



**COUNCIL OF
THE EUROPEAN UNION**

Brussels, 23 July 2012

12786/12

**Interinstitutional File:
2012/0184 (COD)**

**TRANS 249
CODEC 1954**

PROPOSAL

from:	Commission
dated:	13 July 2012
No Cion doc.:	COM(380) final
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

Delegations will find attached a proposal from the Commission, submitted under a covering letter from Mr Jordi AYET PUIGARNAU, Director, to Mr Uwe CORSEPIUS, Secretary-General of the Council of the European Union.

Encl.: COM(380) final



EUROPEAN COMMISSION

Brussels, 13.7.2012
COM(2012) 380 final

2012/0184 (COD)

Roadworthiness Package

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**

(Text with EEA relevance)

{SWD(2012) 206 final}_ {SWD(2012) 207 final}

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

- Grounds for and objectives of the proposal

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 enhance 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 2011-2020¹. It will also contribute to the reduction of emissions in road transport linked to poor maintenance of vehicles.

- General context

Before a vehicle is allowed to be put on the market, it has to fulfil all the relevant type or individual approval requirements guaranteeing an optimal level of safety and environmental standards. Every Member State has the obligation to register for the first time any vehicle that got the European type-approval on the basis of the “Certificate of Conformity” issued by the vehicle manufacturer. This registration is the official authorisation for the use on public roads and enforces the different introduction dates of different vehicles' requirements.

Following this approval, cars on the road have to be regularly submitted to periodic roadworthiness tests. The aim of these tests is to ensure that cars on the road remain roadworthy, safe and do not pose any danger to the driver and other road users. Cars are therefore checked for compliance with certain requirements, such as those for safety and environmental protection, as well as for retrofitting requirements. Because of their regular and intensive use mainly for commercial purposes, vehicles used for the professional transport of goods with a laden mass above 3.5 tonnes and for the professional transport of passengers of more than 8 passengers are additionally subject to ad hoc technical roadside inspections by which their compliance with environmental and technical requirements is verified at anytime and anywhere in the EU.

During a vehicle's lifetime it may be subject to re-registration, due to a change of ownership, or a transfer to another Member State for permanent use. Provisions on a vehicle registration procedure should be similarly introduced to ensure that vehicles which constitute an immediate risk to road safety are not used on roads. The goal of roadworthiness testing is to check the functionality of safety components, the environmental performance and the compliance of a vehicle with its approval.

¹ COM(2010) 389 final.

- Existing provisions in the area of the proposal

The "Roadworthiness Package" will carry over the existing requirements laid down in the existing legislative framework related to the roadworthiness regime, which covers roadworthiness tests², roadside inspections³ and rules on the registration of vehicles⁴.

Compared to the existing legislation on roadworthiness tests, the proposal extends the scope of the existing regime to new categories of vehicles, including motorcycles, as well as the frequency of inspections for older vehicles to those having reached a high mileage. The proposal also lays down new requirements on several issues related to the standard and quality of testing, namely test equipment, skills and training of testing personnel and supervision of the testing system.

- Consistency with the other policies and objectives of the Union

The proposal is consistent with the EU objective to make roads safer as outlined in the White Paper on Transport⁵ and aims at implementing the specific strategy related to safer vehicles within the Road Safety Policy Orientations 2011-2020.

Furthermore, as far as the environmental aspects of the proposal are concerned, the foreseen requirements contribute to reduce CO₂ emissions and other air pollutants from motor vehicles following the European Strategy on clean and energy efficient vehicles⁶ as well as the integrated energy and climate change policy⁷ the so-called "20-20-20 strategy" and to contribute to achieve the air quality objectives set out in Directive 2008/50/EC⁸

Finally, the proposal is consistent with the recommendations related to the re-launch of the Single Market policy as provided by the Monti Report of May 2010⁹ in the field of reduction of administrative obstacles for cross-border movement of second hand cars.

2. RESULTS OF CONSULTATIONS WITH THE INTERESTED PARTIES AND IMPACT ASSESSMENTS

- Consultation of interested parties

Consultation methods

In developing the proposal the Commission has consulted stakeholders in a number of ways:

² Directive 2009/40/EC of the European Parliament and of the Council of 6 May 2009 on roadworthiness tests for motor vehicles and their trailers (OJ L 141 of 6.6.2009, p.12).

³ Directive 2000/30/EC of the European Parliament and of the Council of 6 June 2000 on the technical roadside inspection of the roadworthiness of commercial vehicles circulating in the Community, as amended (OJ L 203 of 10.8.2000, p.1).

⁴ Council Directive 1999/37/EC of 29 April 1999 on the registration documents of vehicles (OJ L 138 of 1.6.1999, p.57).

⁵ COM(2011) 144 final.

⁶ COM(2010) 186 final.

⁷ COM(2008) 30 final.

⁸ Directive 2008/50/EC of the European Parliament and of the Council of 21 May 2008 on ambient air quality and cleaner air for Europe (OJ L 152, 11.6.2008, p.1)

⁹ http://ec.europa.eu/bepa/pdf/monti_report_final_10_05_2010_en.pdf.

- There was a general internet consultation, covering all aspects of the proposal.
- Experts and stakeholders have been consulted within workshops.
- A study on future options for roadworthiness enforcement in the European Union has been carried out to identify possible measures and to elaborate a cost benefit analysis tool related to the effects of roadworthiness testing.

Summary of responses and how they have been taken into account

During the internet consultation, several issues were raised by stakeholders. The impact assessment that accompanies this proposal provides a full account of the substantive issues raised and indicates how they have been taken into consideration.

An open consultation was conducted over the internet from 29 July 2010 to 24 September 2010. The Commission received 9,653 responses from citizens, Member State authorities, equipment suppliers, test centres, garage associations and vehicle manufacturers.

The results are available on http://ec.europa.eu/transport/road_safety/take-part/public-consultations/pti_en.htm.

- Collection and use of expertise

Scientific/expertise domains concerned

The proposal required the assessment of different policy options as well as the associated economic, societal and environmental impacts.

Methodology used

A study on the impacts of different policy options has been performed by an external consultant (Europe Economics) by using several scientific and evaluation reports, notably as sources of models and data for the monetization of the costs and benefits of the different policy options. Most extensively used studies include the following:

- The Report from the Commission to the Council and the European Parliament on the application by the Member States of Directive 2000/30/EC of the European Parliament and of the Council of 6 June 2000 on the technical roadside inspections of the roadworthiness of commercial vehicles circulating in the community - Reporting periods 2005–2006 and 2007–2008¹⁰,
- AUTOFORE (2007),
- "MOT Scheme Evidence-base" Department of Transport (UK, 2008),
- DEKRA Road Safety Report 2008 – Strategies for preventing accidents on Europe's roads,
- DEKRA Road Safety Report on Trucks 2009,

¹⁰ COM(2010) 754 final.

- DEKRA Motorcycle road safety report 2010,
- TÜV Reports 2009 / 2010.

Means used to make the expert advice publicly available

All completed and approved research reports are or will be made available on the DG Mobility and Transport website.

- Impact assessment

For the main aspects of the proposal the following options were considered:

- (a) The 'No policy change' approach provides the reference case with which the effects of other policy options are compared. Within this option, the present EU legal framework would be maintained. Also, there would be no short-term adaptation of the technical annex of Directive 2009/40/EC which has been recently amended through the committee procedure with Directive 2010/48/EU¹¹. The scope and frequency of roadworthiness tests will therefore not change, and no further measures related to the exchange of information will be adopted. The absence of a framework for exchanging data will persist.
- (b) The "Soft law approach" would consist in both better implementation and better monitoring of the application of existing legislation. This option would not introduce new legislation, but there would be new and increased efforts by the Commission to improve the standards of testing and enforcement, as well as actions to incentivise the exchange of data.
- (c) The "Legislative approach" would be based on two components.
 - In order to meet the specific objective to enhance the safety of vehicles on the road, the first component is to revise upwards the minimum EU standards for periodic roadworthiness tests (PTI) and unexpected roadside inspections (RSI) and define mandatory standards. This is essential to avoid that gaps in the system reduce the effectiveness of roadworthiness enforcement as a whole.
 - In order to meet the specific objective of making the necessary data for and from roadworthiness testing available, a second component of the overall regime would include, in a second phase, the possible establishment of an EU harmonised data exchange system linking the existing databases and ensuring:

the access by all PTI centres to data at the level of the Certificate of Conformity and the data on electronic safety systems (such as ABS¹², ESC¹³, airbags, etc.);
 the exchange of inspection results between Member States, with accessibility of most important enforcement authorities to the system;
 the reporting of inspection results – and in particular odometer readings – by PTI centres to national and European authorities for enforcement and statistical purposes.

¹¹ OJ L 173 of 8.7.2010, p.47.

¹² Anti-lock Braking System.

¹³ Electronic Stability Control.

In several Member States a high number of private authorised test centres carry out roadworthiness tests. In order to ensure a coherent approach, certain common procedures such as minimum time limits and the nature of the information to be forwarded, should be specified in the legislation.

However, the impact assessment has shown the benefits of a combination of a soft-law approach with a regulatory approach. Therefore, the soft-law measures previously envisaged by the impact assessment have been integrated into the legislative texts.

3. LEGAL ELEMENTS OF THE PROPOSAL

- Summary of the proposed action

Testing centres shall have access to the technical information necessary to perform the tests including those of electronic safety related components like ABS or ESC. Manufacturers shall provide access to such information as it is already in place for vehicle repair and maintenance information.

The scope of vehicles to be tested will be extended to the powered two or three wheelers, light trailers up to 3.5 tons and tractors with a design speed exceeding 40 km/h. Considering the aspects of vehicle age and yearly mileage the test frequency of older cars will be increased and vehicles with high mileage will be subject to annual testing as it is already the case for taxis and ambulances. A time window of four month in which the roadworthiness test shall be performed will allow for sufficient flexibility for citizens and operators.

The equipment to be used for testing shall fulfil certain minimum requirements allowing for an efficient performing of the test methods described. Detected deficiencies shall be assessed according to harmonised rules related to their risk to road safety.

Inspectors performing roadworthiness tests shall meet a certain level of knowledge and skills and be properly trained. Inspectors shall be free of any conflict of interests, in particular as regards economic, personal or family links with the holder of the vehicle registration. Roadworthiness test activities performed by authorised private bodies shall be subject to supervision.

Results of roadworthiness tests, including information on the vehicles mileage, shall be kept in national registers, which will facilitate the identification of mileage fraud. Odometer fraud should also be more systematically considered as an offence liable to a penalty.

In several Member States a high number of private authorised test centres carry out roadworthiness tests. In order to ensure the efficient exchange of information between Member States, national contact points should be designated and certain common procedures such as a minimum to time limits and the nature of the information to be forwarded, should be specified.

The Commission shall be empowered to amend the Regulation with a view to take into account, when appropriate, evolution of the EU type-approval legislation in relation with vehicle categories and to update the annexes to technical progress via delegated acts including inter alia alternative test procedures based upon modern emission after-treatment systems for checking the in use NO_x and particulate emissions conformity which are still under development.

- Legal basis

The legal basis of the proposal is Article 91 of the Treaty on the Functioning of the European Union.

- Subsidiarity principle

The subsidiarity principle applies insofar as the proposal does not fall under the exclusive competence of the Union.

The objectives of the proposal cannot be sufficiently achieved by the Member States for the following reason: the technical requirements for roadworthiness testing have been set on a minimum level at Union level and their implementation by Member States has led to a high diversity in the requirements throughout the Union with negative impacts both on road safety and on the internal market.

The proposal therefore complies with the subsidiarity principle.

- Proportionality principle

As showed in the impact assessment, the proposal complies with the proportionality principle because it does not go beyond what is necessary in order to achieve the objectives related to the increase of road safety and environmental protection by increasing the quality and strengthening of roadworthiness testing and creating the appropriate framework for a seamless flow of information. This includes inter alia the setting of minimum standards for inspectors' knowledge and training as today's vehicles are high sophisticated products full of complex technology. This applies also to minimum requirements for the test equipment that will be used during roadworthiness tests. All these measures are the necessary prerequisites providing for an increase of testing quality.

- Choice of instrument

Proposed instruments: Regulation.

The choice of a Regulation is considered to be appropriate in providing the required assurance of compliance whilst not requiring the transposition into Member States legislation.

4. BUDGETARY IMPLICATION

The proposal has no implication on the Union budget.

5. OPTIONAL ELEMENTS [WHERE NECESSARY]

- Repeal of existing legislation

The adoption of the proposal will lead to the repeal of existing legislation.

- European Economic Area

The proposed act concerns an EEA matter and should therefore extend to the European Economic Area.

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**

(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 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 Committee¹⁴,

Having regard to the opinion of the Committee of the Regions¹⁵,

Acting in accordance with the ordinary legislative procedure,

Whereas:

- (1) In its White Paper of 28 March 2011 'Roadmap to a Single European Transport Area – Towards a competitive and resource efficient transport system'¹⁶ the Commission sets out a 'vision zero' objective in which the Union should move close to zero fatalities in road transport by 2050. To reach this objective, vehicle technology is expected to contribute a great deal to the improvement of the safety record of road transport.
- (2) The Commission, in its Communication on 'Towards a European road safety area: policy orientations on road safety for 2011-2020'¹⁷, proposed to further halve the overall number of road fatalities in the Union by 2020, starting from 2010. With a view to reach this goal, the Commission defined seven strategic objectives, including

¹⁴ OJ C , , p. .

¹⁵ OJ C , , p. .

¹⁶ COM(2011) 144 final.

¹⁷ COM (2010) 389 final.

actions for safer vehicles, a strategy to reduce the number of injuries and the improvement of the safety of vulnerable road users, in particular motorcyclists.

- (3) Roadworthiness testing is a part of a wider regime ensuring that vehicles are kept in a safe and environmental acceptable condition during their use. This regime should cover periodic roadworthiness tests for all vehicles and roadside technical inspection for vehicles used for commercial road transport activities as well as provisions on a vehicle registration procedure to ensure that vehicles which constitute an immediate risk to road safety are not used on roads.
- (4) A number of technical standards and requirements on vehicle safety have been adopted within the Union. It is however necessary to ensure, through a regime of periodic roadworthiness tests, that after being placed on the market, vehicles continue to meet safety standards throughout their lifetime. This regime should apply to categories of vehicles as defined in Directive 2002/24/EC of the European Parliament and of the Council of 18 March 2002 relating to the type-approval of two or three-wheel motor vehicles and repealing Council Directive 92/61/EEC¹⁸, Directive 2007/46/EC of the European Parliament and of the Council of 5 September 2007 establishing a framework for the approval for motor vehicles and their trailers, and of systems, components and separate technical units intended for such vehicles¹⁹ and Directive 2003/37/EC of the European Parliament and of the Council of 26 May 2003 on type-approval of agricultural or forestry tractors, their trailers and interchangeable towed machinery, together with their systems, components and separate technical units and repealing Directive 74/150/EEC²⁰.
- (5) There is a clear correlation between the level of road safety and the number of technical deficiencies of vehicles. In 2009, 35,000 fatalities have been reported on European roads. Assuming that technical deficiencies contribute to fatalities proportionately to their contribution to accidents, more than 2,000 fatalities per year in the Union may be linked to technical deficiencies of vehicles. Based on available studies, between 900 and 1,100 of these could be avoided if adequate improvements to the roadworthiness testing system were put in place.
- (6) A large fraction of total emissions of road transport, in particular CO₂ emissions, is due to a minority of vehicles with malfunctioning emission control systems. It is estimated that 5% of the vehicle fleet causes 25% of all pollutant emissions. Therefore, a periodic regime of roadworthiness tests would also contribute to improve the environment through the reduction of the average vehicle emissions.
- (7) Solid investigation results show that 8% of the accidents involving motorcycles are caused or linked to technical defects. Motorcycle riders are the group of road users with the highest safety risk, with rising trend in the number of fatalities. Moped drivers are overrepresented in the number of fatalities, with more than 1,400 drivers killed on the roads in 2008. The scope of vehicles to be tested shall therefore be extended to the highest risk group of road users, the powered two- or three-wheel vehicles.

¹⁸ OJ L 124, 9.5.2002, p. 1.

¹⁹ OJ L 263, 9. 10. 2007, p. 1.

²⁰ OJ L 171, 9. 7. 2003, p. 1.

- (8) Agricultural vehicles with a maximum design speed exceeding 40 km/h are more and more used to replace trucks in local transport activities. Their risk potential is comparable to that of trucks and therefore this vehicle category should be treated in the same way as trucks regarding roadworthiness testing.
- (9) Vehicles of historic interest are supposed to conserve heritage of the époque they have been built and considered to be hardly used on public roads, it should be left to Member States to extend the period of periodic roadworthiness testing for such vehicles. It should also be for Member States to regulate roadworthiness testing of other types of specialised vehicles.
- (10) Roadworthiness testing is a sovereign activity and should therefore be done by the Member States or by 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 involved in performing repairs.
- (11) For the inspection of vehicles and especially for their electronic safety components it is crucial to have access to the technical specifications of each single vehicle. Therefore vehicle manufacturers should not only provide the complete set of data as covered by the certificate of conformity (CoC) but also the access to data necessary for verification of the functionality of safety and environmental related components. The provisions related to access to repair and maintenance information should be applied similarly for this purpose, allowing inspection centres to have access to those information-elements necessary for roadworthiness testing. This is of crucial importance especially in the field of electronic controlled systems and should cover all elements that have been installed by the manufacturer.
- (12) To achieve a high quality of testing throughout the Union test equipment to be used during testing, its maintenance and calibration should be specified on Union level.
- (13) Inspectors, when performing roadworthiness tests, should act independently and any conflict of interests should be avoided.. The result of roadworthiness tests should not thus be linked to salary or any economic or personal benefit.
- (14) Results of a test should not be altered for commercial purposes. Only, if the findings of the roadworthiness test performed by an inspector are manifestly incorrect, the supervising body should be able to modify the results of a roadworthiness test.
- (15) High standards of roadworthiness testing require a high level of skills and competences of the testing personnel. A training system including an initial training and periodic refresher trainings should be introduced. A transitional period should be defined to allow for a smooth transition of existing testing personnel into the periodic training regime.
- (16) With a view to ensure that the high quality of testing is kept over time Member States should be required to set up a quality assurance system that covers the processes of authorisation, Supervision and withdrawal, suspension or cancellation of the authorisation to perform roadworthiness tests.
- (17) Frequency of tests should be adapted according to the type of vehicle and to their mileage. Vehicles are more likely to present technical deficiencies when they reach a

certain age and, in particular when intensively used, after a certain mileage. It is therefore appropriate to increase the test frequency for older vehicles and for vehicles with high mileage.

- (18) To allow for some flexibility for vehicle owners and operators, Member States should have the possibility to define a period of several weeks in which the periodic roadworthiness test would have to be performed.
- (19) Roadworthiness tests should cover all items relevant to the specific design, construction and equipment of the tested vehicle. Within these items and considering the current state of vehicle technology, modern electronic systems should be included in the list of items to be tested. To achieve a harmonisation of roadworthiness testing, testing methods should be provided for each of the test items.
- (20) In order to facilitate harmonisation and to ensure consistency of standards, a non-exhaustive list of the main reasons for failure should be provided for all test items. To achieve consistency in the judgement of the condition of the tested vehicle, detected failures should be assessed to a common standard.
- (21) The holder of the registration of a vehicle subject to a roadworthiness test during which deficiencies are found, in particular those which represent a risk to road safety, should rectify such deficiencies without delay. In case of dangerous deficiencies, the registration of the vehicle should be withdrawn until those deficiencies are fully rectified.
- (22) A roadworthiness certificate should be issued after each test, including inter alia information related to the identity of the vehicle and information on the results of the test. With a view to ensure a proper follow-up of roadworthiness tests, Member States should collect and keep such information in a database.
- (23) Odometer fraud is considered to affect between 5% and 12% of used cars sales, resulting in a very important cost to society of several billions Euros yearly and in an incorrect evaluation of a roadworthiness condition of a vehicle. With a view to combat odometer fraud, the recording of mileage in the roadworthiness certificate combined with the obligation to present the certificate of the previous test would facilitate the detection of tampering or manipulation of the odometer. Odometer fraud should also be more systematically considered as an offence liable to a penalty.
- (24) In several Member States a high number of private authorised test centres carry out roadworthiness tests. In order to ensure the efficient exchange of information between Member States, national contact points should be designated and certain common procedures relating as a minimum to time limits and the nature of the information to be forwarded, should be specified.
- (25) Roadworthiness testing is part of a wider regulatory scheme, governing vehicles throughout their lifetime from approval via registrations, inspections until scrapping. The development and interconnection of national and manufacturers' electronic vehicle databases should in principle contribute to improve the efficiency of the whole vehicle administrative chain and reduce costs and administrative burdens. The Commission should therefore carry out a study on the feasibility, costs and benefits of setting-up a European electronic vehicle information platform for this purpose.

- (26) In order to supplement this Regulation with further technical details, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission with a view to take into account, when appropriate, evolution of the Union type-approval legislation in relation with vehicle categories, as well as the need to update the Annexes in the light of technical progress. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level. The Commission, when preparing and drawing up delegated acts, should ensure a simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and to the Council.
- (27) In order to ensure uniform conditions for the implementation of this Regulation, implementing powers should be conferred on the Commission. The implementing powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by the Member States of the Commission's exercise of implementing powers²¹.
- (28) Testing facilities and equipment used in the testing centres should fulfil the requirements set out for carrying out roadworthiness tests. Since this implies important investments and adaptations which may not be carried out immediately, a period of five years should be granted to comply with these requirements. A similar period of five years should be granted for the supervisory bodies to fulfil all the criteria and requirements concerning authorisation and supervision of the testing centres.
- (29) Since the objective of this Regulation, namely to lay down minimum common requirements and harmonised rules concerning the conduct of roadworthiness tests of vehicles within the Union, cannot be sufficiently achieved by the Member States and can therefore 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. 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.
- (30) This Regulation respects fundamental rights and observes the principles recognised in particular by the Charter of Fundamental Rights of the European Union as referred to in Article 6 of the Treaty on European Union.
- (31) This Regulation updates the technical requirements of Directive 2009/40/EC of the European Parliament and of the Council of 6 May 2009 on roadworthiness tests for motor vehicles and their trailers²² and enlarges its scope in order to include in particular the setting up of testing centres and of their supervisory bodies as well as designating inspectors entrusted with performance of roadworthiness tests. Therefore this Directive should be repealed. In addition, this Regulation integrates the rules contained in the Commission Recommendation 2010/378/EU of 5 July 2010 on the

²¹ OJ L 55, 28.2.2011, p. 13.

²² OJ L 141, 6.6.2009, p. 12.

assessment of defects during roadworthiness testing in accordance with Directive 2009/40/EC²³ with the view to better regulate the roadworthiness testing methods.

HAVE ADOPTED THIS REGULATION:

CHAPTER I

SUBJECT MATTER, DEFINITIONS AND SCOPE

Article 1

Subject matter

This Regulation establishes a regime of periodic roadworthiness tests of vehicles.

Article 2

Scope

1. This 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,
 - 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 3 500 kg – vehicle categories O1 and O2,
 - trailers and semi-trailers with a maximum permissible mass exceeding 3 500 kg – vehicle categories O3 and O4,
 - two- or three-wheel vehicles – vehicle categories L1e, L2e, L3e, L4e, L5e, L6e and L7e,
 - wheeled tractors with a maximum design speed exceeding 40 km/h – vehicle category T5.

²³ OJ L 173, 8.7.2010, p. 74.

2. This Regulation shall not apply to:
- vehicles of historic interest,
 - vehicles belonging to armed forces, fire services, civil protection, emergency or rescue services,
 - vehicles used by agricultural, horticultural, forestry, farming or fishery undertakings with a maximum design speed not exceeding 40 km/h,
 - 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.
3. Member States may introduce national requirements concerning roadworthiness tests for vehicles listed in paragraph 2 registered in their territory.

Article 3
Definitions

For the purpose of this 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 or entered into service in a Member State;
- (7) ‘vehicle of historic interest’ means any vehicle which fulfils all the following conditions :
 - It was manufactured at least 30 years ago,
 - 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 and
 - It has not been changed in its appearance;

- (8) 'holder of a registration certificate' means the person in whose name the vehicle is registered;
- (9) 'roadworthiness test' means a verification that the parts and components of a vehicle 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;
- (10) "approval" means any category of approval referred to in Directive 2007/46/EC;
- (11) 'deficiencies' means technical defects and other non-compliances found during a roadworthiness test;
- (12) "roadworthiness certificate" means a 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;
- (15) 'testing centre' means public or private bodies or establishments, including those carrying out vehicle repairs, authorised by a Member State to carry out roadworthiness tests ;
- (16) 'supervising body' means a body set up by a Member State, responsible for the authorisation and the supervision of testing centres

CHAPTER II

GENERAL OBLIGATIONS

Article 4 **Responsibilities**

1. Motor vehicles and their trailers shall periodically be tested in accordance with this Regulation in the Member State where they are registered.
2. Roadworthiness tests shall be carried out only by the competent authority of a Member State or by testing centres authorised by Member States.
3. Vehicle manufacturers shall provide the testing centres or, when relevant, the competent authority, with access to the technical information 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).

4. The holder of the registration certificate shall be responsible for keeping the vehicle in a safe and roadworthy condition at all times.

CHAPTER III

REQUIREMENTS CONCERNING ROADWORTHINESS TESTS

Article 5

Date and frequency of testing

1. Vehicles shall be subject to a roadworthiness test on each anniversary of the date of first registration, at least within the following intervals:
 - Vehicles of categories L1e, L2e, L3e, L4e, L5e, L6e and L7e: four years after the date on which the vehicle was first registered, then two years and thereafter annually;
 - Vehicles of category M1, N1 and O2: four years after the date on which the vehicle was first registered, then two years and thereafter annually;
 - Vehicles of category M1 registered as taxis or ambulances, vehicles of categories M2, M3, N2, N3, T5, O3 and O4: one year after the date on which the vehicle was first registered, and thereafter annually.
2. In the case where a vehicle of categories M1 or N1 reaches a mileage of 160 000 km on the first roadworthiness test after the vehicle was first registered, it shall be subject to a roadworthiness test thereafter annually.
3. The holder of the registration certificate 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.
4. Notwithstanding the date of its last roadworthiness test, the competent authority 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 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 case of a change of the holder of the registration certificate of a vehicle.

Article 6
Contents and methods of testing

1. The roadworthiness test shall 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 deficiencies

1. For each item to be tested, Annex III provides a minimum list of possible deficiencies and their level of severity.
2. 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 and other minor non-compliances,
 - major deficiencies that may prejudice the safety of the vehicle or put other road users at risk or other more significant non-compliances,
 - dangerous deficiencies that constitute a direct and immediate risk to road safety such that the vehicle may not be used on the road under any circumstances.
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 serious deficiency. A vehicle showing several deficiencies of the same group shall be classified in the next more serious group if the combined effect of those deficiencies result in a higher risk to road safety.

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 IV.
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.
3. As from the date of entry into force of this Regulation and at the latest 3 years afterwards, the testing centres shall communicate electronically, to the competent authority of 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 months from the date of its reception.

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 test.
5. 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 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 competent authority shall decide on the conditions under which a vehicle may be used before undergoing another roadworthiness test. The latter test shall take place within six weeks following the initial test.
3. In the case of dangerous deficiencies, the vehicle shall not be used on publicly accessible roads and its registration shall be 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 vehicles²⁴ 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

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 a proof to each vehicle having successfully passed such a test. The proof shall indicate the date of the next roadworthiness test.

Each Member State shall recognise the proof issued in accordance with paragraph 1.

²⁴ OJ L XXX, XX.XX.XXXX, p. XX

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.
3. Any equipment that is used for measurements shall be periodically calibrated in accordance with the specifications provided by the manufacturer.

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 shall deliver 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 by competent authorities of the Member States or a testing centre at the date of application of this Regulation 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 as regards economic, personal or family links with the holder of the registration certificate of the vehicle subject to testing.
5. The testing centre shall inform the person presenting the vehicle to the test of the 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 by the supervising body if the findings of the roadworthiness test performed by the inspector are manifestly incorrect.

Article 13

Authorisation and supervision of testing centres

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 applicable to the personnel of supervising bodies.

Supervising bodies shall be independent from 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 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 Regulation*] and inform it without delay about any changes thereof. The Commission shall draw up a list of all 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 with a view to exchange information on data related to roadworthiness testing 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 years after the date of application of this Regulation, 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.

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 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 with a view:

- to update Article 2(1) and Article 5(1) and (2) as appropriate in order to take account of the changes to the vehicle categories stemming from amendments to the legislation referred to in Article 3(1),
- to update the Annexes in the light of technical progress or in order to take account of the modification in international or Union legislation.

Article 18

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 delegation of power referred to in Article 17 shall be conferred for an indeterminate period of time from [*the date of entry into force of this Regulation*].
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 the Council within a period of two months of notification of that act to the European Parliament and 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 the Council.

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 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 penalties.
3. The Member States shall notify those provisions to the Commission by [*one year after the date of application of this Regulation*] 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 V on [*the date of application of this Regulation*] may be used for carrying out roadworthiness tests for a period of not more than five years following that date.
2. Member States shall apply the requirements laid down in Annex VII at the latest as from the fifth year following the date of application of this Regulation.

Article 21

Repeal

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

Article 22

Entry into force and application

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

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 States .

Done at Brussels,

For the European Parliament
The President

For the Council
The President