Commission Regulation (EU) No 36/2010 of 3 December 2009 on Community models for train driving licences, complementary certificates, certified copies of complementary certificates and application forms for train driving licences, under Directive 2007/59/EC of the European Parliament and the Council (text with EEA relevance)

COMMISSION REGULATION (EU) No 36/2010

of 3 December 2009

on Community models for train driving licences, complementary certificates, certified copies of complementary certificates and application forms for train driving licences, under Directive 2007/59/EC of the European Parliament and the Council

(text with EEA relevance)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Directive 2007/59/EC of the European Parliament and of the Council of 23 October 2007 on the certification of train drivers operating locomotives and trains on the railway system in the Community[(1)], and in particular Article 4(4) thereof,

Having regard to the recommendation of the European Railway Agency No ERA/REC/SAF/04-2008 of 19 December 2008 on harmonised formats for train driving licences, complementary certificates, and certified copies of the complementary certificates for train drivers, in conformity with Directive 2007/59/EC and the recommendation of the European Railway Agency No ERA/REC/SAF/06-2008 of 19 December 2008 on the use of a harmonised model for application form for train driving licences,

Whereas:

(1) Directive 2007/59/EC provides that all train drivers shall have the necessary fitness and qualifications to drive trains and shall hold the following documents: a licence demonstrating that the driver satisfies minimum conditions as regards medical requirements, basic education and general professional skills and one or more certificates indicating the infrastructures on which the holder is authorised to drive and indicating the rolling stock which the holder is authorised to drive.

(2) The Member States' laws on the certification conditions for train drivers differ considerably. Harmonised models for the certification of train drivers should therefore be adopted to support the implementation of the relevant Community rules.

(3) The aim of harmonising licences and complementary certificates is primarily to make it easier for train drivers to move from one Member State to another, but also to make it easier for them to move from one railway undertaking to another, and generally to have the licences and certificates recognised by all railway sector stakeholders. To this end, it is essential that the provisions set minimum requirements which

Changes to legislation: *There are outstanding changes not yet made to Commission Regulation (EU) No 36/2010. Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

applicants should meet to obtain a licence or harmonised complementary certificate. In order to guarantee the necessary uniformity and transparency, Member States should adopt a harmonised model for train driving licences, whilst railway undertakings and infrastructure managers should issue harmonised complementary certificates.

(4) To railway undertakings and infrastructure managers employing or contracting drivers, and especially to railway undertakings operating international services, it is important that the format of complementary certificates should be the same in different Member States; therefore it should be harmonised in order to attest drivers' compliance with certain minimum conditions, professional qualifications and linguistic knowledge.

(5) In accordance with Article 4(4) of Directive 2007/59/EC, the European Railway Agency is required to prepare a draft of Community model for the licence, the complementary certificate and the certified copy of the complementary certificate, and also determine their physical characteristics, taking into account therein anti-forgery measures. The same Article requires the Agency to recommend Community Codes for the different types of categories of driving A and B to be displayed on the complementary certificate. Annex I(2)(g) to Directive 2007/59/EC states that the Commission shall decide the codes for additional information or medical restriction to be included in the train driving licences.

(6) Each train driving licence should be granted by the Member States with a unique number; this number should also make it easier to record the licence in the national register of train driving licences, to be set up in accordance with Article 22(1)(a) of Directive 2007/59/EC.

(7) All of the information contained in train driving licences, complementary certificates and registers thereof should be used by the safety authorities to facilitate evaluation of the staff certification process provided for in Articles 10 and 11 of Directive 2004/49/EC of the European Parliament and of the Council of 29 April 2004 on safety on the Community's railways and amending Council Directive 95/18/EC on the licensing of railway undertakings and Directive 2001/14/EC on the allocation of railway infrastructure capacity and the levying of charges for the use of railway infrastructure and safety certification (Railway Safety Directive)[(2)] and to speed up the issuing of the safety certificates provided for in those Articles.

(8) The employment of train drivers certified in accordance with Directive 2007/59/EC should not exonerate railway undertakings and infrastructure managers from their obligation to set up a system of monitoring and internal control of the competence and conduct of their train drivers pursuant to Article 9 of and Annex III to Directive 2004/49/EC and should form part of that system. The harmonised complementary certificate should not relieve railway undertakings and infrastructure managers of their responsibility for the safe operation of their part of the railway system, and, in particular, the training of their staff.

(9) Article 7(1) of Directive 2007/59/EC states that a licence shall be valid throughout the territory of the Community and Article 4(4) of that Directive requires a Community model to be set out. A harmonised application form for licences would therefore

***Changes to legislation:** There are outstanding changes not yet made to Commission Regulation (EU) No 36/2010. Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

facilitate the work of the competent authorities in the Member States that have to collect information in order to deliver the licence.

(10) Article 14(1) of Directive 2007/59/EC requires competent authorities in the Member States to publish the procedure to be followed for obtaining a licence. When establishing such procedures, competent authorities should include provisions for the use of the harmonised application form.

(11) The harmonised application form may be used to provide adequate information on the national enforcement provisions for Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and of the free movement of such data[(3)] on the protection of individuals when processing personal data. Competent authorities may use it to obtain authorisation to process data on applicants for or holders of a train driving licence, whenever it is required thereby.

(12) The adoption of a harmonised application form has a very limited economic impact and constitutes a very slight administrative burden, given the possibility to choose between a printout document and an IT interface using a common application.

(13) In accordance with Article 36(3) of Directive 2007/59/EC, the latter does not apply to Cyprus and Malta. Therefore this Regulation should not be applicable in Cyprus and Malta as long as no railway system is established within the territory of these Member States.

(14) The measures provided for in this Regulation are in accordance with the opinion of the Railway Safety and Interoperability Committee as set up under Article 21 of Directive 96/48/EC,

HAS ADOPTED THIS REGULATION:

Article 1

Community model for train driving licences

The Community model as set out in Annex I to this Regulation shall be used for train driving licences as referred to in Article 4(1)(a)of Directive 2007/59/EC. This format shall be used whenever a train driving licence is issued, renewed, updated, amended or revoked.

The language used shall be one or more official language(s) of the European Community.

Article 2

Community model for complementary certificates

The Community model as set out in Annex II to this Regulation shall be used for complementary certificates as referred to in Article 4(1)(b) of Directive 2007/59/EC.

Changes to legislation: *There are outstanding changes not yet made to Commission Regulation (EU) No 36/2010. Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

This format shall be used whenever a complementary certificate is issued, renewed, updated, amended or revoked.

The language used shall be one or more official language(s) of the European Community.

Article 3

Community model for certified copies of complementary certificates

The Community model set out in Annex III to this Regulation shall be used for certified copies of the complementary certificates issued in accordance with Article 17 of Directive 2007/59/EC.

Article 4

Application form for train driving licences

1 The Community model of the application form, as set out in Annex IV to this Regulation may be used for train driving licence application forms referred to in Article 14 of Directive 2007/59/EC. This model shall allow the inclusion of national requirements that may complement the information set out in Annex IV to this Regulation.

2 The Community model of the application form, may be used to apply for a new licence, the updating of licence particulars, a renewal or a duplicate.

3 Guidelines for filling in the Community model of the application form are set out in Annex IV.

4 Competent authorities may transfer the lay-out of the Community model into the procedure to be published in accordance with Article 14(1) of Directive 2007/59/EC and into the IT based interfaces.

Article 5

Entry into force

This Regulation shall enter into force on the 20th day following 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, except Cyprus and Malta as long as no railway system is established within their territory.

***Changes to legislation:** There are outstanding changes not yet made to Commission Regulation (EU) No 36/2010. Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

ANNEX I

COMMUNITY MODEL OF TRAIN DRIVING LICENCE

1. PHYSICAL CHARACTERISTICS OF THE TRAIN DRIVING LICENCE

The train driving licence shall follow the format ID-1 set out in international standard ISO/IEC 7810:2003 Identification cards — Physical characteristics.

Without prejudice to data protection rules, Member States may, for national use only, use storage medium (microchip) as part of the licence, to allow railway undertakings and infrastructure managers to store company-related information including the data to be contained in the complementary certificate, provided that it does not in any way interfere with the implementation of this Regulation.

The insertion of any such microchip shall conform with international standard ISO 7816-1:1998 Identification cards — Integrated circuit(s) cards with contacts — Part 1: Physical characteristics.

Railway undertakings and infrastructure managers will not be exempted from adopting the Community model of the complementary certificate described in Chapter 4 of Annex II until the harmonised requirements for the use of smart-card are established.

Methods for verifying the characteristics of the driving licences, to ensure that they are consistent with international standards, shall comply with standard ISO/IEC 10373-1:2006 Identification cards — Test methods — Part 1: General characteristics.

2. ANTI-FORGERY MEASURES

(a) The material used for driving licences shall be made secure against forgery by using the following techniques (mandatory security features):

- card bodies shall be UV dull,
- a security background pattern shall be designed to be resistant to counterfeit by scanning, printing or copying, using rainbow printing with multicolour security inks and positive and negative guilloche printing; the pattern shall not be composed of the primary colours (CMYK), shall contain complex pattern designs in a minimum of two special colours and shall include micro lettering,
- optical variable elements shall provide adequate protection against copying and tampering with the photograph,
- in the area of the photograph the security design background and photograph shall overlap on at least the border of the photograph (weakening pattern).

(b) In addition, the material used for driving licences shall be made secure against forgery by using at least one of the following techniques (additional security features):

- colour-shifting inks,
- thermochromic ink,
- custom holograms,
- variable laser images,
- tactile characters, symbols or patterns.

The techniques used should enable the competent authorities to check the validity of the card without any special equipment.