

EXPLANATORY MEMORANDUM TO
THE ROAD TRANSPORT (WORKING TIME) (AMENDMENT) REGULATIONS 2007
2007 No. 853

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 This Instrument amends the Road Transport (Working Time) Regulations 2005 ("the principal Regulations") to ensure that they continue to apply to mobile workers operating on vehicles subject to the EU drivers' hours rules when the new EU Regulation (EC) No. 561/2006 on drivers' hours enters fully into force on 11 April 2007. This Instrument also corrects an erroneous cross-reference in the principal Regulations.

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

3.1 None.

4. Legislative Background

4.1 The Road Transport (Working Time) Regulations 2005 (SI 2005/639) came into force on 4 April 2005. They implement Council Directive 2002/15/EC concerning the organisation of total working time of persons performing mobile road transport activities. That Directive applies (inter alia) to persons participating in activities covered by the separate Council Regulation (EEC) No 3820/85 on drivers' hours (i.e. driving time as opposed to total working time).

4.2 The application of the principal Regulations to mobile workers operating on vehicles subject to the EU drivers' hours rules is achieved by making specific reference to Regulation 3820/85. This will be replaced on 11 April 2007 by a new EU Regulation (EC) No 561/2006, therefore the principal Regulations need to be amended to refer to the new EU Regulation. The principal Regulations also contain an erroneous cross reference in regulation 15 which will be corrected.

5. Territorial Extent and Application

5.1 This Instrument applies to Great Britain.

6. European Convention on Human Rights

As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

7.1 Directive 2002/15/EC prescribes the amount of working time that can be performed by mobile workers (basically drivers, crew and other travelling staff) operating on vehicles subject to the EU drivers' hours rules. The aims of the Directive are to prevent mobile workers from being forced to work excessively long hours; to promote road safety; and to ensure fair competition across Europe (by delivering a "level playing field" on working time). It, and consequently the principal Regulations, specifies maximum and average weekly hours, a maximum night work limit and when breaks must be taken. There is no opt-out from the principal Regulations.

7.2 The EU drivers' hours rules prescribe maximum limits on driving time and minimum limits for breaks and rest periods for most drivers of large commercial vehicles in the UK. This helps to reduce the risks of drivers becoming involved in fatigue-related accidents and thus improves road safety. The existing EU Regulation has been in force since 1986. The new EU Regulation on drivers' hours, which clarifies and simplifies the existing legislation, making it easier to enforce, and updates and removes outdated exemptions comes fully into force on 11 April 2007.

7.3 This Instrument will ensure that the principal Regulations continue to apply to mobile workers operating on vehicles subject to the EU drivers' hours rules after 11 April 2007.

7.4 Regulation 15 of the principal Regulations prescribes the obligations (for the purpose of information, record keeping and so on) imposed on persons who drive for the purposes of their own business and who do not therefore fall within the ordinary definitions of "employer" and "employee". This regulation contains a reference to regulation 3(1)(b) which does not exist, and is amended to refer to regulation 3(2) and (3) as well as to clarify its relationship with the remainder of the principal Regulations.

7.5 The changes implemented by this Instrument are not in themselves politically or legally important.

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 Vehicle and Operator Services Agency the public body responsible for enforcing the Road Transport (Working Time) Regulations 2005, since they are already charged with enforcing the rules.

9. Contact

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