



Brussels, XXX
[...] (2022) XXX draft

COMMISSION DELEGATED DIRECTIVE (EU) .../...

of XXX

amending Directive 2006/22/EC of the European Parliament and of the Council on minimum conditions for the implementation of Regulations (EC) No 561/2006 and (EU) No 165/2014 and Directive 2002/15/EC as regards social legislation relating to road transport activities

This draft has not been adopted or endorsed by the European Commission. Any views expressed are the preliminary views of the Commission services and may not in any circumstances be regarded as stating an official position of the Commission.

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE DELEGATED ACT

Directive 2006/22/EC of the European Parliament and of the Council of 15 March 2006 on minimum conditions for the implementation of Regulations (EC) No 561/2006 and (EU) No 165/2014 and Directive 2002/15/EC as regards social legislation relating to road transport activities, and repealing Council Directive 88/599/EEC provides that Member States should introduce a risk rating system for undertakings based on the relative number and gravity of any infringement of Regulation (EC) No 561/2006 or of Regulation (EU) No 165/2014 or of national provisions transposing Directive 2002/15/EC of the European Parliament and of the Council that an individual undertaking has committed.

An initial list of infringements of Regulation (EC) No 561/2006 and Regulation (EU) No 165/2014 and their weighting of gravity is set out in Annex III of that Directive. Regulation (EU) 2020/1054 introduced new provisions as regards infringements.

The Commission is empowered to adopt delegated acts to amend Annex III to take account of regulatory developments. Annex III of Directive 2006/22/EC should therefore be amended to include these new infringements.

2. CONSULTATIONS PRIOR TO THE ADOPTION OF THE ACT

The Commission discussed the draft Delegated Directive with the experts from the Member States during a meeting of the Enforcement Working Group of 2 June 2022.

The consultations carried out by the Commission were conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making¹. The experts of the European Parliament were invited to the meetings of this Expert group.

In addition, the draft Delegated Directive was subject to the Feedback Mechanism².

3. LEGAL ELEMENTS OF THE DELEGATED ACT

The Delegated Directive provides for the replacement of its Annex III.

Member States must adopt and publish the measures necessary to comply with the Directive.

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¹ [OJ L 123, 12.5.2016, p. 1.](#)

² See in https://ec.europa.eu/info/law/better-regulation/have-your-say_en.

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THE EUROPEAN COMMISSION,

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

Having regard to Directive 2006/22/EC of the European Parliament and of the Council of 15 March 2006 on minimum conditions for the implementation of Regulations (EC) No 561/2006 and (EU) No 165/2014 and Directive 2002/15/EC as regards social legislation relating to road transport activities, and repealing Council Directive 88/599/EEC¹, and in particular Article 9(3) thereof,

Whereas:

- (1) Under Article 9(1) of Directive 2006/22/EC, Member States should introduce a risk rating system for undertakings based on the relative number and gravity of any infringement of Regulation (EC) No 561/2006 of the European Parliament and of the Council² or of Regulation (EU) No 165/2014 of the European Parliament and of the Council³ or of national provisions transposing Directive 2002/15/EC of the European Parliament and of the Council⁴ that an individual undertaking has committed.
- (2) In accordance with Article 9(3) of Directive 2006/22/EC, a list of infringements of Regulation (EC) No 561/2006 and Regulation (EU) No 165/2014 and their weighting of gravity is set out in Annex III of that Directive.
- (3) With a view to establishing or updating the weighting of gravity of infringements of Regulation (EC) No 561/2006 or (EU) No 165/2014, the Commission is empowered to adopt delegated acts in accordance with Article 15a of Directive 2006/22/EC to amend Annex III to take account of regulatory developments and road safety considerations.

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¹ OJ L 102, 11.4.2006, p. 35.

² Regulation (EC) No 561/2006 of the European Parliament and of the Council of 15 March 2006 on the harmonisation of certain social legislation relating to road transport and amending Council Regulations (EEC) No 3821/85 and (EC) No 2135/98 and repealing Council Regulation (EEC) No 3820/85 (OJ L 102, 11.4.2006, p. 1).

³ Regulation (EU) No 165/2014 of the European Parliament and of the Council of 4 February 2014 on tachographs in road transport, repealing Council Regulation (EEC) No 3821/85 on recording equipment in road transport and amending Regulation (EC) No 561/2006 of the European Parliament and of the Council on the harmonisation of certain social legislation relating to road transport (OJ L 60, 28.2.2014, p. 1).

⁴ Directive 2002/15/EC of the European Parliament and of the Council of 11 March 2002 on the organisation of the working time of persons performing mobile road transport activities (OJ L 80, 23.3.2002, p. 35).

- (4) Regulation (EU) 2020/1054 of the European Parliament and of the Council⁵ introduced new provisions as regards infringements leading to risks of serious injuries or fatalities or distortion of competition in the road transport market. Annex III of Directive 2006/22/EC should be amended to include these new infringements.
- (5) The category for the most serious infringements should include those in which failure to comply with the relevant provisions of Regulations (EC) No 561/2006 and (EU) No 165/2014 creates a serious risk of death or serious personal injury,

HAS ADOPTED THIS DIRECTIVE:

Article 1

Annex III to Directive 2006/22/EC is replaced by the text in the Annex to this Directive.

Article 2

Transposition

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by [11 months after adoption] at the latest. They shall forthwith communicate to the Commission the text of those provisions.

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.

Article 3

Entry into force

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

Article 4

Addressees

This Directive is addressed to the Member States.

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⁵ Regulation (EU) 2020/1054 of the European Parliament and of the Council of 15 July 2020 amending Regulation (EC) No 561/2006 as regards minimum requirements on maximum daily and weekly driving times, minimum breaks and daily and weekly rest periods and Regulation (EU) No 165/2014 as regards positioning by means of tachographs (OJ L 249, 31.7.2020, p. 1).

Done at Brussels,

For the Commission
The President
[\[...\]](#)

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