

EXPLANATORY MEMORANDUM TO
THE PASSENGER AND GOODS VEHICLES (TACHOGRAPHS) (AMENDMENT)
REGULATIONS 2016

2016 No. 248

1. Introduction

- 1.1 This explanatory memorandum has been prepared by the Department for Transport and is laid before Parliament by Command of Her Majesty.
- 1.2 This memorandum contains information for the Joint Committee on Statutory Instruments.

2. Purpose of the instrument

- 2.1 The purpose of this instrument is to update the existing domestic enforcement regime relating to the use of tachograph equipment for use on Heavy Goods Vehicles (HGVs), Passenger Service Vehicles (PSVs) and some Light Goods Vehicles (LGVs).
- 2.2 It also strengthens standards that workshops and fitters must meet in order to install, check, inspect and repair the tachograph.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

- 3.1 The instrument was considered by the Joint Committee on Statutory Instruments prior to being debated and approved by both Houses and no amendments have been made to the instrument since having been considered by it. It is essential that this instrument come into force on 2 March 2016 in order that offences involving the use of tachograph equipment be capable of enforcement. For that reason it will not be possible to allow 21 days to lapse between the making of this instrument and its coming into force date.

Other matters of interest to the House of Commons

- 3.2 Disregarding minor or consequential changes, the territorial application of this instrument includes Scotland.

4. Legislative Context

- 4.1 This instrument amends provisions in primary and secondary legislation in order to facilitate EU Regulation 165/2014 on tachographs, which is directly applicable and comes into force on 2 March 2016. A transposition note can be found at Annex 1.
- 4.2 This instrument amends the following:
 - Part VI Transport Act 1968
 - Fixed Penalty Order 2000 (SI 2000/2792)
 - Road Safety (Financial Penalty Deposit) (Appropriate Amount) Order 2009 (SI 2009/492)
 - The Community Drivers' Hours and Recording Equipment Regulations 2007 (SI 2007/1819)

- The Passenger and Goods Vehicles (Recording Equipment) (Tachograph Card Fees) Regulations 2006 (SI 2006/1937)
- The Passenger and Goods Vehicles (Recording Equipment) (Tachograph Card Fees) Regulations 2005 (SI 2005/1140)
- The Passenger and Goods Vehicles (Recording Equipment) Regulations 1979 (SI 1979/1746)
- The Passenger and Goods Vehicles (Recording Equipment) (Tachograph Card) Regulations 2006 (SI 2006/1937)
- The Passenger and Goods Vehicles (Community Recording Equipment Regulation) Regulations 2010 (SI 2010/892)
- Passenger and Goods Vehicles Recording Equipment) (Approval of Fitters and Workshops) (Fees) Regulations 1986 (SI 1986/2128)
- Road Vehicles (Construction and Use) Regulations 1986 (as amended)
- Road Traffic Act 1988
- Motor Vehicles (Type Approval) Regulations 1980 (SI 1980/1182)
- Drivers' Hours (Goods Vehicles) (Keeping of Records) Regulations 1987 (SI 1987/1421)
- Community Drivers' Hours and Recording Equipment Regulations 2012 (SI 2012/1502)

5. Territorial Extent and Application

- 5.1 The extent of this instrument is Great Britain.
- 5.2 The territorial application of this instrument is Great Britain.

6. European Convention on Human Rights

- 6.1 Andrew Jones MP has made the following statement regarding Human Rights:
 “In my view the provisions of The Passenger and Goods Vehicles (Tachographs) (Amendment) Regulations 2016 are compatible with the Convention rights.”

7. Policy background

- 7.1 Tachographs are devices in Heavy Goods Vehicles, Passenger Service Vehicles and some Light Goods Vehicles which monitor and record the amount of time a commercial driver has spent driving. Tachographs allow the enforcement of drivers’ hours rules, creating a level playing field for vehicle operators.
- 7.2 Road safety is improved by ensuring that professional drivers’ working hours are not excessive and the risk of accidents as a result of fatigue are subsequently reduced.
- 7.3 This new instrument updates the existing domestic enforcement regime to comply with EU Regulation 165/2014 on tachographs. It ensures that the Driver and Vehicle Standards Agency (DVSA) and the police will be able to continue to regulate tachographs and enforce against drivers’ hours offences.
- 7.4 It also strengthens standards that workshops must meet in order to install, check, inspect and repair the tachograph.
- 7.5 This instrument also extends exemptions and national derogations set out in EU drivers’ hours rules (Regulation (EC) 561/2006).

8. Consultation outcome

- 8.1 The Department for Transport in partnership with the Northern Ireland Department of the Environment carried out a targeted stakeholder consultation (from 17 March to 12 May 2015) on the implementation of EU Regulation 165/2014 on tachographs in road transport.
- 8.2 The consultation was sent to organisations or individuals that have an interest in tachographs, including trade associations, trade unions, road safety organisations, tachograph manufacturers, workshops, enforcement agencies, and others involved in the tachograph industry.
- 8.3 From the 13 responses received, there was broad support from stakeholders for the proposal for implementation.
- 8.4 There are two areas of flexibility in EU Regulation 165/2014 that the new Regulation takes up, due to support from industry. First, the Regulation amends legislation to re-take up derogations to drivers' hours rules - thereby potentially relaxing the administrative burden on industry. Second, the Regulation allows DVSA to authorise field tests of non-type approved tachographs.

9. Guidance

- 9.1 The Department will amend DVSA's Drivers' Hours Guidance.

10. Impact

- 10.1 The impact on businesses, charities and voluntary bodies is minimal.
- 10.2 The impact on the public sector is minimal.
- 10.3 An Impact Assessment is submitted with this memorandum and will be published alongside the Explanatory Memorandum on the legislation.gov.uk website.

11. Regulating small business

- 11.1 The legislation applies to activities that are undertaken by small businesses.
- 11.2 The legislation updates the existing domestic enforcement regime to comply with the directly applicable EU Regulation 165/2014 on tachographs. This EU Regulation applies to relevant businesses of all sizes.

12. Monitoring & review

- 12.1 A review provision should be included in all secondary legislation that regulates business other than in exceptional circumstances where the potential benefits of doing so are clearly outweighed by the potential adverse effects.
- 12.2 The reasons for not including a review provision in this instrument are, firstly, that most of the substantive changes that are being made by the instrument are amendments to primary legislation which is outside the scope of the review provision policy. Secondly, almost all of the changes to secondary legislation are simply the updating of references to EU Regulation 165/2014 and as such the introduction of a requirement to review the amended instruments would be disproportionate in the circumstances.
- 12.3 Andrew Jones MP has made the following statement regarding the inclusion within the instrument of a periodic review provision:

“It is not appropriate in the circumstances to make provision for review in this legislation.”

13. Contact

- 13.1 Tom Cotton at the Department for Transport, Tel: 0207 944 5813 or email: tom.cotton@dft.gsi.gov.uk can answer any queries regarding the instrument.