

**EXPLANATORY MEMORANDUM TO**  
**THE COMMUNITY DRIVERS' HOURS AND WORKING TIME (ROAD TANKERS)**  
**(TEMPORARY EXCEPTION) REGULATIONS 2006**

**2006 No. 17**

- 1.** This explanatory memorandum has been prepared by the Department for Transport and is laid before Parliament by Command of Her Majesty.

This explanatory memorandum contains information for the Joint Committee on Statutory Instruments.

**2. Description**

- 2.1 These Regulations provide for the temporary and limited relaxation (in part) of the EU Drivers' Hours and Working Time Rules for tanker drivers directly affected by the major fire in December 2005 at the Buncefield fuel depot in Hemel Hempstead, Hertfordshire. The Regulations are intended to help ensure that essential fuel supplies are maintained whilst fuel distribution arrangements are re-organised following the fire. The Regulations last for 30 days.

**3. Matters of special interest to the Joint Committee on Statutory Instruments**

- 3.1 The Regulations are an emergency measure and breach the 21-day rule, because they need to be brought into force without delay. The Regulations need to come into force immediately to relax the requirements following the end of the current limited relaxation of enforcement (see paragraphs 4.3, 4.4 and 4.7).

**4. Legislative Background**

- 4.1 The EU Drivers' Hours Rules (Council Regulation (EEC) No 3820/85) limit driving time, set minimum break and rest requirements and apply to most HGV drivers in this country. Although there are many exceptions, in simplified terms the main limits and requirements are: 9 hours maximum daily driving; 90 hours maximum fortnightly driving; 11 hours minimum daily rest; 45 hours minimum weekly rest; and 45 minute breaks for every 4½ hours driving.
- 4.2 Article 13(2) of Council Regulation (EEC) 3820/85 provides that Member States may, after authorisation by the European Commission, grant exceptions from the provisions of the EU Drivers' Hours Rules for transport operations carried out in exceptional circumstances. However, in particularly urgent cases, Member States may grant a temporary exception for 30 days and then notify the Commission.

- 4.3 In the immediate aftermath of the fire, the Department for Transport relaxed the enforcement of the EU Drivers' Hours Rules temporarily and notified the Commission. This relaxation applied only to:
- those tanker drivers directly affected by the fire;
  - other drivers working for local businesses directly affected by the fire; and
  - driving necessary to meet the exceptional circumstances occasioned by the fire.

- 4.4 For the drivers in question, this temporary relaxation allowed:

- a daily driving limit of 10 hours instead of 9;
- the lifting of the fortnightly driving limit of 90 hours; and
- a minimum weekly rest requirement of 24 hours instead of 45.

However, the requirements to take an 11 hour daily rest and to take a 45 minute break after 4½ hours driving remained unchanged and continued to be rigorously enforced.

- 4.5 For tanker drivers directly affected by the fire, the Regulations will apply the EU Drivers' Hours Rules with these modifications until 10 February 2006. These modifications are similar to those in the Community Drivers' Hours (Tankers) (Temporary Exception) Regulations 2000 (S.I.2000/2960).

- 4.6 The temporary relaxation of the EU Drivers' Hours Rules has a direct impact on the Road Transport (Working Time) Regulations 2005 (the 2005 Regulations), which implement Directive 2002/15/EC on the organisation of the working time of persons performing mobile road transport activities. Basically, the 2005 Regulations limit working time to an average of 48 hours per week and no more than 60 hours in any single week.

- 4.7 Directive 2002/15/EC states that the EU Drivers' Hours Rules take precedence, so a temporary relaxation of the 2005 Regulations has also been made to take account of the relaxation of the EU Drivers' Hours Rules. The effect of this relaxation is that, for the drivers in question:

- additional working necessary in order to take advantage of the temporary EU Drivers' Hours Rules relaxation, up to a limit of 6 hours per week, need not count for the purposes of calculating the weekly average under the working time rules; and
- for the same purpose, a maximum of 66 hours may be worked in any single week.

## **5. Extent**

- 5.1. These Regulations apply to Great Britain.

## **6. European Convention on Human Rights**

- 6.1. As these Regulations are subject to the negative resolution procedure and do not amend primary legislation, no statement is required.

## **7. Policy background**

- 7.1. On 11 December 2005, a major fire occurred at the Buncefield fuel depot in Hemel Hempstead, Hertfordshire. As a result of the fire, alternative fuel distribution arrangements were required in order to help maintain essential supplies in and around London and the South East (including Heathrow and Luton airports). For example, tanker drivers who would usually operate from Buncefield will have to work from other depots further away from their markets. For tanker drivers based at or using Buncefield, this involves lengthy additional round-trips which eat into their available driving and working time.
- 7.2. For those drivers affected, the Department temporarily relaxed the enforcement of elements of the EU Drivers' Hours Rules and the 2005 Regulations (see paragraphs 4.3, 4.4 and 4.7). This had the effect of providing those drivers with additional driving and working time in order to help compensate for the longer journeys that they were necessarily making. Without this relaxation the Drivers' Hours Rules and the 2005 Regulations would have effectively imposed a barrier to maintaining fuel supplies.
- 7.3. The Department wrote to the European Commission (via the UK Permanent Representation to the European Union) on 21 December 2005 notifying the Commission of the temporary and limited administrative relaxation to the enforcement of the Drivers' Hours Rules and requesting permission to relax the Rules for a further two months. The European Commission has not yet approved this extension as a formal approval procedure must be followed, which is unlikely to be completed before the end of this month.
- 7.4. Given the potential barrier that the Drivers' Hours Rules and the 2005 Regulations could create to maintaining essential fuel supplies in London and the South East, without a further relaxation, this matter is still urgent. The Regulations therefore give effect to a new formal 30 day relaxation of the Drivers' Hours Rules and the 2005 Regulations for the drivers of tankers directly affected by the fire.
- 7.5. Given the specific nature of the Regulations, there is limited public interest. However, the Department has liaised closely with the Department for Trade and Industry (DTI) on this matter. Advice from the DTI's Emergency Planning Team, reached in conjunction with the fuel supply industry, is that a limited relaxation of the Drivers' Hours Rules and the 2005 Regulations will be required until at least mid-March 2006 to give industry enough time to adjust its supply chain arrangements so that it can operate within those Rules. This reflects the fact that Buncefield was the UK's 5<sup>th</sup> largest fuel depot (for example accounting for 1/3 of Heathrow's fuel supply) and it is not yet clear when operations there might return to normal. Another set of Regulations may have to be made at the end of February further extending the relaxation. However, this will be kept under close review.
- 7.6. The changes implemented by the Regulations are not in themselves politically or legally important.

## **8. Impact**

- 8.1. There are 23 companies and approximately 1550 drivers affected by these Regulations. The effect will be that the companies will be able to make the longer trips needed in the current situation, using existing drivers. The Regulations will therefore help to ensure that essential fuel supplies are maintained whilst distribution arrangements are re-organised. Since the change to the EU Drivers' Hours Rules and the 2005 Regulations will be temporary and restricted in scope, the financial and other impacts should be negligible. A Regulatory Impact Assessment is therefore not required.
- 8.2. The impact on the public sector is minimal. The Vehicle and Operator Services Agency and the Police are the main public bodies affected as they are responsible for enforcing the EU Drivers' Hours Rules and the 2005 Regulations. The Regulations will have negligible impact on them as they already enforce the rules and are aware of the companies and drivers to which the Regulations will apply.

## **9. Contact**

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