Regulation (EU) 2019/503 of the European Parliament and of the Council of 25 March 2019 on certain aspects of railway safety and connectivity with regard to the withdrawal of the United Kingdom from the Union (Text with EEA relevance)

REGULATION (EU) 2019/503 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 25 March 2019

on certain aspects of railway safety and connectivity with regard to the withdrawal of the United Kingdom from the Union

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 91(1) thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

After consulting the European Economic and Social Committee,

After consulting the Committee of Regions,

Acting in accordance with the ordinary legislative procedure[(1)],

Whereas:

(1) On 29 March 2017, the United Kingdom submitted the notification of its intention to withdraw from the Union pursuant to Article 50 of the Treaty on European Union. The Treaties will cease to apply to the United Kingdom from the date of entry into force of a withdrawal agreement or failing that, two years after that notification, namely from 30 March 2019, unless the European Council, in agreement with the United Kingdom, unanimously decides to extend that period.

(2) In the area of rail transport, the impact of the withdrawal of the United Kingdom from the Union on certificates and authorisations can be remedied by the operators concerned, through various measures. Those measures include operators establishing themselves in one of the remaining Member States and obtaining appropriate licences and certificates there.

(3) Specific agreements, as provided for in Article 14 of Directive 2012/34/EU of the European Parliament and of the Council[(2)], would be necessary to address issues directly concerning cross border rail services and infrastructure, thereby ensuring continuity of such services and minimising disruption. In accordance with that Directive, such agreements would also ensure reciprocal treatment for Union undertakings and undertakings established in the United Kingdom using cross border infrastructure.

(4) The conclusion of such agreements between the Member States concerned and the United Kingdom is only possible after the United Kingdom becomes a third country. In particular, the application of Union safety rules to the Channel tunnel is currently conferred upon an Intergovernmental Commission, set up under the Treaty of Canterbury signed on 12 February 1986, which in the safety field benefits from the advice of the Channel Tunnel Safety Authority. The system established by that Treaty would have to be adapted taking into account the status of the United Kingdom as a third country. In particular, the responsibility for the part of the Channel tunnel on the French territory should be under the sole control of a competent authority as defined in Article 3(7) of Directive (EU) 2016/798 of the European Parliament and of the Council[(3)], in order to ensure that Union law is applied as such to that part of the tunnel. That competent authority could however, with a view to discharging its tasks in the best possible way and having regard to the common features of the tunnel on either side of the border and in order to facilitate consistency of decisions, take account of the opinions of a binational body established under an agreement between the two countries, such as the Channel Tunnel Safety Authority established by the Treaty of Canterbury, which advises the Intergovernmental Commission, or develop other means to cooperate with the authorities responsible for the part of the tunnel on UK territory.

(5) The measures in this Regulation are conditional on safety standards and procedures, requirements for access to operating as a railway undertaking, and requirements for driving a train, which are identical to Union requirements being applied to the infrastructure which is used for the purposes of ensuring cross-border rail connectivity with the United Kingdom as well as to undertakings operating and drivers driving trains on that infrastructure.

(6) In order to allow parties concerned to enter into the necessary agreements and to take any other measures required to avoid disruptions, taking into account the status of the United Kingdom as a third country, it is necessary to extend the validity of certain certificates, authorisations and licences.

(7) The duration of such extension of the validity of certificates, authorisations and licences should be limited in time to what is strictly necessary in order to enable the Members States concerned to take those necessary steps, in accordance with the provisions set out in Directive 2004/49/EC of the European Parliament and of the Council[(4)], Directive 2007/59/EC of the European Parliament and of the Council[(5)] and Directive 2012/34/EU.

(8) To avoid major disruption of the cross- border rail services with the United Kingdom, it is also essential that the rail operators and the national authorities take the required measures speedily to ensure that certificates, authorisations and licences falling under this Regulation are issued in good time before this Regulation ceases to apply, and that other certificates, autorisations and licences required to operate on Union territory are issued before the date of the United Kingdom's withdrawal.

(9) In order to ensure uniform conditions for the implementation of this Regulation, implementing powers should be conferred on the Commission as regards the withdrawal of the benefit conferred on holders of the certificates, authorisations and licences,

where compliance with the Union requirements is not ensured. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council[6]. The examination procedure should be used for the adoption of those measures, given their potential impact on railway safety. The Commission should adopt immediately applicable implementing acts where, in duly justified cases, imperative grounds of urgency so require.

(10) In view of the urgency entailed by the withdrawal of the United Kingdom from the Union, it is appropriate to provide for an exception to the eight-week period referred to in Article 4 of Protocol No 1 on the role of national Parliaments in the Union, annexed to the Treaty on European Union, to the Treaty on the Functioning of the European Union and the Treaty establishing the European Atomic Energy Community.

(11) Since the objective of this Regulation, namely to lay down provisional measures on certain aspects of railway safety and connectivity with regard to the withdrawal of the United Kingdom from the Union, in the event of the absence of a withdrawal agreement, cannot be sufficiently achieved by the Member States but can rather, by reason of its scale and effects, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve that objective.

(12) The provisions of this Regulation should enter into force as a matter of urgency and should apply from the day following that on which the Treaties cease to apply to the United Kingdom unless a withdrawal agreement concluded with the United Kingdom has entered into force by that date,

HAVE ADOPTED THIS REGULATION:

Article 1

Subject matter and scope

1 This Regulation lays down specific provisions, in view of the withdrawal of the United Kingdom of Great Britain and Northern Ireland (‘the United Kingdom’) from the European Union, for certain safety certificates and safety authorisations issued under Directive 2004/49/EC, certain licences of train drivers issued under Directive 2007/59/EC and certain licences of railways undertakings issued under Directive 2012/34/EU.

2 This Regulation shall apply to the following certificates, authorisations and licences which are valid on the day preceding the date of application of this Regulation:

a safety authorisations issued under Article 11 of Directive 2004/49/EC to infrastructure managers for the management and operation of cross-border infrastructure linking the Union and the United Kingdom;

b safety certificates issued under Article 10 of Directive 2004/49/EC to railway undertakings established in the United Kingdom;

c licences issued under Chapter III of Directive 2012/34/EU to railway undertakings established in the United Kingdom;

Changes to legislation: *There are currently no known outstanding effects for the Regulation (EU) 2019/503 of the European Parliament and of the Council. (See end of Document for details)*

d licences of train drivers issued under the procedure referred to in Article 14 of Directive 2007/59/EC.

Article 2

Definitions

For the purposes of this Regulation, the relevant definitions in Directives 2004/49/EC, 2007/59/EC and 2012/34/EU and in the implementing acts adopted under those Directives shall apply. For the purposes of this Regulation, the relevant definitions in Directive (EU) 2016/798 and in any delegated and implementing acts adopted under that Directive shall apply from the date on which that Directive becomes applicable to the authorisations and certificates referred to in points (a) and (b) of Article 1(2).

Article 3

Validity of safety authorisations, safety certificates, operating licences and train drivers licences

1 The safety authorisations referred to in point (a) of Article 1(2) and the safety certificates referred to in point (b) of Article 1(2) shall remain valid for nine months from the date of application of this Regulation. Safety certificates referred to in point (b) of Article 1(2) shall be valid only for the purpose of reaching the border crossing stations and terminals referred to in the Annex to this Regulation from the United Kingdom or departing from those stations and terminals to the United Kingdom.

2 The licences referred to in point (c) of Article 1(2) shall remain valid for nine months from the date of application of this Regulation. By derogation from Article 23(1) of Directive 2012/34/EU, those licences shall be valid only on the territory situated between the border-crossing stations and terminals referred to in the Annex to this Regulation and the United Kingdom.

3 The licences referred to in point (d) of Article 1(2) shall remain valid for nine months from the date of application of this Regulation for train drivers while operating on the territory situated between the border-crossing stations and terminals referred to in the Annex to this Regulation and the United Kingdom.

Article 4

Rules and obligations regarding safety certificates, safety authorisations and licences

1 Safety certificates, safety authorisations and licences governed by Article 3 of this Regulation are subject to the rules applicable to them in accordance with Directive 2004/49/EC, Directive (EU) 2016/798 from the date it becomes applicable to those authorisations, Directive 2012/34/EU and Directive 2007/59/EC, and in accordance with the implementing and delegated acts adopted under those Directives.

2 The holders of safety certificates, safety authorisations and licences referred to in Article 1(2), and, as appropriate, the authority issuing them when different from the National Safety Authority in whose territory the infrastructure is situated in the Union respectively under whose competence the border-crossing stations and terminals listed in the Annex falls shall

cooperate with that National Safety Authority and deliver to it all relevant information and documents.

3 Where information or documents have not been delivered within the time limits set in requests made by the National Safety Authority referred to in paragraph 2 of this Article, the Commission may, upon notification by the National Safety Authority, adopt implementing acts to withdraw the benefit conferred on the holder pursuant to Article 3. Those implementig acts shall be adopted in accordance with examination procedure referred to in Article 7(2).

4 Holders of safety certificates, safety authorisations and licences referred to in points (a), (b) and (d) of Article 1(2) of this Regulation shall inform without delay the Commission and the European Union Agency for Railways of any actions by other competent safety authorities, which may conflict with their obligations under this Regulation, Directive 2004/49/EC, Directive 2007/59/EC or Directive (EU) 2016/798.

Holders of licences referred to in point (c) of Article 1(2) shall inform without delay the Commission of any actions by other competent authorities which may conflict with their obligations under this Regulation or under Directive 2012/34/EU.

5 Before withdrawing the benefits conferred pursuant to Article 3 the Commission shall in due time inform the National Safety Authority referred to in paragraph 2 of this Article, the authority having issued the safety certificates, safety authorisations and licences referred to in Article 1(2), and the holders of such certificates, authorisations and licences of its intention to proceed to such withdrawal and shall provide them with the opportunity to make their views known.

6 As regards the licences referred to in point (c) of Article 1(2), for the purposes of paragraphs (1) to (5) of this Article, references to a National Safety Authority shall be understood as references to a licencing authority defined in point (15) of Article 3 of Directive 2012/34/EU.

Article 5

Monitoring compliance with Union law

1 The National Safety Authority referred to in Article 4(2) shall monitor the railway safety standards applied to railway undertakings established in the United Kingdom using the cross-border infrastructure referred to in point (a) of Article 1(2), and applied to that cross-border infrastructure. In addition, the National Safety Authority shall check that infrastructure managers comply with the safety requirements set out in Union law and that the train drivers operating on the territory under its jurisdiction fulfil the requirements set out in the relevant provisions of Union law. The National Safety Authority shall provide the Commission and the European Union Agency for Railways with reports on this matter, which shall be accompanied, where appropriate, with a recommendation for the Commission to act in accordance with paragraph 2 of this Article.

The licencing authority referred to in Article 4(2) and (6) of this Regulation shall monitor whether the requirements of Articles 19 to 22 of Directive 2012/34/EU continue to be met in relation to railway undertakings licenced by the United Kingdom referred to in point (c) of Article 1(2) of this Regulation.

2 Where the Commission has justified doubts that the safety standards applied to the operation of cross-border railway services or infrastructure falling within the scope of this Regulation or the part of the same infrastructure that is situated in the United Kingdom are in line with the relevant provisions of Union law, it shall without undue delay, adopt implementing