Regulation (EU) 2016/2337 of the European Parliament and of the Council of 14 December 2016 repealing Regulation (EEC) No 1192/69 of the Council on common rules for the normalisation of the accounts of railway undertakings (Text with EEA relevance)

REGULATION (EU) 2016/2337 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 14 December 2016

repealing Regulation (EEC) No 1192/69 of the Council on common rules for the normalisation of the accounts of railway undertakings

(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 Articles 91 and 109 thereof,

Having regard to the proposal from the European Commission,

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

Having regard to the opinion of the European Economic and Social Committee[(1)],

Having regard to the opinion of the Committee of the Regions[(2)],

Acting in accordance with the ordinary legislative procedure[(3)],

Whereas:

(1) Council Regulation (EEC) No 1192/69[(4)] allows Member States to compensate 40 enumerated railway undertakings for the payment of obligations which undertakings of other transport modes do not have to support. The correct application of the rules for normalisation results in the exemption of Member States from State aid notification obligations.

(2) A series of Union legal acts has been adopted opening up the rail freight and international rail passenger markets to competition and establishing, in the case of Directive 2012/34/EU of the European Parliament and of the Council[(5)], certain fundamental principles, which include: that railway undertakings are to be managed in accordance with the principles that apply to commercial companies; that entities responsible for the allocation of capacity and charging for rail infrastructure are to be separate from entities which operate rail services, and that there is to be a separation of accounts; that any railway undertaking licensed in accordance with Union criteria is to have access to railway infrastructure on a fair and non-discriminatory basis; and that infrastructure managers may benefit from State financing.

(3) Regulation (EEC) No 1192/69 is inconsistent and incompatible with legislative measures currently in force. In particular, in the context of a liberalised market, where

Changes to legislation: *There are currently no known outstanding effects for the Regulation (EU) 2016/2337 of the European Parliament and of the Council. (See end of Document for details)*

railway undertakings compete directly with the enumerated railway undertakings, it is no longer appropriate to treat those two groups differently from one another.

(4) In order to eliminate inconsistencies in the Union legal order and with a view to contributing to simplification by eliminating a legal act which has become obsolete, it is therefore appropriate to repeal Regulation (EEC) No 1192/69.

(5) Member States may pay compensation for the costs of crossing facilities on the basis of Article 8 of Directive 2012/34/EU. They may, nevertheless, need time to amend their national law and administrative provisions to take account of the repeal of Regulation (EEC) No 1192/69. As a consequence, this repeal should not take immediate effect for cases covered by Annex IV to Regulation (EEC) No 1192/69,

HAVE ADOPTED THIS REGULATION:

Article 1

Regulation (EEC) No 1192/69 is repealed, with the exception of the provisions of that Regulation that apply to the normalisation of accounts for Class IV cases covered by Annex IV to that Regulation. Those provisions shall continue to apply until 31 December 2017.

Article 2

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

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

Done at Strasbourg, 14 December 2016.

For the European Parliament

The President

M. SCHULZ

For the Council

The President

I. KORČOK