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**TRANS 464  
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## **REPORT**

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From:	General Secretariat
To:	COUNCIL
No. prev. doc.:	17242/12 TRANS 447 CODEC 2912
No. Cion prop.:	12786/12 TRANS 249 CODEC 1954
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 - <i>General approach</i>

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### **I. Introduction**

1. The proposal for a Regulation on periodic roadworthiness tests for motor vehicles and their trailers and repealing Directive 2009/40/EC is part of the roadworthiness package together with the Regulation on the technical roadside inspections and the Directive on the registration documents for vehicles. The roadworthiness package was submitted to the Council on 13 July 2012.

2. The objective of the proposal is to lay down updated harmonised rules on the roadworthiness testing of motor vehicles and their trailers with a view to enhancing road safety and environmental protection. The proposal aims at contributing to reach the target of a reduction of road fatalities by half until 2020 as laid down in the Policy Orientations on Road Safety 2011-2020. It will also contribute to the reduction of emissions in road transport linked to poor maintenance of vehicles.

## II. Work within the Council

3. The Working Party on Land Transport examined the impact assessment accompanying the roadworthiness package on 7 and 14 September 2012. The examination of the proposal on periodic roadworthiness tests started on 21 September and was concluded on 7 December. In the meantime, several technical meetings were scheduled to examine the annexes to the above proposal.
4. At its meeting on 29 October, the TTE Council examined two questions presented by the Presidency in order to make further progress on this file (doc. 15093/12).
5. On 12 December 2012, the draft general approach was examined by Coreper. The Presidency took note of the delegations comments in view of proposing a compromise text to be examined by the TTE Council. During this Coreper meeting, several outstanding issues were solved. However, a few questions still need to be discussed as some delegations maintain their reservations on the text. The changes in the Annex to this report compared to the report to Coreper are indicated in **bold** and ~~striketrough~~.

## **REMAINING RESERVATIONS**

### **a) Legal form of the act (footnote 1)**

6. Following the orientation debate, which took place at the TTE October Council where a large majority of Member States indicated their preference for a Directive, the legal form of the proposal has been amended and the relevant provisions have been modified accordingly. Two Member States support the legal form as suggested by the Commission (regulation).

### **b) Scope (Article 2 - footnotes 4 to 6, 16 and 18)**

7. Following the request of a large majority of delegations, O2 and L category vehicles are excluded from the scope of the Presidency compromise proposal. Two Member States oppose the deletion of O2 category vehicles from the scope of the Directive. With respect to L category vehicles, one Member State also wishes to keep this category in the scope of the Directive.

### **c) Testing of a vehicle registered in another Member State (Article 4 - footnote 11)**

8. One Member State wishes to add a paragraph in Article 4 in order to allow Member States to perform roadworthiness tests and issue certificates for vehicles registered in another Member State. The validity of such certificates should be limited to the territory of the Member State which issues them. The same Member State would like to add another paragraph to the effect that a certificate issued under the conditions described above should be valid for 30 days for the purpose of returning the vehicle to the Member State of registration.

**d) Frequency of testing (Article 5 - footnote 17)**

9. The Presidency proposes to set the frequency of testing of N1 category vehicles to four years after the date on which the vehicle was first registered and thereafter, every two years. Member States generally support this proposal. However, four Member States would prefer to submit these vehicles to testing one year after the date on which the vehicle was first registered and thereafter, annually.

**e) Odometer manipulation (Article 19 - footnotes 27 and 28)**

10. A Member State wishes to keep the text of footnote 28 in the normative part of the Directive, rather than in a recital. A large number of Member States could be flexible on this point and could accept the inclusion of such text in Article 19(2). Three Member States indicated that they could not agree on having the proposed text in the normative part of the Directive.
11. CZ/DK/UK have parliamentary scrutiny reservations. The Commission has a general reservation on the text. Other reservations are indicated in the footnotes appearing in the Annex to this Report.

**III. Conclusion**

12. The Council is invited to examine the text as set out in the Annex to this report, to solve some of the concerns expressed by delegations and to adopt a general approach at its session on 20 December 2012.

## 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 2007/46/EC and Directive 2003/37/EC<sup>4</sup>:
  - 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> BG/IT prefer a Regulation instead of a Directive. Commission reservation about the change of legal form.

<sup>2</sup> Commission reservation on the deletion of any category.

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

<sup>4</sup> IT is against the deletion of the reference to Directive 2002/24/EC because they wish L category vehicles to be included in the scope of this Directive.

- 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,
- [...] <sup>5</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,
- [...] <sup>6</sup>
- wheeled tractors of category T5 the use of which mainly takes place on public roads with a maximum design speed exceeding 40 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, fire services, civil protection, emergency or rescue services,

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<sup>5</sup> IT/RO/Commission against the deletion of O2 category vehicles.

<sup>6</sup> IT/Commission against the deletion of L category vehicles.

- vehicles under diplomatic immunity,
  - vehicles used for agricultural, horticultural, forestry, farming or fishery purposes only operating on the territory of the Member State,
  - 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>7</sup>.
3. Member States may introduce national requirements concerning roadworthiness tests for vehicles registered in their territory which are not covered by the scope of this Directive or vehicles listed in paragraph 2.

### *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;

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<sup>7</sup> The following text will be included as a recital: "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 kilometre, 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."

- (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) [...]
- (6) ‘vehicle registered in a Member State’ means a vehicle which is registered or entered into service in a Member State;
- (7) ‘vehicle of historic interest’ means any vehicle which is considered as historical by 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 years ago,
  - 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;
- (8) ‘holder of a registration certificate’ means the legal or natural person in whose name the vehicle is registered;
- (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 2003/37/EC and Directive 2007/46/EC;
- (11) ‘deficiencies’ means technical defects and other non-compliances found during a roadworthiness test;
- (12) ‘roadworthiness certificate’ means a roadworthiness test report issued by the competent authority or a testing centre containing the result of the roadworthiness test;
- (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 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>8</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>9</sup>

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<sup>8</sup> A recital will be included to deal with the issue of National Contact Point.

<sup>9</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).

(16aa) ‘sparsely populated area’ means a predefined area with a population density of less than five persons per square kilometre,<sup>10</sup>

(16aaa) ‘public road’ means a road that is of general public utility such as local, regional or national roads, highways, expressways or motorways.

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<sup>10</sup> The concept of "sparsely populated areas" derives from Article 13(3) of Regulation (EC) N° 561/2006 related to driving and resting time.

## 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.

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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 supervised by the State, including authorised private bodies.<sup>12</sup>

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<sup>11</sup> RO wishes to include the following paragraphs:

"1a. Member States may carry out roadworthiness tests and issue roadworthiness certificates for vehicles registered in other Member States, with a validity limited to the territory of the issuing Member State. If, on the basis of bilateral agreements, the roadworthiness certificates are issued on behalf of the Member State of registration, they shall be deemed to have the same legal value as certificates issued by the latter.

1b. By derogation from the provisions of the previous paragraph, Member States may carry out roadworthiness tests and issue roadworthiness certificates for vehicles registered in other Member States, with a limited validity of 30 days, for the purpose of returning the vehicle to the Member State of registration."

<sup>12</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."

3. With reference to the principles laid down by Regulations (EC) N°715/2007 and (EC) N° 595/2009 concerning the access to information, the Commission shall adopt, before the date of application of this Directive, the technical information necessary for roadworthiness testing, in accordance with Annex II, point 3 to be made available at a reasonable price<sup>13</sup> 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).
4. [...] <sup>14</sup>

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<sup>13</sup> AT: scrutiny reservation.

<sup>14</sup> The following text will be included as a recital: " The holder of the registration certificate and, where applicable, the operator of the vehicle should be responsible for keeping the vehicle in a roadworthy condition."

## CHAPTER III

### REQUIREMENTS CONCERNING ROADWORTHINESS TESTS

#### *Article 5<sup>15</sup>*

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

1. Vehicles shall be subject to a roadworthiness test at least within the following intervals:
  - a) [...] <sup>16</sup>
  - b) Vehicles of category M1 and N1 <sup>17</sup> <sup>18</sup>: four years after the date on which the vehicle was first registered and thereafter, every two years;
  - c) Vehicles of category M1 used as taxis or 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 the use of which mainly takes place on public roads: four years after the date on which the vehicle was first registered and thereafter, every two years.
2. [...]
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 paragraph 1.

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<sup>15</sup> Commission reservation on any change to the frequency of tests.

<sup>16</sup> IT/Commission against the deletion of L category vehicles.

<sup>17</sup> AT/BE/LV/RO: include N1 in point c).

<sup>18</sup> IT/RO/Commission against the deletion of O2 category vehicles.

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 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.

## *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 for that vehicle that contains at least the elements laid down in Annex IV.
2. Member States shall ensure that testing centres or, if relevant, the competent authorities, shall make available to the person presenting the vehicle to the test the roadworthiness certificate or, in case of electronic established roadworthiness certificate, a certified printout of such certificate.
- 2a. Without prejudice to Article 5, in case of re-registration of a vehicle originating from another Member State, Member State shall recognise a 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<sup>19</sup>. In cases of doubt, Member States may verify the roadworthiness certificate before recognising it.

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.

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<sup>19</sup> The following text will be included as a recital: "The right of the Member States to subject this vehicle to a vehicle identification should not be affected by this Directive."



3. As from the date of **application** ~~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.
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.

#### *Article 9*

#### **Follow-up of deficiencies**

1. In the case of minor deficiencies only, the test shall be deemed to have been passed, the deficiencies shall be rectified, and the vehicle shall not be re-tested.
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>20</sup> until the deficiencies are rectified and a new roadworthiness certificate is issued testifying that the vehicle is in a roadworthy condition.

#### *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.

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<sup>20</sup> OJ L XXX, XX.XX.XXXX, p. XX.

## **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, 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.

#### *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<sup>21</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<sup>22</sup>.
5. The person presenting the vehicle to the test shall be informed of the deficiencies to be rectified.

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<sup>21</sup> The second sentence is taken from Article 2 of Directive 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 perform vehicle repairs."

<sup>22</sup> A recital will be included to clarify the concept of conflict of interests.

6. The results of a roadworthiness test can only be modified, where appropriate, by the supervising body or according to the procedure set up by the competent authority, if the findings of the roadworthiness test are manifestly incorrect.

### *Article 13*

#### **Supervision of testing centres**

0. Member States shall ensure that testing centres are supervised.<sup>23</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.
3. The requirements mentioned in paragraphs 0 to 2 may be considered 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<sup>24</sup>.

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<sup>23</sup> The following text will be included as a recital: "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 to perform tests for foreign vehicles by the Member State in which they are located."

<sup>24</sup> The following text will be included as a recital: "Accreditation of testing centres under Regulation (EC) No 765/2008 on the requirements for accreditation and market surveillance relating to the marketing of products cannot constitute an obligation for the Member States."

## 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**

The Commission shall examine the feasibility, costs and benefits of the establishment of an electronic vehicle information platform by taking advantage of existing and already implemented IT solutions with regard to international data exchange so as to minimize costs and to avoid duplications. ~~It shall link, on a voluntary basis,~~ **The examination shall consider the most appropriate way to 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.

## 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>25</sup>

#### *Article 17*

##### **Delegated acts**

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,
- [...] <sup>26</sup>

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<sup>25</sup> Commission reservation.

<sup>26</sup> Commission reservation: against the deletion of this indent.

**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 the delegated acts referred to in Article 17 shall be conferred on the Commission for a period of five 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.
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.



## **Reporting**

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 implementation and effects of this Directive, in particular as regards the effectiveness of the provisions on the scope, the frequency of testing, **the accuracy of mileage readings**, the mutual recognition of roadworthiness certificates and the results of the examination concerning the feasibility of introducing an electronic vehicle information platform, as referred to in Article 15. The report shall also analyse whether there is a need to update the annexes notably in the light of technical progress and practices. The report shall be submitted after the consultation of the committee referred to in Article 16. The report shall be accompanied, if appropriate, by legislative proposals.

## 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 shall be effective, proportionate, dissuasive and non-discriminatory.
2. [...] <sup>27 28</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.

#### *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 for carrying out roadworthiness tests for a period of not more than [five] years following 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.

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<sup>27</sup> BE: against the deletion of paragraph 2.

<sup>28</sup> The following text will be included as a recital: "Each Member State should 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, is punishable by effective, proportionate, dissuasive and non-discriminatory penalties."

## Article 21

### Repeal

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

## Article 22<sup>29</sup>

### Transposition

1. Member States shall adopt and publish by [*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 [*48 months after its entry into force of this Directive*].

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.

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<sup>29</sup> The following text will be included as a recital on correlation tables: "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 or 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."

*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>30</sup>.

Done at Brussels,

*For the European Parliament*  
*The President*

*For the Council*  
*The President*

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<sup>30</sup> Commission reservation.