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THE EUROPEAN UNION**

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**TRANS 341
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NOTE

From:	General Secretariat
To:	Delegations
No. prev. doc.:	15903/12 TRANS 339 CODEC 2412
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

CZ/DK have parliamentary scrutiny reservations.

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

CHAPTER I
SUBJECT MATTER, DEFINITIONS AND SCOPE

Article 1

Subject matter

This **Directive** ~~Regulation~~¹ establishes **minimum requirements for** a regime of periodic roadworthiness tests of vehicles **used on publicly accessible roads.**

Article 2²

Scope³

1. This **Directive** ~~Regulation~~ 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, used for the carriage of passengers and with not more than eight seats in addition to the driver's seat – vehicle category M1,
 - motor vehicles used for the carriage of passengers and with more than eight seats, excluding the driver's seat – vehicle category M2 and M3,
 - motor vehicles having at least four wheels, normally used for the road carriage of goods and with a maximum permissible mass not exceeding 3 500 kg – vehicle category N1,

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

² Commission reservation on the deletion of any category.

³ BE considers that the enlargement of the scope is too wide. L vehicles are not registered in BE. LV would like to delete all the indents and keep the reference to the three Directives. FI and NL have a reservation on trailers, two and three-wheels vehicles and tractors exceeding 40km/h.

- motor vehicles used for the carriage of goods and having a maximum permissible mass exceeding 3 500kg – vehicle categories N2 and N3,
- trailers and semi-trailers with a maximum permissible mass ~~not~~ exceeding **750 kg but not exceeding** 3 500 kg – vehicle categories ~~O1 and~~ O2, ⁴
- trailers and semi-trailers with a maximum permissible mass exceeding 3 500 kg – vehicle categories O3 and O4,
- two- or three-wheel vehicles ⁵ – vehicle categories ~~L1e, L2e, L3e, L4e, L5e, L6e~~ and L7e, ⁶
- wheeled tractors with a maximum design speed ⁷ exceeding 40 km/h – vehicle category T5. ⁸

2. **Member States may exempt the following vehicles from the scope of this Directive** ~~This Regulation shall not apply to:~~⁹

- vehicles of historic interest, ¹⁰
- vehicles **used by** ~~belonging to~~ armed forces, **forces of law and order**, ¹¹ fire services, civil protection, emergency or rescue services,
- vehicles used **in** ~~by~~ agricultural, horticultural, forestry, farming or fishery **sectors** ~~undertakings~~ with a maximum design speed not exceeding **50** ~~40~~ km/h,

⁴ NL: delete this indent. EL/UK: delete O2. Commission reservation.

⁵ PL, supported by ES: include "or quadricycles". UK is against.

⁶ BE/NL/FI: delete all L category vehicles. Commission reservation.

⁷ SE, supported by SI, would like to delete the design speed. NL: delete this indent.

⁸ ES: delete this indent. EL: against the inclusion of category T5. PL: add: "and vehicles of category Rb (Rb3, Rb4).

⁹ LV: replace the indents with the following: "vehicles that are not subject to type approval".

¹⁰ SE: add: which were manufactured at least 30 years ago".

¹¹ PL: insert: "government services, Police".

- 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 scarcely populated areas.**

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 registered in their territory.

Article 3

Definitions

For the purpose of this **Directive** ~~Regulation~~ the following definitions shall apply:

- (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 ¹² or entered into service in a Member State;¹³
- (7) 'vehicle of historic interest' means any vehicle which fulfils all the following conditions **and has been declared as historical by a Member State:**
- It was manufactured at least 30¹⁴ years ago,¹⁵
 - It is maintained by use of replacement parts which reproduce the historic components of the vehicle;
 - It has not sustained any change in the technical characteristics of its main components such as engine, brakes, steering, ~~or~~ suspension **or body,** ~~and~~
 - ~~It has not been changed in its appearance;~~

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- (8) 'holder of a registration certificate' means the **legal or natural** person in whose name the vehicle is registered;¹⁷

¹² ES: delete the rest of the sentence.

¹³ NL: delete this definition.

¹⁴ UK, supported by BE/SE: 50 years. PL/ES: 25 years.

¹⁵ BE: keep the first indent and delete the others. RO: keep the 1st and 3rd points.

¹⁶ 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.".

¹⁷ CZ: delete point (8).

- (9) 'roadworthiness test' means¹⁸ **an inspection to ensure that a vehicle is safe to be used on publicly accessible roads and to verify** ~~a verification~~ that the parts and components of a **that** vehicle **correspond to the** ~~comply with~~ its safety and environmental characteristics in force at the time of approval, first registration or entry into service, as well as at the time of retrofitting;¹⁹
- (10) "approval" means any category of approval referred to in **Directive 2002/24/EC, Directive 2003/37/EC and** Directive 2007/46/EC;²⁰
- (11) 'deficiencies' means technical defects and other non-compliances found during a roadworthiness test;
- (12) "roadworthiness certificate" means a²¹ certificate issued by the competent authority or a testing centre containing the result of the test and the overall assessment of the vehicle.
- (13) 'inspector' means a person authorised by a Member State to carry out roadworthiness tests in a testing centre or on behalf of a competent authority;
- (14) 'competent authority' means an authority or public body responsible for managing the national system of roadworthiness testing, including, when appropriate, the carrying out of roadworthiness tests;

¹⁸ UK, supported by SE/BE: replace the rest of the sentence with the following: "an inspection to ensure that a vehicle is safe to use on the road and complies with required environmental characteristics.". Current text limits use of modifications, either superficial or beneficial. Amended language refocuses the text into a safety assessment. Commission representative considers the text too vague. It misses the element of type-approval of spare parts.

¹⁹ FR: too prescriptive. The inspection of the working order of the vehicle should be privileged.

²⁰ UK: delete point (10).

²¹ NL: insert: "paper or digital".

- (15) 'testing centre' means public or private bodies or establishments, ~~including those carrying out vehicle repairs,~~²² authorised by a Member State to carry out roadworthiness tests;²³
- (16) 'supervising body' means a body **or bodies** set up by a Member State, responsible for the ~~authorisation and the supervision of testing centres.~~ **A supervising body or supervising bodies can be part of the competent authority or competent authorities.**

²² AT/RO/IT/UK/NL against deletion. LT/LV: enter a definition on National Contract Point (Art. 14).

²³ UK: make this definition closer to the one in the current Directive. [New article 11a on test centres to accommodate "Vehicle repairs"].

CHAPTER II

GENERAL OBLIGATIONS

Article 4

Responsibilities

1. **Member States shall ensure that** motor vehicles and their trailers²⁴ ~~shall~~ **are** periodically be tested in accordance with this ~~Directive~~ **Regulation** **by testing centres authorised by** ~~in~~ the Member State where ~~they~~ **these motor vehicles and their trailers** are registered.²⁵
2. Roadworthiness tests shall be carried out only by ~~the~~ **a** competent authority of a Member State or **by certified inspectors in** ~~by~~ testing centres authorised by Member States.²⁶
3. **Member States shall ensure that** vehicle manufacturers shall **allow** ~~provide the~~ **any** **authorised** testing centres ~~or~~ **and**, when relevant, the competent authority, **to have** with access, **in a non-discriminatory manner**, to the technical information²⁷ necessary for roadworthiness testing, as set out in Annex I. The Commission shall adopt detailed rules concerning the procedures on access to the technical information set out in Annex I in accordance with the examination procedure referred to in Article 16(2).²⁸
4. The holder of the registration certificate²⁹ shall be responsible for keeping the vehicle in a ~~safe~~ ~~and~~ roadworthy condition ~~at all times~~.³⁰

²⁴ LU: insert "as designated in Article 2".

²⁵ UK: add: "or where they entered into service."

²⁶ ES: replace it by Art. 2 of Directive 2009/40.

²⁷ HU: make it clear that the access to this information will be free of charge.

²⁸ SE: delete this point. Heavy administrative burden. In case of bankruptcy, who will provide the access to this information? DE: delete. Voluntary agreement between vehicle manufacturers? UK: strong reservation. Delete (costs studied in the IA?). FR: delete. CZ/IT/SK: this kind of information could be helpful. LU: ok if Regulation; delete it if a Directive (obligation for MS).

²⁹ FI: insert "the owner and the driver of the vehicle". EE/CZ/LV: insert "the user of the vehicle".

³⁰ DE/ES: delete point 4. SE: delete. Not well placed in this Directive. UK: delete it or substantial redrafting. LU: delete it.

CHAPTER III

REQUIREMENTS CONCERNING ROADWORTHINESS TESTS

Article 5³¹

Date and frequency of testing

1. Vehicles shall be subject to a roadworthiness test on each anniversary of the date of first registration,³² at least within the following intervals:³³
 - a)** Vehicles of categories ~~L1e, L2e, L3e, L4e, L5e, L6e~~ and L7e³⁴: **on the fourth years, sixth, years eighth and tenth year** after the date on which the vehicle was first registered, ~~then two years~~ and thereafter annually;³⁵
 - b)** Vehicles of category M1, N1³⁶ and O2³⁷: **fourth years, sixth years, eighth and tenth year** after the date on which the vehicle was first registered, ~~then two years~~ and thereafter annually;³⁸
 - c)** Vehicles of category M1 registered as taxis or ambulances, vehicles of categories M2, M3, N2, N3, T5³⁹, O3 and O4: one year after the date on which the vehicle was first registered, and thereafter annually.

³¹ Commission reservation on any changes to the frequency of tests.

³² UK, supported by ES: insert "or entry into service if unregistered in any Member State".

³³ FI: general comment: extension of scope to motorcycles do not correspond to conditions in FI: not used during the whole year. Same for O2 trailers. T5 very problematic.

³⁴ PT: L3, delete or phasing-in. Increasing of the frequency implies costs. NL: delete L3 to L7. BE: delete all L category vehicles.

³⁵ DE: delete "and thereafter annually". IT: in favour of the inclusion of two-wheels but reservation on the increasing of the frequency. EL/LT: frequency proposed is problematic.

³⁶ PL/LV/SI: include N1 in the third indent to be checked annually.

³⁷ DE/UK/SE/NL: delete O2.

³⁸ DE: delete "and thereafter annually".

³⁹ UK: include a speed limiter for those vehicles and redefine the scope. For T5 only after the date of entry into force. SE: delete T5 or test them every 2 years and not annually.

DE/NL/ES/EL: delete T5. BG: reservation on T5. BE: T5:acceptable, but trailers are problematic: not registered in BE.

2. In the case where a vehicle of categories M1 or N1 reaches a mileage of 160 000 km, **after verification in accordance with paragraph 3, item 7(11) of Annex II,**⁴⁰ on the first roadworthiness test after the vehicle was first registered, it shall be subject to a roadworthiness test, **as the vehicles listed in paragraph 1(c) thereafter annually.**⁴¹
3. ~~The holder of the registration certificate~~ **competent authority** may request the testing centre, ~~or the competent authority if relevant,~~ to carry out the roadworthiness test during a period extending from the beginning of the month preceding the month of the anniversary date referred to in paragraph 1 until the end of the second month following this date, without affecting the date for the next roadworthiness test, **notwithstanding the national taxation and insurance rules.**⁴²
4. Notwithstanding the date of its last roadworthiness test, the competent authorities may require that a vehicle be subject to a roadworthiness test ~~or additional testing~~ before the date referred to in paragraphs 1 and 2, in the following cases:
- after an accident ~~with serious damage to~~ **affecting** the main safety related components of the vehicle such as wheels, suspension, deformation zones, steering or brakes,
 - when the safety and environmental systems and components of the vehicle have been altered or modified,
 - ~~in cases of a change of the holder of the registration certificate of a vehicle.~~⁴³

⁴⁰ SI: have a date instead of a mileage. CZ/SE/SK/EE/LT/ES: delete the mileage (odometer can be manipulated/not type-approved). BG: reservation on the mileage.

⁴¹ DE: delete paragraph 2. UK considers that it might be appropriate for all N1 vehicles to be tested annually after the test.

⁴² UK/FR/SE/LV/NL/ES: delete (effect on tax system in the UK. Different system in FR). RO: very complicated system. EL/SK: mention the holder but also the owner and user.

⁴³ PL/BE/ES/BG: new indent for other cases at the discretion of Member States.

Article 6

Contents and methods of testing

1. The roadworthiness test shall **at least** cover 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 method applicable to the testing of those items, as set out in Annex II, point 3.

Article 7

Assessment of deficiencies⁴⁴

1. For each item to be tested, Annex III⁴⁵ 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:** ~~When carrying out a roadworthiness test, the inspector shall attribute to each deficiency detected a level of severity and classify it 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**, such that the vehicle may not be used on the road under any circumstances.⁴⁶

⁴⁴ IT: Annex III is problematic because of the power of decision given to the inspectors.

⁴⁵ At the expert meeting of 17 October, it was decided to merge Annexes II and III.

⁴⁶ FR/SE/BE questioned the practical details of the prohibition to circulate. In FR, this is a power only given to the police.

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 ~~most~~ **more** serious deficiency. A vehicle showing several deficiencies ~~of~~ **within** the same group **inspection elements as defined in scope of test in Annex II** shall be classified in the next ~~more~~ serious **deficiency** group if the combined effect of those deficiencies result in a higher risk to road **traffic** safety.⁴⁷

Article 8

Roadworthiness certificate

1. The testing centre or, if relevant, the competent authority 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 IV⁴⁸.
 2. The testing centre or, if relevant, the competent authority, shall provide the person presenting the vehicle to the test with the roadworthiness certificate or, in case of electronic established roadworthiness certificate, a ~~duly~~ certified printout of such certificate.
- 2a. Member State shall accept a roadworthiness certificate issued by any other Member State.**
3. As from the date of entry into force of this ~~Regulation~~ **Directive** and at the latest 3 years afterwards, the testing centres shall communicate electronically, to the competent authority of ~~the a~~ 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. The competent authority shall keep this information for ~~36~~ **[48]** months from the date of its reception⁴⁹.

⁴⁷ LV/FR/CZ/SK: delete the last sentence of this paragraph.

⁴⁸ EE: certificate to be issued only in case of deficiency. CZ disagrees.

⁴⁹ FR: not necessary to indicate how long data should be kept.

4. For the purposes of checking the odometer reading, and where this information was not communicated electronically following the previous roadworthiness test, the inspector shall require the person presenting the vehicle to the test to show the certificate issued following the previous roadworthiness test⁵⁰.
5. The results of the roadworthiness test shall be notified **by the test centre** 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 successfully and the vehicle shall not be re-tested.** The holder of the registration certificate shall ensure that such deficiencies are rectified ~~without delay. The vehicle may not need to be re-tested.~~
2. In the case of major deficiencies, **the test shall be deemed to have been failed.** The competent authority shall decide on the **timespan and the** conditions under which **such** a vehicle may be used before undergoing another roadworthiness test **that shall cover, if appropriate, only the major deficiencies.** ~~The latter test shall take place within six weeks following the initial test.~~
3. In the case of dangerous deficiencies, **the test shall be deemed to have been failed. Such a** ~~The~~ vehicle shall not be used on publicly accessible roads and its registration shall be **suspended** ~~withdrawn~~ in accordance with Article 3a of Directive XXX of the European Parliament and of the Council amending Council Directive 1999/37/EC on the registration documents for vehicles⁵¹ until the deficiencies are rectified and a new roadworthiness certificate is issued testifying that the vehicle is in a roadworthy condition.

⁵⁰ ES: delete this paragraph.

⁵¹ OJ L XXX, XX.XX.XXXX, p. XX.

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 ~~issue~~ **provide** a proof, **such as a sticker, a certificate or any other easily accessible information**, ~~to~~ **for** each vehicle having ~~successfully~~ passed such a test. The proof shall indicate the date of the next roadworthiness test.
- 2.** Each Member State shall recognise the proof issued in accordance with paragraph 1.

⁵² FR, supported by DE, ES, SE, UK, prefer the text as it stands in Art. 3 of Dir. 2009/40/EC.

CHAPTER IV

ADMINISTRATIVE PROVISIONS

Article 11

Testing facilities and equipment

1. Testing facilities and equipment used for carrying out roadworthiness tests shall comply with the minimum technical requirements laid down in Annex V.
2. 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. ~~Any~~ **Equipment** that is used for measurements shall be periodically calibrated **in line with Annex V and verified** in accordance with the specifications provided ~~for~~ by the manufacturer **of the equipment**.

Article 11a

Testing centres

1. **Testing centres, in which certified inspectors perform roadworthiness tests, must be authorised by a supervising body of a Member State.**
2. **To meet minimum requirements in terms of quality management, testing centres shall comply with the requirements of the authorising Member State.⁵³ Testing centres which also perform motor vehicles repairs shall ensure the objectivity and the high quality of the vehicle testing.⁵⁴**

⁵³ DE would like to have a reference to EN ISO 17020.

⁵⁴ *Comment: the second sentence is taken from Art. 2 of Dir. 2009/40/EC.*

3. Testing centres, which have been authorised before the entry into force of this Directive, shall meet the minimum requirements laid down in this Article [5 years] after the entry into force of this Directive.

Article 12

Inspectors

1. Roadworthiness tests shall be carried out by inspectors fulfilling the minimum competence and training requirements laid down in Annex VI.
2. ~~Member States~~ **The competent authorities** shall ~~deliver~~ **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 3.⁵⁵
3. Inspectors employed by competent authorities of the Member States or a testing centre at the date of application of this ~~Regulation~~ **Directive** shall be exempted from the requirements laid down in Annex VI, point 1. ~~The Member States shall deliver a certificate of equivalence to these inspectors.~~
4. When carrying out a roadworthiness test, the inspector shall be free of any conflict of interests, in particular **of an** ~~as regards economic~~ **nature**, ~~personal or family links with the holder of the registration certificate of the vehicle subject to testing~~ **and shall not alter the results of the test for commercial purposes.**
5. The ~~testing centre~~ **inspector** shall inform the person presenting the vehicle to the test of the **deficiencies to be rectified** ~~necessary repairs to be carried out and shall not alter the results of the test for commercial purposes.~~
6. The results of a roadworthiness test performed by an inspector can only be modified, **if at all,** by the supervising body**ies** if the findings of the roadworthiness test performed by the inspector are manifestly incorrect.

⁵⁵ ES and FR consider that the certificates should be provided by approved training centres.

Article 13

Authorisation and supervision of testing centres

1. ~~A~~Supervising body~~ies~~ shall perform at least the tasks provided for in Annex VII, point 1, **including appeals,** 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 supervising bodies.

Supervising bodies shall be independent from **non-governmental** testing centres and vehicle manufacturers.

2. Testing centres directly operated by a competent authority shall be exempted from the requirements regarding authorisation ~~and supervision.~~

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** ~~Regulation~~.
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 ⁵⁶

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, ~~including the possibility to remove the requirement of a proof of test as provided for in Article 10.~~ Within ~~two~~ **three** years after the date of application of this ~~Regulation~~ **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.

⁵⁶ DE, LV, PL, SE, UK: delete Article 15. BE, CZ, EL, IT, NL, RO support the concept of information sharing.

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.**⁵⁷

Where the opinion of the committee is to be obtained by written procedure, that procedure shall be terminated without result when, within the time-limit for delivery of the opinion, the chair of the committee so decides or a simple majority of committee members so request.

Article 17

Delegated acts

The Commission shall be empowered to adopt delegated acts in accordance with Article ~~19~~ **18** with a view **to**:

- ~~to update~~ **only the vehicle category designation in** Article 2(1) and Article 5(1) and (2) as appropriate ~~in order to take account of the~~ **in case of** changes to the vehicle categories stemming from amendments to the **type approval** legislation referred to in Article ~~23~~ (1), **without affecting the scope and the frequencies for testing,**

⁵⁷ Commission reservation.

- ~~to~~ 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.

Article 18

Exercise of delegation⁵⁸

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** ~~delegation of power~~ referred to in Article 17 shall be conferred **on the Commission** for ~~a~~ **an indeterminate** period of ~~time~~ **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.

⁵⁸ PL proposes to change to implementing acts.

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** ~~Regulation~~ and shall take all measures necessary to ensure that they are implemented. Those penalties shall be effective, proportionate, dissuasive and non-discriminatory.
2. Each Member State shall take the necessary measures to ensure that the manipulation or tampering of an odometer ~~is regarded as an offence and~~ is punishable by effective, proportionate, dissuasive and non-discriminatory penalties⁵⁹.
3. The Member States shall notify those provisions to the Commission by [~~one~~ **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. Testing facilities and equipment referred to in Article 11 which do not comply with the minimum requirements laid down in Annex V⁶⁰ on *[the date of application of this Directive]* may be used for carrying out roadworthiness tests for a period of not more than **[five]** years following that date⁶¹.
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** ~~Regulation~~.

⁵⁹ ES, LV: delete paragraph 2.

⁶⁰ FR, supported by EE, asks for this date to be aligned with the date in Art. 22.

⁶¹ EL, LV, NL, SK, UK: reservation until Annex V is discussed.

- 3. Vehicles out of scope of Directive 2009/40/EC shall undergo the first roadworthiness test at the next date resulting from the intervals in Article 5(1).**

Article 21

Repeal

Directive 2009/40/EC and ~~Commission Recommendation 2010/378/EU~~ are **is** repealed with effect from *[the date of application of this Directive]*.

Article 22⁶²

Transposition

- 1. Member States shall adopt and publish by [24 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 ~~[12~~ **36** *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.**

⁶² Recital on correlation table to be inserted.

Article 22a
Entry into force

The ~~Directive~~ Regulation 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.

It shall apply from ~~[12 months after its entry into force]~~.

~~This Regulation shall be binding in its entirety and directly applicable in all Member States⁶³.~~

Done at Brussels,

For the European Parliament
The President

For the Council
The President

⁶³ Commission reservation.