

2006 No. 1937

ROAD TRAFFIC

**The Passenger and Goods Vehicles (Recording Equipment)
(Tachograph Card) Regulations 2006**

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| <i>Made</i> - - - - | <i>18th July 2006</i> |
| <i>Laid before Parliament</i> | <i>20th July 2006</i> |
| <i>Coming into force</i> - - | <i>21st August 2006</i> |

The Secretary of State for Transport is a Minister designated(a) for the purpose of section 2(2) of the European Communities Act 1972(b) in relation to the regulation of the type, description, construction or equipment of vehicles and the regulation and supervision of working conditions of persons engaged in road transport.

Accordingly the Secretary of State, in exercise of the powers conferred by section 2(2) of that Act, makes the following Regulations:

1. These Regulations may be cited as the Passenger and Goods Vehicles (Recording Equipment) (Tachograph Card) Regulations 2006 and shall come into force on 21st August 2006.

2. In these Regulations—

“Community Recording Equipment Regulation” means Council Regulation (EEC) No.3821/85(c) on recording equipment in road transport as it has effect in accordance with—

- (a) Commission Regulation (EEC) No 3314/90(d);
- (b) Commission Regulation (EEC) No 3688/92(e);
- (c) Commission Regulation (EC) No 2479/95(f);
- (d) Commission Regulation (EC) 1056/97(g);
- (e) Article 1 of Council Regulation (EC) 2135/98(h);
- (f) Commission Regulation (EC) 1360/2002(i);
- (g) Regulation (EC) 1882/2003 of the European Parliament and the Council(j);
- (h) Commission Regulation (EC) 432/2004(k); and

(a) S.I. 1972/1811 and S.I.1975/1707.

(b) 1972 .68.

(c) O.J. No.L370, 31.12.85, p.8.

(d) O.J. No.L318, 17.11.90, p.20.

(e) O.J. No.L374, 22.12.92, p.12.

(f) O.J. No.L256, 26.10.95, p.8.

(g) O.J. No.L154, 12.06.97, p.21.

(h) O.J. No.L274, 09.10.98, p.1.

(i) O.J. No.L207, 05.08.02, p.1.

(j) O.J. No.L284, 31.10.03, p.1.

(k) O.J. No.L071, 10.03.04, p.3.

- (i) Commission Regulation (EC) No 561/2006(a);
 and as read with the Community Drivers' Hours and Recording Equipment (Exemptions and Supplementary Provisions) Regulations 1986(b);
 "company card", "control card", "driver card" and "workshop card" have the meanings given by Annex IB to the Community Recording Equipment Regulation;
 "PIN" means personal identification number for use in connection with a workshop card;
 "relevant vehicle" means a vehicle in which there is recording equipment
- (i) which has been installed in accordance with the Community Recording Equipment Regulation; and
 - (ii) complies with Annexes IB and II to that regulation; and
- "tachograph card" means a company card, control card, driver card or workshop card.

Driver cards

- 3.—(1) A person commits an offence—
- (a) if, subject to paragraph (3), he uses, attempts to use or is in possession of, more than one driver card on which he is identified as the holder;
 - (b) if he uses or attempts to use a driver card on which he is not identified as the holder;
 - (c) if, with intent to deceive, he makes a false statement, or forges or alters a document, for the purpose of obtaining a driver card;
 - (d) if he uses, or is in possession of, a driver card issued in consequence of an application which included, with intent to deceive, a false statement or forged or altered document; or
 - (e) if he uses, or is in possession of, a driver card which has been forged or altered.
- (2) A person commits an offence if he causes or permits—
- (a) any use or possession of a driver card; or
 - (b) the making of any false statement or forgery or alteration of a document
- specified in paragraph (1).
- (3) It shall not be an offence—
- (a) to hold a card which will become time-expired within one month and the card which has been issued by the Secretary of State in renewal of the former card; or
 - (b) to hold a card, which has become time-expired, in combination with another card.
- (4) A person guilty of an offence under paragraph (1)(a) or (b) is liable on summary conviction to a fine not exceeding level 5 on the standard scale.
- (5) A person guilty of an offence under paragraph (1)(c) is liable—
- (a) on summary conviction, to imprisonment for a term not exceeding 3 months or to a fine not exceeding the statutory maximum, or to both; or
 - (b) on conviction on indictment, to imprisonment for a term not exceeding two years, or to a fine, or to both.
- (6) A person guilty of an offence under paragraph (1)(d) or (e) or paragraph (2) is liable—
- (a) on summary conviction, to a fine not exceeding the statutory maximum; or
 - (b) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine, or to both.

(a) O.J. No.L102, 11.04.06, p.1.

(b) S.I. 1986/1456, amended by S.I.1986/1669, 1987/805, 1988/760, 1998/2006, 2001/1149, 2002/2469, 2003/1615 and 2004/696.

Workshop cards

4.—(1) A person commits an offence—

- (a) if, subject to paragraph (3) he uses, attempts to use or is in possession of more than one workshop card, on which he is identified as the holder, or more than one PIN, in respect of the same place of work;
- (b) if he uses or attempts to use a workshop card, or PIN, of which he is not the identified holder;
- (c) if he uses or attempts to use a workshop card, or PIN, in circumstances unconnected with the place of work for which that card, or PIN, was issued;
- (d) if, with intent to deceive, he makes a false statement, or forges or alters a document, for the purpose of obtaining a workshop card or PIN;
- (e) if he uses, or is in possession of, a workshop card, or PIN, issued in consequence of an application which included, with intent to deceive, a false statement or forged or altered document;
- (f) if he uses, or is in possession of, a workshop card, which has been forged or altered; or
- (g) if he divulges to another person, or permits another person to use, the PIN used in connection with a workshop card of which he is identified as the holder.

(2) A person commits an offence if he causes or permits—

- (a) any use, alteration or possession of a workshop card or PIN, or
- (b) the making of any false statement or forgery or alteration of a document,

specified in paragraph (1).

(3) It shall not be an offence —

- (a) to hold a workshop card which will become time-expired within one month and the workshop card which has been issued by the Secretary of State in renewal of the former workshop card; or
- (b) to hold a workshop card, which has become time-expired, in combination with another workshop card.

(4) A person guilty of an offence under paragraph (1)(a),(b), (c) or (g) is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(5) A person guilty of an offence under paragraph (1)(d) is liable—

- (a) on summary conviction, to imprisonment for a term not exceeding 3 months or to a fine not exceeding the statutory maximum, or to both; or
- (b) on conviction on indictment, to imprisonment for a term not exceeding two years, or to a fine, or to both.

(6) A person guilty of an offence under paragraph (1)(e) or (f) or paragraph (2) is liable—

- (a) on summary conviction, to a fine not exceeding the statutory maximum; or
- (b) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine, or both.

Lost, stolen, damaged or malfunctioning cards

5.—(1) If a tachograph card is lost or stolen, the person to whom that card was issued shall notify the Secretary of State in writing and shall provide such information or documents concerning the loss or theft as the Secretary of State may require.

(2) If a tachograph card is found at any time after the Secretary of State has been notified in accordance with paragraph (1) of the loss or theft of it, the person to whom that card was issued, if it is in his possession, shall return it to the Secretary of State, or if it is not in his possession, but he becomes aware that it is found, shall take all reasonable steps to take possession of it and if successful shall return it as soon as may be to the Secretary of State.

(3) If a tachograph card is damaged or malfunctions, the person to whom that card was issued shall return it to the Secretary of State and shall provide such information or documents concerning the damage or malfunction as the Secretary of State may require.

(4) A person who fails to comply with the requirements of paragraph (1), (2) or (3) commits an offence.

(5) A person guilty of an offence under paragraph (4) is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

Card particulars

6.—(1) Where the details of the holder of a tachograph card specified on the card cease to be correct, the holder—

- (a) must forthwith notify the Secretary of State of the details which require correction, and
- (b) must surrender the card when required to do so, to such address as may be specified, by the Secretary of State.

(2) Where it appears to the Secretary of State that a tachograph card issued by him to any person was issued in error or with an error or omission in the particulars specified in the card, he may serve notice in writing on that person requiring him to surrender that card and it shall be the duty of that person to comply with the requirement.

(3) Subject to paragraph (4), on surrender of a card by a person in accordance with paragraph (1) or (2) the Secretary of State shall, if so requested by that person, issue a replacement card to him.

(4) The Secretary of State may require the person surrendering the card to provide such information and documents as the Secretary of State may require to enable him to correct the details, error or omission before issuing a new card under paragraph (3).

(5) A person who fails to comply with the requirements of paragraph (1) or (2) commits an offence.

(6) A person guilty of an offence under paragraph (5) is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

Unauthorised cards

7.—(1) A person in possession of a tachograph card described in paragraph (3) shall surrender that card to the Secretary of State, by such means and to such address as may be specified by the Secretary of State.

(2) A constable or a vehicle examiner appointed under section 66A of the Road Traffic Act 1988 may remove and retain a tachograph card described in paragraph (3) which has not been surrendered to the Secretary of State.

(3) A tachograph card to which paragraphs (1) and (2) refer is a card—

- (a) on which the person using the card is not identified as the holder;
- (b) which has been falsified; or
- (c) which has been issued in consequence of an application which included a false statement or forged or altered document.

(4) A person who does not surrender a card in accordance with paragraph (1) commits an offence.

(5) A person guilty of an offence under paragraph (3) is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

Signed by authority of the Secretary of State for Transport

18th July 2006

S.J. Ladyman
Minister of State
Department for Transport

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision in relation to the cards (company cards, control cards, driver cards and workshop cards) used with digital tachographs, which are tachographs complying with Annex IB to Regulation (EEC) 3821/85. Those new vehicles, which are required to be fitted with tachographs, have been required to be fitted with digital tachographs since 1 May 2006 (Regulation 561/2006).

They prohibit the use by a person of more than one driver card, of a driver card of which he is not the holder, of a forged or altered card and of a card issued as a result of an incorrect application. Making a false statement in an application for a card is also prohibited. Breach is an offence, the penalty depending upon the nature of the breach (regulation 3).

They prohibit the use by a person of more than one workshop card, or PIN, for each workshop in which he works, of a workshop card or PIN of which he is not the holder or in a place which is not his workplace, of a forged or altered card and of a card issued as a result of an incorrect application. They also prohibit the divulging of a PIN. Breach is an offence, the penalty depending on the nature of the breach (regulation 4).

Causing or permitting a person to breach such prohibitions is also prohibited, the maximum penalty being, if the offender is convicted on indictment, two years and a fine, or if the offender is convicted summarily, the statutory maximum (regulations 3 and 4).

They require written notification of lost or stolen cards to be given to the Secretary of State and the return to him of damaged or malfunctioning cards. Failure to comply is an offence punishable by a level 5 fine (regulation 5).

They require a card holder to notify the Secretary of State of details on the card requiring correction and to return it for correction. The Secretary of State may also require the return of cards issued erroneously for correction. Failure to comply is an offence punishable by a level 5 fine (regulation 6).

A card which identifies another person as the holder, which has been falsified or which has been issued as a result of a false application must be surrendered or may be confiscated by a constable or VOSA examiner. Failure to surrender such a card is an offence punishable by a level 5 fine (regulation 7).

A Regulatory Impact Assessment has not been prepared for this instrument as it has no significant impact on the costs of business.

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