

EXPLANATORY MEMORANDUM TO
THE PASSENGER AND GOODS VEHICLES (COMMUNITY RECORDING
EQUIPMENT REGULATION) REGULATIONS

2006 No. 3276

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

2. Description

2.1 The Instrument brings up to date several references to the Community Recording Equipment Regulation (Regulation (EEC) 3821/85) in domestic legislation by incorporating references to various Community amending instruments. Such recording equipment, commonly known as a tachograph, is used to record driver and vehicle activity to ensure compliance with the EU drivers' hours rules. Most heavy goods vehicles and some coaches are equipped with it.

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

3.1 None.

4. Legislative Background

4.1 Most drivers of large commercial vehicles are subject to the EU drivers' hours rules as defined in Commission Regulation (EEC) 3820/85. These rules limit continuous driving time and require drivers to take minimum breaks and rest periods. This helps to reduce the risks of drivers becoming involved in fatigue-related accidents and thus improves road safety.

4.2 In order to enforce drivers' hours rules, it is important to have a record of drivers' activities. Therefore, vehicles subject to the EU drivers' hours rules have to be fitted with a tachograph in accordance with Commission Regulation (EEC) 3821/85 - referred to in domestic legislation as the "Community Recording Equipment Regulation". The tachograph is a device which automatically records drivers' activities.

4.3 Until recently, the only type of tachograph available was the analogue tachograph, which had to conform with Annex I to Regulation 3821/85. Analogue tachographs record drivers' activities on paper charts. However, in 1998, EU Regulation 2135/98 was adopted, amending 3821/85 and paving the way for the introduction of digital tachographs, conforming to a new Annex IB. Since 1 May 2006 the fitment of digital, rather than analogue, tachographs to those new

vehicles which require tachographs has been mandatory (Regulation (EC) No.561/2006).

4.4 Amendments to domestic legislation have been found not to have kept abreast of these and other EU amendments to Regulation (EEC) 3821/85, in that the definition of the Community Recording Equipment Regulation has not been updated to incorporate all the EU amending legislation. This carries the risk that UK domestic legislation, which provides for the support and enforcement of the tachograph requirements, does not provide for effective enforcement.

4.5 The relevant domestic legislation is -

- Part 6 of the Transport Act 1968, which provides for enforcement of drivers' hours and tachograph requirements;
- the Passenger and Goods Vehicles (Recording Equipment) Regulations 1979, which provide for approval of fitters and workshops to work on tachographs,
- the Passenger and Goods vehicles (Recording Equipment) (Amendment) Regulations 1984, which provide for inspection of tachographs;
- Part 2 of the Road Traffic Act 1988, which provides for construction and use of vehicles and equipment;
- the Passenger and Goods Vehicles (Recording Equipment) (Tachograph Card Fees) Regulations 2005, which provide for the issuing of cards used with digital tachographs; and
- the Passenger and Goods Vehicles (Recording Equipment) (Tachograph Card) Regulations 2006 which regulate the use of tachograph cards.

4.6 In order to ensure that the domestic legislation gives effect to 3821/85 in its current form and that enforcement agencies (the Vehicle and Operator Services Agency - VOSA - of the Department for Transport and the Police) may properly enforce the rules governing drivers hours and the use of tachograph recording equipment (whether it is analogue or digital), the definition of the "Community Recording Equipment Regulation" needs to be brought up to date in each place where it occurs.

5. Extent

5.1 This Instrument applies to Great Britain.

5.2 Similar provisions have already been made for Northern Ireland - see the Road Traffic (Northern Ireland) Order 1981; the Passenger and Goods Vehicles (Recording Equipment) Regulations (Northern Ireland) 1996; the Passenger and Goods Vehicles (Recording Equipment) (Amendment) Regulations (Northern Ireland) 2005; the Passenger and Goods Vehicles (Recording Equipment) (Amendment No. 2) Regulations (Northern Ireland) 2005 and the Passenger and Goods Vehicles (Recording Equipment) Regulations (Northern Ireland) 2006.

6. European Convention of Human Rights

- 6.1 The Minister for Transport has made the following statement regarding Human Rights:

In my view the provisions of the Passenger and Goods Vehicles (Community Recording Equipment Regulation) Regulations 2006 are compatible with the Convention rights.

7. Policy Background

- 7.1 The EU drivers' hours and tachograph rules are directly applicable, but they require the UK to make adequate provision for the enforcement of their requirements. Such enforcement includes the imposition of penalties.
- 7.2 The rules have road safety implications. Fatigue leads to a higher incidence of traffic accidents due to driver sleepiness and the consequences if a large vehicle is involved in an accident are potentially far more serious than for a small vehicle. An effective regime for enforcing both the drivers' hours rules and the correct maintenance and operation of the recording equipment itself should help to prevent such road accidents.
- 7.3 This Instrument is intended to ensure that enforcement agencies, charged with enforcing the drivers' hours rules and tachograph requirements, do so on the basis of UK legislation which refers to the Community Recording Equipment Regulation as it has been amended by the EU, irrespective of whether the recording equipment conforms to the older definition (analogue) or the most recent (digital)
- 7.4 In order to avoid further delay in correcting the references and to ensure that a potential loophole is closed, it was decided not to wait until the provisions of the Legislative and Regulatory Reform Act 2006, which simplify references to amended Community instruments, will come into force.

8. Impact

- 8.1 A Regulatory Impact Assessment has not been prepared for this Instrument as it has no additional impact on business, charities or voluntary bodies.
- 8.2 The Instrument should have no impact on the main public bodies responsible for enforcing the EU Drivers' Hours Rules, namely VOSA and the Police, since they are already charged with enforcing the rules.

9. Contact

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