislative proposal, if appropriate.~~

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<sup>37</sup> The following text will be included in a recital: " The Commission should examine the feasibility, costs and benefits of the establishment of an electronic vehicle information platform that should link the existing national systems with a view to exchange information on data related to roadworthiness testing and odometer readings between the competent authorities of Member States responsible for testing, registration and vehicle approval, the testing centres and the vehicle manufacturers.

It should, on the basis of that examination, put forward and evaluate different policy options. Within three years after the date of application of this Directive, the Commission should report to the European Parliament and to the Council on the results of the examination, and accompany it with a legislative proposal, if appropriate."

<sup>38</sup> Commission reservation.

## CHAPTER VI

### PROVISIONS ON IMPLEMENTING AND DELEGATED POWERS

#### *Article 16*

#### **Roadworthiness Committee**

1. The Commission shall be assisted by a committee. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.
2. 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 paragraph of Article 5(4) of Regulation (EU) No 182/2011 shall apply.<sup>39</sup>

#### *Article 17*

#### **Delegated acts**<sup>40</sup>

The Commission shall be empowered to adopt delegated acts in accordance with Article 18 with a view to:

- update only the vehicle category designation in Article 2(1) and Article 5(1) and (2) as appropriate in case of changes to the vehicle categories stemming from amendments to the type approval legislation referred to in Article 2(1), without affecting the scope and the frequencies for testing,
- ~~update the non-essential elements of the Annexes I, II and V in the light of technical progress or in order to take account of the modification in international or Union legislation.~~<sup>41</sup>

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<sup>39</sup> Commission reservation.

<sup>40</sup> SE/DE: against delegated acts.

<sup>41</sup> Commission reservation.

*Article 18*

**Exercise of delegation<sup>42</sup>**

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 the delegated acts referred to in Article 17 shall be conferred on the Commission for a period of five<sup>43</sup> years from [*the date of entry into force of this Directive*]. The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the five-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 three months before the end of each period.
3. The delegation of powers referred to in Article 17 may be revoked at any time by the European Parliament or by the Council. A decision to revoke 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.
4. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.

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<sup>42</sup> PL/DK propose to change to implementing acts.

<sup>43</sup> AT: 1 year.

5. A delegated act adopted pursuant to Article 17 shall enter into force only if no objection has been expressed by either the European Parliament or by the Council within a period of two months of notification of that act to the European Parliament and to 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 two months at the initiative of the European Parliament or of the Council.

*Article 18a*

**Revision of the Directive**

**By [five years from the date of publication of this Directive], the Commission shall submit a report to the European Parliament and the Council on the application of this Directive by the Member States. In its report, the Commission shall focus in particular on the following aspects and shall, as appropriate, make proposals to cover those aspects:**

**— an assessment of whether L and 02 categories should be added to the scope of this Directive,**

**— an assessment of whether the frequency of the roadworthiness tests for certain categories of older vehicles should be shortened.**

## CHAPTER VII

### FINAL PROVISIONS

#### *Article 19*

#### **Penalties**

1. The Member States shall lay down the rules on penalties applicable to infringements of the provisions of this Directive and shall take all measures necessary to ensure that they are implemented. Those penalties<sup>44</sup> shall be effective, proportionate, dissuasive and non-discriminatory.
2. Each Member State shall take the necessary measures to ensure **that, where normally fitted, manipulating an odometer to reduce the distance record or to misrepresent the distance record of a vehicle**, ~~that the manipulation or tampering of an odometer, where normally fitted,~~ is punishable by effective, proportionate, dissuasive and non-discriminatory penalties<sup>45</sup>.
3. The Member States shall notify those provisions to the Commission by [ *three years* ] *after the date of application of this Directive* at the latest and shall notify without delay any subsequent amendment affecting them.

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<sup>44</sup> PL/SE/FI wish to replace "penalties" by "sanctions".

<sup>45</sup> ES/LV/SE: delete paragraph 2.

*Article 20*

**Transitional provisions**

1. Member States may authorise the use of testing facilities and equipment referred to in Article 11 which do not comply with the minimum requirements laid down in Annex V ~~on~~ for carrying out roadworthiness tests for a period of not more than [five] years following ~~that~~ **the date of application of this Directive.**
2. Member States shall apply the requirements laid down in Annexes VI and VII at the latest as from the [fifth] year following the date of application of this Directive.

*Article 21*

**Repeal**

Directive 2009/40/EC is repealed with effect from [*the date of application of this Directive*].

*Article 22*<sup>46</sup>

**Transposition**

1. Member States shall adopt and publish by [~~24~~ **36** months after the entry into force of this Directive] at the latest, the laws, regulations and administrative provisions necessary to comply with this Directive. They shall without delay communicate to the Commission the text of those provisions.

They shall apply those provisions [~~36~~ **48** months after its entry into force of this Directive].

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<sup>46</sup> **Recital** on correlation table to be inserted: "In accordance with the Joint Political Declaration of Member States and the Commission on explanatory documents of 28 September 2011, Member States have undertaken to accompany, in justified cases, the notification of their transposition measures with one of more documents explaining the relationship between the components of a directive and the corresponding parts of national transposition instruments. With regard to this Directive, the legislator considers the transmission of such documents to be justified."

When Member States adopt those provisions, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made.

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.

*Article 22a*

**Entry into force**

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

*Article 22b*

**Addressees**

This Directive is addressed to the Member States<sup>47</sup>.

Done at Brussels,

*For the European Parliament*  
*The President*

*For the Council*  
*The President*

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<sup>47</sup> Commission reservation.