

1979 No. 443

EUROPEAN COMMUNITIES

ROAD TRAFFIC AND VEHICLES

Passenger and Goods Vehicles (Recording Equipment) Regulations
(Northern Ireland) 1979

Made 17th December 1979

Coming into operation 14th January 1980

The Department of the Environment, being a Department designated(a) for the purpose of section 2(2) of the European Communities Act 1972(b) in relation to the regulation and supervision of working conditions of persons engaged in road transport and the regulation of the type, description, construction or equipment of vehicles, in exercise of the powers conferred by that section, and in exercise of the powers conferred by sections 49, 57, 74C and 189 of the Road Traffic Act (Northern Ireland) 1970(c) and now vested in it(d), and in exercise of the powers conferred on it by section 56(1), (2) and (5) of the Finance Act 1973(e), and of every other power enabling it in that behalf, and with the consent of the Department of Finance in respect of the fee hereby prescribed, hereby makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Passenger and Goods Vehicles (Recording Equipment) Regulations (Northern Ireland) 1979 and shall come into operation on 14th January 1980.

Revocation

2. The Passenger and Goods Vehicles (Recording Equipment) Regulations (Northern Ireland) 1977(f) are hereby revoked.

Interpretation

3.—(1) In these Regulations—

“the Act” means the Road Traffic Act (Northern Ireland) 1970;

“the Community Recording Equipment Regulation” means Council Regulation (EEC) No. 1463/70 of 20th July 1970 on the introduction of recording equipment in road transport(g), as amended by Council Regulations (EEC) Nos. 1787/73(h) and 2828/77(i), and as read with the Community Road Transport Rules (Exemptions) Regulations (Northern Ireland) 1979(j);

(a) S.Is. 1975/1707 (1975 III, p. 5814) and 1972/1811 (1972 III, p. 5216).

(b) 1972 c. 68

(c) 1970 c. 2 (N.I.) as amended by S.R. & O. (N.I.) 1972 No. 359 (p. 1755), S.I. 1973/1229 (N.I. 17) Art. 5 and S.I. 1976/581 (N.I. 11) Art. 4

(d) S.R. & O. (N.I.) 1973 No. 504 Art. 5(b) (II, p. 2992)

(e) 1973 c. 51

(f) S.R. 1977 No. 310 (II, p. 1673)

(g) O.J. No. L164/1 of 27.7.70

(h) O.J. No. L181/1 of 4.7.73

(i) O.J. No. L334/5 of 24.12.77

(j) S.R. 1979 No. 121

“Department” means the Department of the Environment for Northern Ireland;

“recording equipment” means equipment for recording information as to the use of a vehicle;

“record sheet” includes a temporary sheet attached to a record sheet in accordance with Article 18(2) of the Community Recording Equipment Regulation.

(2) The Interpretation Act (Northern Ireland) 1954(k) shall apply to the interpretation of these Regulations as it applies to a Measure of the Northern Ireland Assembly.

Installation and use of recording equipment

4.—(1) If a person uses, or causes or permits to be used, a vehicle to which this regulation applies and—

(a) there is not in the vehicle recording equipment which has been installed in accordance with the Community Recording Equipment Regulation and which complies with the requirements of Annexes I and II to that Regulation; or

(b) recording equipment which has been installed in the vehicle in accordance with that Regulation and which complies with those requirements is not used as provided by Articles 15 to 17 of that Regulation,

he shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £200.

(2) A person shall not be liable to be convicted under paragraph (1) if he proves to the court that the vehicle in question was proceeding to a place where recording equipment which would comply with the requirements of Annexes I and II to the Community Recording Equipment Regulation was to be installed in the vehicle in accordance with that Regulation.

(3) A person shall not be liable to be convicted under paragraph (1) by reason of the recording equipment installed in the vehicle in question not being in working order if he proves to the court that—

(a) it had not become reasonably practicable for the equipment to be repaired by an approved fitter or workshop; and

(b) the requirements of Article 18(2) of the Community Recording Equipment Regulation were being complied with.

(4) A person shall not be liable to be convicted under paragraph (1) by reason of any seal on the recording equipment installed in the vehicle in question not being intact if he proves to the court that—

(a) the breaking or removal of the seal could not have been avoided;

(b) it had not become reasonably practicable for the seal to be replaced by an approved fitter or workshop; and

(c) in all other respects the equipment was being used as provided by Articles 15 to 17 of the Community Recording Equipment Regulation.

(5) For the purposes of this regulation recording equipment is used as provided by Articles 15 to 17 of the Community Recording Equipment Regulation if, and only if, the circumstances of its use are such that each requirement of those Articles is complied with.

(6) This regulation applies at any time to any vehicle to which Part IV of the Act applies if, at that time, Article 3 of the Community Recording Equipment Regulation requires recording equipment to be installed and used in that vehicle; and in this regulation and regulations 5 and 7 any expression which is also used in that Regulation has the same meaning as in that Regulation.

Provisions supplementary to regulation 4

5.—(1) If an employed crew member of a vehicle to which regulation 4 applies fails—

- (a) without reasonable excuse to return any record sheet which relates to him to his employer within twenty-one days of completing it; or
- (b) where he has two or more employers by whom he is employed as a crew member of such a vehicle, to notify each of them of the name and address of the other or others of them,

he shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £200.

(2) If the employer of crew members of a vehicle to which regulation 4 applies fails without reasonable excuse to secure that they comply with paragraph (1)(a), he shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £200.

(3) Where a crew member of a vehicle to which regulation 4 applies has two or more employers by whom he is employed as a crew member of such a vehicle, paragraph (1)(a) and paragraph (2) shall apply as if any reference to his employer, or any reference which is to be construed as such a reference, were a reference to such of those employers as was the first to employ him in that capacity.

Period of retention of records by crew members

6.—(1) The period for which Article 17 of the Community Recording Equipment Regulation requires the crew members of a vehicle registered in Northern Ireland to be able to produce record sheets relating to national transport operations shall be two days.

(2) In this Regulation “registered” means registered under section 19 of the Vehicles (Excise) Act (Northern Ireland) 1972(l), or the corresponding provision of any earlier enactment.

Records, etc., produced by equipment may be used in evidence

7.—(1) Where recording equipment is installed in a vehicle to which Part IV of the Act applies, any record produced by means of the equipment shall, in any proceedings under Part IV of the Act or these Regulations, be evidence of the matters appearing from the record.

(2) Any entry made on a record sheet by a crew member for the purposes of Article 17(2) or (3) or 18(2) of the Community Recording Equipment Regulation shall, in any proceedings under Part IV of the Act or these Regulations, be evidence of the matters appearing from that entry.

Coming into force of regulations 4 and 5

8.—(1) Regulation 4(1)(a) shall come into force—

- (a) in relation to vehicles which are being used on international journeys other than to the Republic of Ireland, on 14th January 1980;

- (b) in relation to vehicles which are not being so used but which fall within one of the classes specified in the first column of the following Table, on the date specified in relation to vehicles of that class in the second column of that Table; and
- (c) in relation to vehicles which do not fall within either sub-paragraph (a) or (b), on 1st April 1980.

TABLE

<i>Class of vehicles</i>	<i>Date</i>
Vehicles first registered on or after 1st August 1979 but before 1st December 1979	1st June 1980
Vehicles first registered on or after 1st August 1978 but before 1st August 1979	1st October 1980
Vehicles first registered on or after 1st August 1977 but before 1st August 1978	1st January 1981
Vehicles first registered on or after 1st August 1976 but before 1st August 1977	1st March 1981
Vehicles first registered on or after 1st August 1975 but before 1st August 1976	1st May 1981
Vehicles first registered on or after 1st August 1973 but before 1st August 1975	1st August 1981
Vehicles first registered before 1st August 1973	31st December 1981

In this Table "registered" means registered under

- (a) section 19 of the Vehicles (Excise) Act (Northern Ireland) 1972 or section 19 of the Vehicles (Excise) Act 1971(m), or the corresponding provision of any earlier enactment; or
- (b) the corresponding legislation of any member State other than the United Kingdom.

(2) Regulations 4(1)(b) and 5 shall come into force—

- (a) in relation to vehicles which are being used on international journeys other than to the Republic of Ireland, on 14th January 1980;
- (b) in relation to vehicles which are being used on international journeys to the Republic of Ireland and—
- (i) which fall within one of the classes specified in the first column of the Table in paragraph (1), on the date specified in relation to vehicles of that class in the second column of that Table, or
- (ii) which do not fall within one of the classes specified in the first column of the Table in paragraph (1), on 1st April 1980; and
- (c) in relation to vehicles which do not fall within either sub-paragraph (a) or (b), on 31st December 1981.

Inspection of recording equipment and record sheets

9.—(1) In relation to any vehicle to which regulation 4 applies an inspector of vehicles may, on production if so required of his authority—

- (a) require any person to produce, and permit him to inspect and copy, any record sheet which is produced by the recording equipment, or on which entries are made, and which that person is required by Article 16(2) of the Community Recording Equipment Regulation to retain or by Article 17(5) of that Regulation to be able to produce,
- (b) at any time, enter the vehicle and inspect the vehicle and the recording equipment, and inspect and copy any record sheet on the vehicle on which a record has been produced by means of that equipment or on which entries have been made,
- (c) at any time which is reasonable having regard to the circumstances of the case, enter any premises on which he has reason to believe that such a vehicle is kept or that any such record sheets are to be found, and inspect any such vehicle, and inspect and copy any such record sheets, which he finds there.

(2) Where an inspector of vehicles, in exercise of his powers under paragraph (1)(a), has required a person to produce to him any record sheet, the inspector of vehicles may, by notice in writing served on that person, require the record sheet to be produced by him at the office of the Department specified in the notice within such time (not being less than 10 days from the service of the notice) as may be specified therein.

(3) For the purpose of exercising his powers under paragraph (1)(b), an inspector of vehicles may detain the vehicle in question during such time as is required for the exercise of that power.

(4) Any person who—

- (a) fails to comply with any requirement under paragraph (1)(a) or (2), or
- (b) obstructs an inspector of vehicles in the exercise of his powers under paragraph (1) or (3),

shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £100.

(5) Any person who makes, or causes to be made, any record or entry on a record sheet kept or carried for the purposes of the Community Recording Equipment Regulation or regulation 4 which he knows to be false or, with intent to deceive, alters or causes to be altered any such record or entry, shall be guilty of an offence and shall be liable—

- (a) on summary conviction, to a fine not exceeding £1,000;
- (b) on conviction on indictment, to imprisonment for a term not exceeding 2 years.

(6) If an inspector of vehicles has reason to believe that an offence under paragraph (5) has been committed in respect of any record sheet inspected by him under this regulation, he may seize that record sheet; and where a record sheet is seized as aforesaid and within 6 months of the date on which it was seized no person has been charged since that date with an offence in relation to that record sheet under that paragraph and the record sheet has not been returned to the person from whom it was taken, a magistrates' court shall, on application made for the purpose by that person, or by an inspector of vehicles, make such order respecting the disposal of the record sheet and award such costs as the justice of the case may require.

(7) The powers conferred by this regulation on an inspector of vehicles shall be exercisable also by a constable.

(8) In this regulation references to the inspection and copying of any record produced by recording equipment include references to the application to the record of any process for eliciting the information recorded thereby and to taking down the information elicited from it.

Approval of fitters and workshops

10.—(1) The Department shall be the competent authority in Northern Ireland for approving fitters and workshops for recording equipment in accordance with Article 14 of the Community Recording Equipment Regulation (which requires recording equipment to be installed and repaired by approved fitters or approved workshops).

(2) Any approval of a fitter or workshop shall be in writing, shall specify the scope of the approval, shall provide for its withdrawal by the Department on notice given by it and, if the Department considers fit, may contain conditions.

(3) Such conditions may in particular relate to—

(a) the fees to be charged by the fitter or workshop;

(b) the premises and equipment to be used for installing, repairing, checking or inspecting recording equipment;

(c) the procedure to be adopted in carrying out such activities;

(d) the training of persons for carrying out such activities;

(e) the inspection by or on behalf of the Department of premises and equipment used or to be used for carrying out such activities; and

(f) the display, in a conspicuous place on premises where such activities are carried out, of a sign indicating that such activities are carried out there with the approval of the Department.

(4) The Department shall publish from time to time a list of fitters and workshops for the time being approved by it under this regulation and any such list shall specify the mark to be placed by each approved fitter or workshop on any seals which he or it affixes to any recording equipment.

Fee payable for granting approval

11. The fee to be paid to the Department for granting approval of a fitter or workshop for recording equipment in accordance with Article 14 of the Community Recording Equipment Regulation shall be £120.

Disapplication of requirement to keep drivers' record books

12.—(1) The requirements of regulations made under Part IV of the Act with respect to the keeping of, and making of entries in, drivers' record books, so far as regards the driving of, and other work in connection with, a vehicle, shall not apply as respects the driving of a vehicle to which regulation 4 applies and in relation to which regulation 4(1)(b) has come into force.

(2) A person shall not be liable to be convicted under section 74A(2) of the Act or by reason of contravening any regulation as is mentioned in paragraph (1) if he proves to the court that, if the vehicle in question had been such a vehicle as is mentioned in paragraph (1), there would have been no contravention of the provisions of these Regulations so far as they relate to the use of such vehicles.

(3) A person shall neither be liable to be convicted under section 74B(3) of the Act by reason of failing to comply with any requirement under sub-

section (1) of that section nor be liable to be convicted for failing to comply with any like requirement of the domestic drivers' hours code if he proves to the court that, if the vehicle in question had been such a vehicle as is mentioned in paragraph (1), there would have been no contravention of the provisions of these Regulations so far as they relate to the use of such vehicles.

Sealed with the Official Seal of the Department of the Environment for Northern Ireland on 17th December 1979.

(L.S.)

E. A. Simpson

Assistant Secretary

The Department of Finance hereby consents to regulation 11.

Sealed with the Official Seal of the Department of Finance for Northern Ireland on 17th December 1979.

(L.S.)

F. G. Dougall

Assistant Secretary

EXPLANATORY NOTE

(This note is not part of the Regulations but is intended to indicate their general purport.)

These Regulations apply to passenger and goods vehicles which are registered in any of the Member States of the European Economic Community and in which recording equipment (tachographs) is installed. The effects of these Regulations are as follows:

- (a) In exercise of powers conferred by section 2(2) of the European Communities Act 1972, they implement Council Regulation (EEC) 1463/70 of 20th July 1970 on the introduction of recording equipment (tachographs) in road transport (O.J. No. L.164/1 of 27.7.70) as amended by Council Regulations (EEC) Nos. 1787/73 (O.J. No. L.181/1 of 4.7.73) and 2828/77 (O.J. No. L.334/8 of 24.12.77) and as read with the Community Road Transport Rules (Exemptions) Regulations (Northern Ireland) 1979 (No. 121) (hereinafter called "the Council Regulation").

Regulation 4 makes it an offence punishable on summary conviction with a fine of up to £200 to use a vehicle within the scope of the Council Regulation (paragraph (6) and Article 3 of the Council Regulation) without a tachograph as required by that Regulation being installed (paragraph (1)(a) or where a tachograph has been so installed to fail to use it as provided by Articles 15 to 17 of the Council Regulation (paragraph (1)(b)).

Regulation 4 provides defences for:—

- (i) vehicles going to have tachographs installed in accordance with the Council Regulation (paragraph (2));
 - (ii) subject to specified conditions, for vehicles with tachographs that are not in working order (paragraph (3));
 - (iii) subject to specified conditions, for vehicles with tachographs on which any seal has been broken (paragraph (4)).
- (b) Regulation 5 imposes requirements upon crew members of vehicles to which Regulation 4 applies and their employers, which are supplementary to Regulation 4 and to the requirements of Articles 15 to 17 of the Council Regulation. These requirements cover—
- (i) the period within which tachograph record sheets must be returned to the employer; and
 - (ii) notification to employers by crew members of the names and addresses of other employers.

Failure to comply with these requirements is an offence punishable on summary conviction by a fine of up to £200.

- (c) Paragraph (1) of Regulation 8 specifies a timetable for the coming into force of the requirement for the installation of tachographs in Regulation 4(1)(a). This is—
- (i) 14th January 1980 for vehicles being used on international journeys other than to the Republic of Ireland;
 - (ii) in other cases a series of dates between 1st April 1980 and 31st December 1981 for different groups of vehicles according to the date of first registration of the vehicles starting with the most recently registered vehicles.

Paragraph (2) of Regulation 8 specifies a timetable for the coming into force of the requirement for the tachograph to be used in accordance with

Article 15 to 17 of the Council Regulation (Regulation 4(1)(b)) and of the supplementary requirements of Regulation 5. This is—

- (i) 14th January 1980 for vehicles being used on international journeys other than to the Republic of Ireland;
 - (ii) a series or dates between 1st April 1980 and 31st December 1981 for different groups of vehicles being used on international journeys to the Republic of Ireland according to the date of first registration of the vehicles starting with the most recently registered;
 - (iii) 31st December 1981 in any other case.
- (d) Regulation 6 reduces from seven days to two days the period for which crew members of vehicles registered in Northern Ireland are required by Article 17 of the Council Regulation to retain record sheets relating to national transport operations.
- (e) Regulation 7 makes provision for the use of tachograph record sheets (and any entries made thereon for the purposes of Articles 17(2) or (3) or 18(2) of the Council Regulation) in evidence in proceedings under Part IV of the Road Traffic Act (Northern Ireland) 1970 or these Regulations.
- (f) Regulation 9 provides for the production of record sheets to inspectors of vehicles or to the police and for the inspection and copying of record sheets and the entry on vehicles and premises by inspectors of vehicles or the police. Failure to produce record sheets or obstruction of inspectors of vehicles or the police is an offence punishable on summary conviction by a fine not exceeding £100. Falsification of records is an offence punishable on summary conviction by a fine not exceeding £1,000 or on indictment by imprisonment for a term not exceeding 2 years.
- (g) Regulation 10 provides for the approval by the Department of fitters and workshops for the installation and repair of tachographs.
- (h) Regulation 11 sets the fee at £120 to be charged by the Department for approving fitters and workshops for the installation and repair of tachographs.
- (i) Regulation 12 disappplies the requirements for the keeping of manual records in the case of a vehicle to which Regulation 4 applies and is in force, and also in the case of a vehicle to which that Regulation does not apply or is not in force but which has a tachograph installed and used in accordance with the Council Regulation and Regulation 5.

The Regulations revoke the Passenger and Goods Vehicles (Recording Equipment) Regulations (Northern Ireland) 1977 (No. 310) which introduced a voluntary scheme for the installation and use of tachographs for the purposes of the Council Regulation in passenger and goods vehicles registered in any Member State.