

**2019 No. 453**

**EXITING THE EUROPEAN UNION**

**ROAD TRAFFIC**

**The Drivers' Hours and Tachographs (Amendment etc.) (EU  
Exit) Regulations 2019**

*Made* - - - - *4th March 2019*

*Coming into force in accordance with regulations 1(2) and  
(3)*

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- 114. Saving

The Secretary of State makes these Regulations in exercise of the powers conferred by section 2(2) of the European Communities Act 1972<sup>(a)</sup>, and section 8(1) of, and paragraph 21 of Schedule 7 to, the European Union (Withdrawal) Act 2018<sup>(b)</sup>.

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

These Regulations make provision for a purpose mentioned in section 2(2) of the European Communities Act 1972 and it appears to the Secretary of State that it is expedient for the reference to Regulation (EU) No 165/2014 of the European Parliament and of the Council on tachographs in road transport to be construed as a reference to that instrument as amended from time to time.

In accordance with paragraph 2(2) of Schedule 2 to the European Communities Act 1972 and paragraph 1(1) of Schedule 7 to the European Union (Withdrawal) Act 2018, a draft of these Regulations has been laid before Parliament and has been approved by a resolution of each House of Parliament.

## PART 1

### Introduction

#### **Citation, commencement and extent**

1.—(1) These Regulations may be cited as the Drivers' Hours and Tachographs (Amendment etc.) (EU Exit) Regulations 2019.

(2) Parts 1 and 2 come into force on the 22nd day after the day on which these Regulations are made.

(3) Parts 3 and 4 come into force on exit day.

(4) The following extend to England and Wales, Scotland and Northern Ireland—

(a) Part 1;

(b) Part 2, Chapter 2, regulations 21 and 23;

(c) Part 3, Chapter 2, regulation 49, and Part 3, Chapter 3;

(d) Part 4.

(5) Except for the regulations referred to in paragraphs 4(b) and (c), Part 2 and Part 3, Chapters 1 and 2 extend to England and Wales and Scotland.

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(a) 1972 c. 68; section 2(2) was amended by the Legislative and Regulatory Reform Act 2006 (c. 51), section 27(1)(a), and the European Union (Amendment) Act 2008 (c. 7), section 3(3), Schedule, Part 1.

(b) 2018 c. 16.

(c) S.I. 1972/1811.

(d) S.I. 1975/1707.

## PART 2

### Amendments pursuant to the European Communities Act 1972

#### CHAPTER 1

##### Amendments of primary legislation

#### **Transport Act 1968**

2. The Transport Act 1968(a) is amended as follows.

3.—(1) Section 96 is amended as follows.

(2) In subsection (11B)(b)—

- (a) in paragraph (c), in the words before sub-paragraph (i), after “paragraph (b)” insert “in respect of a contravention of a provision of the Community Drivers’ Hours Regulation(c)”;
- (b) in paragraph (c)(ii) for “contravention.” substitute “contravention; or”;
- (c) after paragraph (c) (and the “or” inserted by paragraph (b) above) insert—
  - “(d) being charged as mentioned in paragraph (b) in respect of a contravention of a provision of the AETR(d), the person proves—
    - (i) that at the time of the contravention the person was complying with Article 11(1) to (3) of the AETR (organisation of drivers’ work, distance-related payments etc); and
    - (ii) that the person took all reasonable precautions to avoid the contravention.”.

(3) In subsection (11C)(e)—

- (a) after “Community Drivers’ Hours Regulation” insert “or Article 11(5) of the AETR”;
- (b) for “that Regulation” substitute “that provision”.

4. In section 97(f)—

- (a) in the heading, at the end insert “: EU requirements”;
- (b) for subsection (1)(a)(ii) (but not the “and” at the end) substitute—
  - “(ii) complies with that Regulation (including the relevant Annexes to it)”;
- (c) in subsection (2) omit “the requirements of the relevant Annexes to”;
- (d) in subsection (6), after “97G of this Act” insert “(so far as those sections relate to the EU Tachographs Regulation)”;
- (e) in subsection (7)—
  - (i) in the definition of “the EU Tachographs Regulation”, after “transport” insert “, as amended from time to time.”;
  - (ii) in the definition of “the relevant Annexes”, for “Community Recording Equipment Regulation” substitute “EU Tachographs Regulation”.

5. After section 97 insert—

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(a) 1968 c. 73.  
(b) Section 96(11B) was inserted by section 10 of the Transport Act 1978 (c. 55) and amended by S.I. 2007/1819.  
(c) OJ No. L 102, 11.4.2006, p. 1; relevant amending instruments are OJ No. L 300, 14.11.2009, p. 88 and OJ No. L 60, 28.2.2014, p. 1. Defined in section 103(1) of the Transport Act 1968 (c. 73).  
(d) The AETR is the European Agreement concerning the work of Crews of Vehicles engaged in International Road Transport of 1st July 1970 and is defined in section 103(1) of the Transport Act 1968 (c. 73). The AETR can be found in Cmnd 7401, Cmnd 8572, Cmnd 9037, Cm 1776, Cm 3042 and Cm 3135.  
(e) Section 96(11C) was inserted by S.I. 2007/1819.  
(f) Section 97 was amended by S.I. 1979/1746, 1984/144, 1986/1457, 1989/2121, 2005/1904, 2006/1117, 2008/198, 2016/248.

**“97ZA Installation and use of recording equipment: AETR requirements**

(1) No person shall use, or cause or permit to be used, a vehicle to which this section applies—

- (a) unless there is in the vehicle recording equipment which—
  - (i) has been installed in accordance with the AETR;
  - (ii) complies with the AETR (including the relevant Appendices to the Annex to the AETR); and
  - (iii) is being used as provided by Articles 10 to 13 of the Annex to the AETR; or
- (b) in which there is recording equipment which has been repaired (whether before or after installation) otherwise than in accordance with the AETR.

(2) A person who contravenes subsection (1) shall be liable on summary conviction—

- (a) in England and Wales, to a fine;
- (b) in Scotland, to a fine not exceeding level 5 on the standard scale.

(3) A person shall not be liable to be convicted for contravention of subsection (1) of this section if the person proves to the court that the person neither knew nor ought to have known that the recording equipment had not been installed or repaired, as the case may be, in accordance with the AETR.

(4) A person shall not be liable to be convicted for contravention of subsection (1)(a) if the person proves to the court that the vehicle in question was proceeding to a place where recording equipment which would comply with the AETR was to be installed in the vehicle in accordance with the AETR.

(5) A person shall not be liable to be convicted for contravention of subsection (1)(a) by reason of the recording equipment installed in the vehicle in question not being in working order if the person proves to the court that—

- (a) it had not become reasonably practicable for the equipment to be repaired by an approved fitter or workshop; and
- (b) the requirements of Article 13(2)(a) of the Annex to the AETR were being complied with.

(6) A person shall not be liable to be convicted for contravention of subsection (1)(a) by reason of any seal on the recording equipment installed in the vehicle in question not being intact if the person proves to the court that—

- (a) the breaking or removal of the seal could not have been avoided;
- (b) it had not become reasonably practicable for the seal to be replaced by an approved fitter or workshop; and
- (c) in all other respects the equipment was being used as provided by Articles 10 to 13 of the Annex to the AETR.

(7) A person shall not be liable to be convicted for contravention of subsection (1)(a) by reason of the driver card not being used with the recording equipment installed in the vehicle in question if the person proves to the court that—

- (a) the driver card was damaged, malfunctioning, lost or stolen;
- (b) the requirements of Articles 12(1) and 13(2) and (3) of the Annex to the AETR were being complied with; and
- (c) in all other respects the recording equipment was being used as provided by Articles 10 to 13 of the Annex to the AETR.

(8) Where a person (“the driver”)—

- (a) in the course of the driver’s employment, uses a vehicle in contravention of subsection (1), and
- (b) is liable to be convicted for the contravention of that subsection in respect of that use,

the employer also commits an offence and shall be liable on summary conviction to a fine.

(9) A person shall not be liable to be convicted under subsection (8) in respect of the use of a vehicle if the requirements of Article 11(1) to (3) of the AETR and Article 11(1) of the Annex to the AETR were complied with in relation to that use.

(10) For the purposes of this section recording equipment is used as provided by Articles 10 to 13 of the Annex to the AETR if, and only if, the circumstances of its use are such that each requirement of those Articles is complied with.

(11) This section applies at any time to any vehicle to which this Part of this Act applies if, at that time, the AETR requires recording equipment to be installed and used in that vehicle; and in this section and sections 97B to 97G of this Act (so far as those sections relate to the AETR) any expression which is also used in the AETR has the same meaning as in the AETR.

(12) In this Part of this Act—

“AETR” means the European Agreement concerning the Work of Crews of Vehicles engaged in International Road Transport of 1st July 1970<sup>(a)</sup> (as applied by Article 2(3) of the Community Drivers’ Hours Regulation);

“the relevant Appendices” to the Annex to the AETR—

(a) in the case of a vehicle put into service for the first time before 16th June 2010 means—

- (i) either Appendix 1 or Appendix 1B to that Annex; and
- (ii) Appendix 2 to that Annex; and

(b) in the case of a vehicle put into service for the first time on or after that date means—

- (i) Appendix 1B to that Annex; and
- (ii) Appendix 2 to that Annex.

### **97ZB Supply of recording equipment which is not type-approved**

(1) A person commits an offence if the person supplies, as recording equipment which complies with the EU Tachographs Regulation or the AETR, recording equipment in respect of which no appropriate type-approval certificate is in force.

(2) It is a defence to show that—

- (a) the recording equipment was supplied for export from Great Britain,
- (b) the person had reasonable cause to believe that the recording equipment would not be installed in a vehicle used on a road in Great Britain or would not be so installed until an appropriate type-approval certificate was in force, or
- (c) the person had reasonable cause to believe that the recording equipment would only be installed in a vehicle which was not required under the relevant instrument to have recording equipment installed in it.

(3) A person who commits an offence under this section is liable on summary conviction to a fine not exceeding level 4 on the standard scale.

(4) Nothing in this section affects the validity of a contract or any rights arising under or in relation to a contract.

(5) In this section—

“appropriate type-approval certificate” means—

(a) in relation to recording equipment supplied as complying with the EU Tachographs Regulation, a type-approval certificate—

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<sup>(a)</sup> Cmnd 7401, Cmnd 8572, Cmnd 9037, Cm 1776, Cm 3042 and Cm 3135.

- (i) issued under the Motor Vehicles (Type Approval) Regulations 1980(a) and the EU Tachographs Regulation, or
- (ii) issued in another member State under the EU Tachographs Regulation;
- (b) in relation to recording equipment supplied as complying with the AETR, a type approval certificate—
  - (i) issued under the Motor Vehicles (Type Approval) Regulations 1980 and the AETR, or
  - (ii) issued in a contracting third country under the AETR;
- “relevant instrument”—
  - (a) in relation to recording equipment supplied as complying with the EU Tachographs Regulation, means that Regulation;
  - (b) in relation to recording equipment supplied as complying with the AETR, means the AETR;
- “supplies” includes—
  - (a) sells;
  - (b) offers to sell or supply;
  - (c) exposes for sale.

**97ZC Recording equipment system elements: security vulnerabilities**

- (1) A person commits an offence if—
  - (a) the person is a manufacturer of a vehicle unit, motion sensor or tachograph card for which a type-approval certificate has been issued under the Motor Vehicles (Type Approval) Regulations 1980 and the EU Tachographs Regulation,
  - (b) the person knows that security vulnerabilities have been detected for elements already on the market, as mentioned in Article 20(3) of the EU Tachographs Regulation, and
  - (c) the person fails to inform the Secretary of State that the security vulnerabilities have been detected.

(2) A person who commits an offence under this section is liable on summary conviction to a fine not exceeding level 4 on the standard scale.”.

**6.** In section 97AA(1)(b), after “97” insert “ or 97ZA”.

**7.** In section 97B(c), for subsection (2) substitute—

“(2) Any entry made on a record sheet or printout by a driver for the purposes of—

- (a) Article 34(1), (3), (4) or (6) or 37(2) of the EU Tachographs Regulation, or
- (b) Article 12(1), (2) or (5) or 13(2)(a) of the Annex to the AETR,

shall, in any proceedings under this Part of this Act, be evidence, and in Scotland sufficient evidence, of the matters appearing from that entry.”.

**8.** In section 97C(d)—

- (a) in subsection (1)(b), at the end insert “or the AETR”;
- (b) in subsection (2), after “97” insert “or 97ZA”.

**9.** In section 97D(e)—

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(a) S.I. 1980/1182, amended by S.I. 1982/7, 1986/1501, 1988/1103, 2011/1043.  
 (b) Section 97AA was inserted by S.I. 1989/2121.  
 (c) Section 97B was inserted by S.I. 1979/1746 and amended by S.I. 2005/1904, 2016/248.  
 (d) Section 97C was inserted by S.I. 2008/198 and amended by S.I. 2016/248.  
 (e) Section 97D was inserted by S.I. 2008/198 and amended by S.I. 2015/502, 2016/248.

- (a) in subsection (1), after “Community Drivers’ Hours Regulation” insert “or article 11(2)(b) of the Annex to the AETR”;
- (b) in subsection (3), in column 2 of the table entry relating to case 1, in paragraph (b), after “article 10” insert “of the Community Drivers’ Hours Regulation or article 11(2)(b) of the Annex to the AETR”.

**10.** In section 97E(a)—

- (a) in subsection (1), after “Community Drivers’ Hours Regulation” insert “or article 11(2)(b) of the Annex to the AETR”;
- (b) in subsection (3), in column 2 of the table entry relating to case 1, in paragraph (b), after “article 10” insert “of the Community Drivers’ Hours Regulation or article 11(2)(b) of the Annex to the AETR”.

**11.** In section 97F(1)(b)(b), after “Community Drivers’ Hours Regulation” insert “or article 11(2)(b) of the Annex to the AETR”.

**12.** In section 97G(2)(c), after “Community Drivers’ Hours Regulation” insert “or article 11(2)(b) of the Annex to the AETR”.

**13.** In section 97H(3)(d), after “Community Drivers’ Hours Regulation” insert “or article 11(2)(b) of the Annex to the AETR”.

**14.—**(1) Section 98(2A)(e) is amended as follows.

(2) The words from “a vehicle” to the end become paragraph (a).

(3) In that paragraph, for the words from “the relevant Annexes” to the end substitute “the EU Tachographs Regulation (including the relevant Annexes, within the meaning of that section);”.

(4) After that paragraph insert—

“(b) a vehicle to which section 97ZA applies and which is installed with recording equipment complying with the AETR (including the relevant Appendices to the Annex, within the meaning of that section).”.

**15.** In section 99(11)(f), after “97” insert “or 97ZA”.

**16.—**(1) Section 99ZA(g) is amended as follows.

(2) In subsection (1)—

(a) in paragraph (a), after “97” insert “or 97ZA”;

(b) in paragraph (b), after “Regulation” insert “or the AETR”.

(3) In subsection (2)(a), after “Regulation” insert “or Article 12(7)(a) or (b) of the Annex to the AETR”.

(4) In subsection (6)—

(a) in the definition of “digital recording equipment”, for “Annex 1B to the EU Tachographs Regulation” substitute “the relevant provision”;

(b) in the definition of “driver card”, for “in that annex” substitute “by the relevant provision”;

(c) in the definition of “electronic copy”, for “that Annex” substitute “the relevant provision”.

(5) After subsection (6) insert—

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- (a) Section 97E was inserted by S.I. 2008/198.
  - (b) Section 97F was inserted by S.I. 2008/198 and amended by S.I. 2016/248.
  - (c) Section 97G was inserted by S.I. 2008/198.
  - (d) Section 97H was inserted by S.I. 2008/198.
  - (e) Section 98(2A) was inserted by S.I. 1979/1746 and amended by S.I. 2005/1904.
  - (f) Section 99(11) was inserted by S.I. 2005/1904.
  - (g) Section 99ZA was inserted by S.I. 2005/1904 and amended by S.I. 2016/248.



“(7) In subsection (6) “relevant provision” means—

- (a) in relation to a vehicle to which section 97 applies, Annex 1B to the EU Tachographs Regulation;
- (b) in relation to a vehicle to which section 97ZA applies, Appendix 1B to the Annex to the AETR.”.

**17.**—(1) Section 99ZB(a) is amended as follows.

(2) In subsection (1), after “97” insert “or 97ZA”.

(3) In subsection (4)(a), after “97” insert “or 97ZA”.

(4) In subsection (5)(a), after “97” insert “or 97ZA”.

(5) In subsection (7)(b), for “EU Tachographs Regulation” substitute “relevant instrument”.

(6) For subsections (8) and (9) substitute—

“(8) In subsection (7) of this section—

“relevant person” means—

- (a) if the requirement was imposed by an examiner appointed under section 66A of the Road Traffic Act 1988(b), the Secretary of State;
- (b) if the requirement was imposed by a constable, the chief officer of police for the police area in which the requirement was imposed;

“relevant instrument” means—

- (a) in relation to a vehicle to which section 97 applies, the EU Tachographs Regulation;
- (b) in relation to a vehicle to which section 97ZA applies, the AETR.

(9) In this Part of this Act, “analogue recording equipment” means—

- (a) in relation to a vehicle to which section 97 applies, recording equipment that complies with Annex I to the EU Tachographs Regulation;
- (b) in relation to a vehicle to which section 97ZA applies, recording equipment that complies with Appendix 1 to Annex 1 to the AETR.”.

**18.** In section 99ZE(2)(a)(c), for “or section 97” substitute “, the AETR or section 97 or 97ZA”.

**19.** In section 103(1)(d), before the definition of “agriculture” insert—

““AETR” has the meaning given by section 97ZA(12) of this Act;”.

### **Road Traffic Offenders Act 1988**

**20.** In Schedule 3 to the Road Traffic Offenders Act 1988(e), after the entry relating to section 97(1) of the Transport Act 1968 insert—

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“Section 97ZA(1) and (2) of that Act	Using vehicle in contravention of requirements relating to installation, use or repair or recording equipment in accordance with the AETR.”
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- (a) Section 99ZB was inserted by S.I. 2005/1904 and amended by S.I. 2016/248.
- (b) 1988 c. 52; section 66A was inserted by section 9(1) of the Road Traffic Act 1991 (c. 40) and was amended by the Goods Vehicles (Licensing of Operators) Act 1995 (c. 23).
- (c) Section 99ZE was inserted by S.I. 2005/1904 and amended by S.I. 2016/248.
- (d) Section 103(1) was amended by section 2(1) of the Road Traffic (Drivers’ Ages and Hours of Work) Act 1976 (c. 3) and by S.I. 1979/1746, 1981/1373, 1986/1458, 2005/1904, 2007/1819, 2008/198, 2011/1043, 2013/1644, 2016/248, 2018/24.
- (e) 1988 c. 53. Schedule 3 was amended by S.I. 2009/483 and 2016/248; there are other amendments which are not relevant to these Regulations.

## CHAPTER 2

### Amendments of secondary legislation

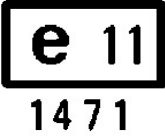
#### **Motor Vehicles (Designation of Approval Marks) Regulations 1979**

**21.**—(1) In the Motor Vehicles (Designation of Approval Marks) Regulations 1979(a), the table in Schedule 4 is amended as follows.

(2) In item 3—

- (a) in column 3, for “Road transport recording equipment and the model record sheet” substitute “Vehicle unit, motion sensor, model record sheet and tachograph card”;
- (b) in column 4, for “The road transport recording equipment and the model record sheet” substitute “The vehicle unit, motion sensor, model record sheet and tachograph card”;
- (c) in column 5, for “Council Regulation (EEC) No. 1463/70 of 20th July 1970” substitute “Regulation (EU) No 165/2014 of the European Parliament and of the Council of 4th February 2014”;
- (d) in column 6, for “OJ L164, 27.7.70, p 1” substitute “OJ L60, 28.2.2014, p 1”.

(3) After item 3 insert—

“3A		Control device, distance and speed sensor, model record sheet and memory card.	The control device, distance and speed sensor, model record sheet and memory card.	Regulation (EC) No 561/2006 of the European Parliament and of the Council of 15th March 2006, so far it applies the European Agreement concerning the Work of Crews of Vehicles Engaged in International Road Transport (see Article 2(3) of that Regulation)	OJ L102, 11.4.06, p 1	1 and 2”
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#### **Passenger and Goods Vehicles (Recording Equipment) Regulations 1979**

**22.** In regulation 4(1)(b) of the Passenger and Goods Vehicles (Recording Equipment) Regulations 1979(b), after “for the” insert “approval and”.

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(a) S.I. 1979/1088, as amended by S.I. 2011/1043; there are other amendments which are not relevant to these Regulations.  
 (b) S.I. 1979/1746, amended by S.I. 1984/144, 2016/248; there are other amendments which are not relevant to these Regulations.

## Motor Vehicles (Type Approval) Regulations 1980

- 23.**—(1) The Motor Vehicles (Type Approval) Regulations 1980(a) are amended as follows.
- (2) In regulation 3(1)—
- (a) in the definition of “component”—
    - (i) for “section 63(4) of the Road Traffic Act 1972” substitute “section 80(4) of the Road Traffic Act 1988”;
    - (ii) for “Council Directive 78/315/EEC of 21st December 1977” substitute “Directive 2007/46/EC of the European Parliament and of the Council of 5th September 2007(b)”;
  - (b) in the definition of “road”, for “section 196(1) of the Road Traffic Act 1972” substitute “section 192(1) of the Road Traffic Act 1988”;
  - (c) omit the definition of “the Community Directives”;
  - (d) in the definition of “the Community Regulations”—
    - (i) omit “Council”;
    - (ii) omit the words from “concerning” to the end;
  - (e) in the definition of “the relevant approval mark”, for “section 63 of the Road Traffic Act 1972” substitute “section 80(1) of the Road Traffic Act 1988”;
  - (f) in the definition of “the type approval requirements” omit “Community Directives or”.
- (3) In regulation 6(1), after “such other documents” insert “or things”.
- (4) After regulation 12 insert—

### **“Recording equipment which breaches the type approval requirements or displays a general defect**

**12A.**—(1) The Secretary of State must, by notice under Regulation 13, cancel a type-approval certificate relating to a relevant component of recording equipment if satisfied that the component—

- (a) is not in conformity with the type-approval requirements, or
- (b) displays a general defect during use which makes it unsuitable for the purpose for which it is intended.

(2) For the purposes of this regulation, each of the following is a relevant component of recording equipment—

- (a) the component referred to as a vehicle unit or control device;
- (b) the component referred to as a motion sensor or distance and speed sensor;
- (c) the component referred to as a model record sheet;
- (d) the component referred to as a tachograph card or memory card.”.

- (5) In regulation 16(1) omit “Community Directives or the”.
- (6) For Schedule 2, Part 2 substitute—

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(a) S.I. 1980/1182, amended by S.I. 1982/7, 1986/1501, 1988/1103, 2011/1043.

(b) OJ No. L 263, 9.10.2007, p. 1; relevant amending instruments are OJ No. L 175, 7.7.2017, p. 1, OJ No. L 175, 7.7.2017, p. 708 and OJ No. L 349, 29.12.2017, p. 1.

## “Part II

### The Community Regulations

**1.** Regulation (EC) No 561/2006 of the European Parliament and of the Council of 15 March 2006 on the harmonisation of certain social legislation relating to road transport and amending Council Regulations (EEC) No 3821/85 and (EC) No 2135/98 and repealing Council Regulation (EEC) No 3820/85(a) so far as it applies the Annex to the European Agreement concerning the Work of Crews of Vehicles Engaged in International Road Transport (which contains requirements corresponding to those contained in Regulation (EU) No 165/2014). See Article 2(3) of Regulation (EC) No 561/2006.

**2.** Regulation (EU) No 165/2014 of the European Parliament and of the Council of 4 February 2014 on tachographs in road transport, repealing Council Regulation (EEC) No 3821/85 on recording equipment in road transport and amending Regulation (EC) No 561/2006 of the European Parliament and the Council on the harmonisation of certain social legislation relating to transport(b).”

#### Motor Vehicles (Tests) Regulations 1981

**24.**—(1) The Motor Vehicles (Tests) Regulations 1981(c) are amended as follows.

(2) In regulation 3(1)—

- (a) omit the definition of “Community Recording Equipment Regulation”;
- (b) insert at the appropriate place—

““EU Tachographs Regulation” has the meaning given in section 85 of the Road Traffic Act 1988;”.

(3) In each of the following, for “Community Recording Equipment Regulation” substitute “EU Tachographs Regulation”—

- (a) regulation 13(1)(m);
- (b) regulation 20(7)(c)(xix);
- (c) paragraph 5(f) of Schedule 2;
- (d) paragraph 5A(c) of Schedule 2.

#### Fixed Penalty Order 2000

**25.**—(1) Schedule 2 to the Fixed Penalty Order 2000(d) is amended as follows.

(2) In paragraph 2, in table 2—

- (a) in column 1 of items 15 and 16, omit “the first sub-paragraph of”;
- (b) after item 16 insert—

“16A. Exceeding the weekly driving time of 56 hours, in contravention of Article 6.2 of	More than 56 hours but less than 58 hours driving	58 hours or more but less than 59 hours driving	59 hours or more driving”
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(a) OJ No. L 102, 11.4.2006, p.1.

(b) OJ No. L 60, 28.2.2014, p.1.

(c) S.I. 1981/1694, amended by S.I. 1991/1525, 1998/1672, 2003/1698. There are other amendments which are not relevant to these Regulations.

(d) S.I. 2000/2792; Schedule 2 was inserted by S.I. 2009/488 and amended by S.I. 2010/2720, 2013/1569, 2016/248. There are other amendments which are not relevant to these Regulations.

the AETR			
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- (c) in column 1 of item 17, for the words from “total” to “Article 6.2” substitute “accumulated driving time in any two consecutive weeks, in contravention of Article 6.3”;
- (d) in column 1 of item 19—
  - (i) after “Insufficient” insert “regular”;
  - (ii) for “the first sub-paragraph of Article 8.1” substitute “Articles 8.1 and 8.2”;
- (e) in column 1 of item 20—
  - (i) omit “(where permitted)”;
  - (ii) for “the first sub-paragraph of Article 8.1” substitute “Articles 8.1 and 8.2”;
- (f) omit item 21;
- (g) for item 22 substitute—

“22. Failure to take first rest of at least 3 consecutive hours where daily rest period is split, as required by Article 1(o)(i) of the AETR and in contravention of Articles 8.1 and 8.2 of the AETR	Less than 3 hours but more than 2 hours rest	2 hours or less but more than 1 hours rest	1 hour or less rest
22A. Failure to take second rest of at least 9 consecutive hours where daily rest period is split, as required by Article 1(o)(i) of the AETR and in contravention of Articles 8.1 and 8.2 of the AETR	Less than 9 hours but more than 8 hours rest	8 hours or less but more than 7 hours rest	7 hours or less rest”

- (h) in column 1 of item 23—
  - (i) for “12 hours in total, in accordance with Article 8.1 of the AETR,” substitute “at least 12 hours in total”;
  - (ii) at the end insert “, as required by Article 1(o)(i) of the AETR and in contravention of Articles 8.1 and 8.2 of the AETR”;
- (i) in item 24—
  - (i) for the entry in column 1 substitute “24. Insufficient rest in 30 hour period by a driver engaged in multi-manning, in contravention of Articles 8.1 and 8.3 of the AETR”;

- (ii) in column 2, for “8 hours” substitute “9 hours”;
  - (iii) for “7 hours”, in both places it occurs, substitute “8 hours”;
  - (iv) for “6 hours”, in both places it occurs, substitute “7 hours”;
  - (j) in column 1 of item 25, for “Articles 6.1 and 8.3” substitute “Articles 8.1 and 8.6(a)”;
  - (k) omit item 26;
  - (l) in column 1 of item 27—
    - (i) omit the words from “of 24 hours” to “driver is based”;
    - (ii) for “Articles 6.1 and 8.3” substitute “Articles 8.1 and 8.6(a)”;
  - (m) in column 1 of item 28, for the words from “sufficient” to the end substitute “equivalent period of compensatory rest before the end of the third week where reduced weekly rest period has been taken, as required by Article 8.6(a)(ii) of the AETR”.
- (3) After paragraph 3 insert—

**“3A. Section 97ZA Transport Act 1968**

**Table 3A**

<i>(1) Nature of contravention or failure constituting the offence</i>	<i>(2) Amount of penalty</i>
1. Failure to ensure recording equipment installed in accordance with section 97ZA(1) of the Transport Act 1968	£300
2. Failure to ensure the correct functioning of recording equipment or driver card, in accordance with Article 10 of the Annex to the AETR	£100
3. Failure to ensure the proper use of the recording equipment, in accordance with Article 10 of the Annex to the AETR	£200
4. Failure to ensure the proper use of the driver card, in accordance with Article 10 of the Annex to the AETR	£300
5. Failure to ensure that printing can be carried out correctly in the event of an inspection (other than a failure to provide sufficient printing material), in accordance with the second sub-paragraph of Article 11.1 of the Annex to the AETR	£200
6. Failure to ensure that printing can be carried out correctly in the event of an inspection by a failure to provide sufficient printing material, in accordance with the first sub-paragraph of Article 11.1 of the Annex to the AETR	£100
7. Using driver card of which the driver is not the holder, contrary to the third sub-paragraph of Article 11.4(a) of the Annex to the AETR	£300
8. Using a defective driver card, contrary to the third sub-paragraph of Article 11.4(a) of the Annex to the AETR	£100
9. Failure to use record sheets or driver card, in accordance with the first sub-paragraph of Article 12.2(a) of the Annex to the AETR	£300

10. Unauthorised withdrawal of record sheet or driver card, contrary to the first subparagraph of Article 12.2(a) of the Annex to the AETR	£200
11. Failure to enter legibly on the record sheet, when away from the vehicle, periods of time, in accordance with Article 12.2(b) of the Annex to the AETR	£200
12. Failure to amend record sheet or driver card as necessary when more than one driver on board the vehicle, in accordance with paragraph (2)(c) or the second subparagraph of paragraph (2)(a) of Article 12 of the Annex to the AETR	£200
13. Failure at the start of the journey, to print out information required, etc, in accordance with Article 13.2(b)(i) of the Annex to the AETR	£200
14. Failure, at the end of the journey, to print out information required, etc, in accordance with Article 13.2(b)(ii) of the Annex to the AETR	£200 <sup>7</sup>

#### **Road Transport (Working Time) Regulations 2005**

26. In regulation 3(3)(b) of the Road Transport (Working Time) Regulations 2005(a), for “Article 2(2)(b)” substitute “Article 2(2)”.

#### **Passenger and Goods Vehicles (Recording Equipment) (Tachograph Card Fees) Regulations 2005**

27. In regulation 3(2)(a)(i) of the Passenger and Goods Vehicles (Recording Equipment) (Tachograph Card Fees) Regulations 2005(b), for “Commission Regulation (EEC) No 3820/85” substitute “Regulation (EC) No 561/2006 of the European Parliament and of the Council(c)”.

#### **Community Drivers’ Hours and Recording Equipment Regulations 2007**

28. In regulation 3 of the Community Drivers’ Hours and Recording Equipment Regulations 2007(d), after “Regulation” insert “and Article 2.2(k) of the European Agreement concerning the Work of Crews of Vehicles Engaged in International Road Transport (as applied by Article 2(3) of that Regulation)”.

#### **Road Safety (Financial Penalty Deposit) Order 2009**

29. In Part 1 of the Schedule to the Road Safety (Financial Penalty Deposit) Order 2009(e), in Table 1—

- (a) in the entry relating to section 97(1) of the Transport Act 1968, in the second column, for the words from “any” to the end substitute, “requirements relating to installation, use or repair of recording equipment in accordance with the EU Tachographs Regulation”;

(a) S.I. 2005/639, amended by S.I. 2007/853, 2012/991.

(b) S.I. 2005/1140, amended by S.I. 2014/2557, 2016/248.

(c) OJ No. L 102, 11.4.2006, p. 1; relevant amending instruments are OJ No. L 300, 14.11.2009, p. 88, OJ No. L 60, 28.2.2014, p. 1 and OJ No. L 195, 20.7.2016, p. 83.

(d) S.I. 2007/1819, amended by S.I. 2016/248. There are other amendments which are not relevant to these Regulations.

(e) S.I. 2009/491, amended by S.I. 2018/24.

(b) after that entry insert—

“Section 97ZA(1) and (2)	Using vehicle in contravention of requirements relating to installation, use or repair of recording equipment in accordance with the AETR.”.
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**Road Safety (Financial Penalty Deposit) (Appropriate Amount) Order 2009**

30.—(1) Schedule 2 to the Road Safety (Financial Penalty Deposit) (Appropriate Amount) Order 2009(a) is amended as follows.

(2) In Table 2—

(a) in column 1 of items 15 and 16, omit “the first sub-paragraph of”;

(b) after item 16 insert—

“16A. Exceeding the weekly driving time of 56 hours, in contravention of Article 6.2 of the AETR	More than 56 hours but less than 58 hours driving	58 hours or more but less than 59 hours driving	59 hours or more driving”
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(c) in column 1 of item 17, for the words from “total” to “Article 6.2” substitute “accumulated driving time in any two consecutive weeks, in contravention of Article 6.3”;

(d) in column 1 of item 19—

(i) after “Insufficient” insert “regular”;

(ii) for “the first sub-paragraph of Article 8.1” substitute “Articles 8.1 and 8.2”;

(e) in column 1 of item 20—

(i) omit “(where permitted)”;

(ii) for “the first sub-paragraph of Article 8.1” substitute “Articles 8.1 and 8.2”;

(f) omit item 21;

(g) for item 22 substitute—

“22. Failure to take first rest of at least 3 consecutive hours where daily rest period is split, as required by Article 1(o)(i) of the AETR and in contravention of Articles 8.1 and 8.2 of the	Less than 3 hours but more than 2 hours rest	2 hours or less but more than 1 hours rest	1 hour or less rest
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(a) S.I. 2009/492, amended by S.I. 2013/2025, 2016/248. There are other amendments which are not relevant to these Regulations.



AETR			
22A. Failure to take second rest of at least 9 consecutive hours where daily rest period is split, as required by Article 1(o)(i) of the AETR and in contravention of Articles 8.1 and 8.2 of the AETR	Less than 9 hours but more than 8 hours rest	8 hours or less but more than 7 hours rest	7 hours or less rest"

- (h) in column 1 of item 23—
- (i) for “12 hours in total, in accordance with Article 8.1 of the AETR,” substitute “at least 12 hours in total”;
  - (ii) at the end insert “, as required by Article 1(o)(i) of the AETR and in contravention of Articles 8.1 and 8.2 of the AETR”;
- (i) in item 24—
- (i) for the entry in column 1 substitute “24. Insufficient rest in 30 hour period by a driver engaged in multi-manning, in contravention of Articles 8.1 and 8.3 of the AETR”;
  - (ii) in column 2, for “8 hours” substitute “9 hours”;
  - (iii) for “7 hours”, in both places it occurs, substitute “8 hours”;
  - (iv) for “6 hours”, in both places it occurs, substitute “7 hours”;
- (j) in column 1 of item 25, for “Articles 6.1 and 8.3” substitute “Articles 8.1 and 8.6(a)”;
- (k) omit item 26;
- (l) in column 1 of item 27—
- (i) omit the words from “of 24 hours” to “driver is based”;
  - (ii) for “Articles 6.1 and 8.3” substitute “Articles 8.1 and 8.6(a)”;
- (m) in column 1 of item 28, for the words from “sufficient” to the end substitute “equivalent period of compensatory rest before the end of the third week where reduced weekly rest period has been taken, as required by Article 8.6(a)(ii) of the AETR”.

(3) After Table 3 insert—

**“Table 3A**

**Section 97ZA Transport Act 1968**

<i>(1) Nature of contravention or failure constituting the offence</i>	<i>(2)Applicable level of deposit</i>
1. Failure to ensure recording equipment installed in accordance with section 97ZA(1) of the Transport Act 1968	£300
2. Failure to ensure the correct functioning of recording equipment or driver card, in accordance with Article 10 of the Annex to the AETR	£100
3. Failure to ensure the proper use of the recording equipment, in accordance with	£200

Article 10 of the Annex to the AETR	
4. Failure to ensure the proper use of the driver card, in accordance with Article 10 of the Annex to the AETR	£300
5. Failure to ensure that printing can be carried out correctly in the event of an inspection (other than a failure to provide sufficient printing material), in accordance with the second sub-paragraph of Article 11.1 of the Annex to the AETR	£200
6. Failure to ensure that printing can be carried out correctly in the event of an inspection by a failure to provide sufficient printing material, in accordance with the first sub-paragraph of Article 11.1 of the Annex to the AETR	£100
7. Using driver card of which the driver is not the holder, contrary to the third sub-paragraph of Article 11.4(a) of the Annex to the AETR	£300
8. Using a defective driver card, contrary to the third sub-paragraph of Article 11.4(a) of the Annex to the AETR	£100
9. Failure to use record sheets or driver card, in accordance with the first sub-paragraph of Article 12.2(a) of the Annex to the AETR	£300
10. Unauthorised withdrawal of record sheet or driver card, contrary to the first sub-paragraph of Article 12.2(a) of the Annex to the AETR	£200
11. Failure to enter legibly on the record sheet, when away from the vehicle, periods of time, in accordance with Article 12.2(b) of the Annex to the AETR	£200
12. Failure to amend record sheet or driver card as necessary when more than one driver on board the vehicle, in accordance with paragraph (2)(c) or the second sub-paragraph of paragraph (2)(a) of Article 12 of the Annex to the AETR	£200
13. Failure, at the start of the journey, to print out information required, etc, in accordance with Article 13.2(b)(i) of the annex to the AETR	£200
14. Failure, at the end of the journey, to print out information required, etc, in accordance with Article 13.2(b)(ii) of the Annex to the AETR	£200
15. In all other cases	£50"

## PART 3

### Amendments pursuant to the European Union (Withdrawal) Act 2018

#### CHAPTER 1

##### Amendments of primary legislation

###### **Transport Act 1968**

- 31.** The Transport Act 1968 is amended as follows.
- 32.** In section 95—
- (a) in subsection (1)(a) omit the words from “but the” to the end;
  - (b) omit subsection (1A)(b).
- 33.** In section 96 (as amended by regulation 3 of these Regulations)—
- (a) in subsection (11A)(c), for “, another member State, or a contracting third country” substitute “or another contracting country”;
  - (b) in subsection (13)(d) omit “section 95(1) of this Act or”.
- 34.** In section 96A(1)(a)(e), for “under Article 13” substitute “as required by Article 11A”.
- 35.—**(1) Section 97 (as amended by regulation 4 of these Regulations) is amended as follows.
- (2) In subsection (1)(a)—
- (a) in sub-paragraph (i), after “EU Tachographs Regulation” insert “or the equivalent EU Regulation”;
  - (b) in sub-paragraph (ii), for “that Regulation (including the relevant Annexes to it)” substitute “the EU Tachographs Regulation (including the relevant technical specifications)”.
- (3) In subsection (1)(b), at the end insert “or the equivalent EU Regulation”.
- (4) In subsection (4B), for “a type-approval mark issued under Article 14 of the EU Tachographs Regulation” substitute “the relevant UK type-approval mark or the relevant EU type-approval mark (see Article 11A of the EU Tachographs Regulation)”.
- (5) In subsection (7)—
- (a) before the definition of “the EU Tachographs Regulation” insert—  
““the equivalent EU Regulation” means Regulation (EU) No 165/2014 of the European Parliament and of the Council on tachographs in road transport(f) as it has effect in EU law, as amended from time to time;”
  - (b) in the definition of “the EU Tachographs Regulation”, omit the words from “as read with” to the end;
  - (c) after the definition of “recording equipment” insert—

- 
- (a) Section 95(1) was amended by section 2(1)(d) of the Road Traffic (Drivers’ Ages and Hours of Work) Act 1976 (c. 3) and by S.I. 2011/1043.
  - (b) Section 95(1A) was substituted by section 2(1)(d) of the Road Traffic (Drivers’ Ages and Hours of Work) Act 1976 (c. 3) and amended by S.I. 2011/1043.
  - (c) Section 96(11A) was inserted by paragraph 9(2)(a) of Schedule 4 to the European Communities Act 1972 (c. 68) and amended by section 2(1)(c) of the Road Traffic (Drivers’ Ages and Hours of Work) Act 1976 (c. 3) and by S.I. 1986/1457, 2007/1819, 2018/24.
  - (d) Section 96(13) was inserted by section 2(1) of the Road Traffic (Drivers’ Ages and Hours of Work) Act 1976 (c. 3).
  - (e) Section 96A was inserted by S.I. 2016/248.
  - (f) OJ No. L 60, 28.2.2014, p. 1.

““the relevant EU type-approval mark”, in relation to recording equipment, means a type-approval mark issued by an EU member State in relation to that type of recording equipment under Article 14 of the equivalent EU Regulation;”;

(d) in the definition of “the relevant Annexes”—

(i) for ““the relevant Annexes” to the EU Tachographs Regulation” substitute ““the relevant technical specifications””;

(ii) in paragraph (a)(i) and (ii), for “that Regulation” substitute “the EU Tachographs Regulation”;

(iii) for paragraph (b) substitute—

“(b) in the case of a vehicle put into service for the first time on or after that date means—

(i) Annex IB and Annex II to the EU Tachographs Regulation, except where regulations under Article 11 of that Regulation provide for other detailed provisions to apply instead of those Annexes;

(ii) where regulations under Article 11 of the EU Tachographs Regulation provide as mentioned in sub-paragraph (i), the detailed provisions that apply as a result of those regulations;”;

(e) at the end insert—

““the relevant UK type-approval mark”, in relation to recording equipment, means the mark which is “the relevant type-approval mark” in relation to the marking of that equipment, for the purposes of the Motor Vehicles (Type Approval) Regulations 1980.”

**36.** In section 97ZB(5) (as inserted by regulation 5 of these Regulations)—

(a) in paragraph (a) of the definition of “appropriate type-approval certificate”, for sub-paragraph (ii) substitute—

“(ii) issued under the equivalent EU Regulation;”;

(b) in paragraph (b) of that definition, in sub-paragraph (ii), for “a contracting third country” substitute “another contracting country”;

(c) after that definition insert—

““the equivalent EU Regulation” has the meaning given by section 97(7);”.

**37.** In section 98 (as amended by regulation 14 of these Regulations)—

(a) in subsection (2A), in paragraph (a), for “Annexes” substitute “technical specifications”;

(b) in subsection (4)(b)(a), for “, another member State or a contracting third country” substitute “or another contracting country”.

**38.** In section 99ZA(7)(a) (as amended by regulation 16 of these Regulations), for the words from “Annex 1B” to the end substitute—

“(i) where Annex 1B to the EU Tachographs Regulation applies to the vehicle, that Annex;

(ii) where Regulations under article 11 of the EU Tachographs Regulation provide for other detailed provisions to apply instead of Annex 1B, the detailed provisions that apply as a result of those Regulations;”

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(a) Section 98(4) was amended by section 4 of, and paragraph 9(2) of Schedule 4 to, the European Communities Act 1972 (c. 68), by section 2(1) of the Road Traffic (Drivers' Ages and Hours of Work) Act 1976 (c. 3) and by S.I. 2018/24.

**39.** In section 101—

- (a) in subsection (3)(a) omit “under section 95(1) or”;
- (b) omit subsection (3A)(b).

**40.**—(1) Section 103(1) (as amended by regulation 19 of these Regulations) is amended as follows—

- (a) in the definition of “contracting third country”—
  - (i) omit “third”;
  - (ii) omit “other than a member State”;
  - (iii) omit paragraph (b) (and the “or” before it);
- (b) for the definition of “the applicable Community rules”, substitute—
  - ““the applicable Community rules” means—
    - (a) the Community Drivers’ Hours Regulation, including the AETR; and
    - (b) the EU Tachographs Regulation;”;
- (c) omit the definition of “relevant EU provision”.

### **Road Traffic Offenders Act 1988**

**41.** The Road Traffic Offenders Act 1988(c) is amended as follows.

**42.** In section 54(8A)(d)(d), for “another member State or a contracting third country” substitute “or in another contracting country”.

**43.** In section 75(3C)(d)(e), for “another member State or a contracting third country” substitute “or in another contracting country”.

**44.**—(1) Section 89 is amended as follows.

(2) In subsection (1)—

- (a) in the definition of “the applicable Community rules”(f), for the words from “means” to the end substitute “has the meaning given by section 103(1) of the Transport Act 1968”;
- (b) in the definition of “contracting third country”(g)—
  - (i) omit “third”;
  - (ii) omit “other than a member State”;
  - (iii) omit paragraph (b) (and the “or” before it).

**45.** In section 90A(6)(c)(h), for “, another member State or a contracting third country” substitute “or in another contracting country”.

**46.** In section 90F(i), in the definition of “contracting third country” omit “third”.

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(a) Section 101(3) was amended by section 2(1)(i) of the Road Traffic (Drivers’ Ages and Hours of Work) Act 1976 (c. 3).  
(b) Section 101(3A) was inserted by section 2(1)(i) of the Road Traffic (Drivers’ Ages and Hours of Work) Act 1976 (c. 3).  
(c) 1988 c. 53.  
(d) Section 54(8A) was inserted by S.I. 2018/24.  
(e) Section 75 was substituted by section 34 of the Road Traffic Act 1991 (c. 40). Section 75(3C) was inserted by S.I. 2018/24.  
(f) Definition inserted by S.I. 2018/24.  
(g) Definition inserted by S.I. 2018/24.  
(h) Section 90A was inserted by section 11(1) of the Road Safety Act 2006 (c. 49) and amended by S.I. 2018/24.  
(i) Section 90F was inserted by section 11(1) of the Road Safety Act 2006 (c. 49) and amended by S.I. 2018/24.

## **Road Traffic (Foreign Vehicles) Act 1972**

47. In section 1(1)(a) of the Road Traffic (Foreign Vehicles) Act 1972(a), for “an EU instrument” substitute “a provision of retained direct EU legislation”.

## CHAPTER 2

### Amendments of secondary legislation

## **Passenger and Goods Vehicles (Recording Equipment) Regulations 1979**

48.—(1) Regulation 4 of the Passenger and Goods Vehicles (Recording Equipment) Regulations 1979 (as amended by regulation 22 of these Regulations) is amended as follows.

(2) In paragraph (1)—

- (a) for the words before sub-paragraph (a) substitute “This Regulation applies to—”;
- (b) in sub-paragraph (a) for “for the approval” substitute “the approval by the Secretary of State”;
- (c) in sub-paragraph (b) for “for the approval and nomination” substitute “the approval and nomination by the Secretary of State”.

(3) In paragraph (2) for “Any approval or nomination under this Regulation” substitute “An approval or nomination”.

## **Motor Vehicles (Type Approval) Regulations 1980**

49.—(1) The Motor Vehicles (Type Approval) Regulations 1980 (as amended by regulation 23 of these Regulations) are amended as follows.

(2) In regulation 3(1)—

- (a) omit the definition of “Member State”;
- (b) for the definition of “the relevant approval mark” substitute—

““the relevant approval mark”, in relation to the marking of a component of a vehicle, means a marking which is—

  - (a) designated as an approval mark applicable to such a component pursuant to section 80(1) of the Road Traffic Act 1988, or
  - (b) an approval mark applicable to such a component under regulations under Article 14 of Regulation (EU) No 165/2014 of the European Parliament and of the Council on tachographs in road transport(b), as it has effect in EU law, as amended from time to time;”;
- (c) omit the words after the definition of “vehicle component” (which interpret references to the competent authority of a Member State other than the United Kingdom).

(3) Omit the following—

- (a) in regulation 5(3), the words from “and, within one month” to the end;
- (b) regulation 5(4);
- (c) regulation 6(2);
- (d) regulation 10(3);
- (e) regulation 12(1)(b) (and the “or” before it);

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(a) 1972 c. 27. Section 1(1)(a) was amended by section 10(4) of the Transport Act 1982 (c. 49) and by S.I. 1984/748, 1999/1322, 2011/1043.

(b) OJ No. L 60, 28.2.2014, p.1.

- (f) regulation 12(2);
- (g) regulation 13(1)(b) (and the “and” before it).

### **Road Transport (Working Time) Regulations 2005**

**50.**—(1) The Road Transport (Working Time) Regulations 2005 (as amended by regulation 26 of these Regulations) are amended as follows.

(2) In regulation 3—

- (a) in paragraphs (1) and (1A), for “a Member State of the European Union” substitute “the United Kingdom”;
- (b) in paragraph (3)(c), for “international transport” substitute “transport operations wholly or partly outside the United Kingdom”.

(3) Omit regulation 3A(2)(a).

### **Community Drivers’ Hours and Recording Equipment Regulations 2007**

**51.** The Community Drivers’ Hours and Recording Equipment Regulations 2007 (as amended by regulation 28 of these Regulations) are amended as follows.

**52.**—(1) Regulation 2(b) is amended as follows.

(2) In paragraph (1)—

- (a) omit “Pursuant to Article 13(1) of the Community Drivers’ Hours Regulation,”;
- (b) for “that Regulation” substitute “the Community Drivers’ Hours Regulation”.

(3) In paragraph (2)—

- (a) omit “Pursuant to Article 14(1) of the Community Drivers’ Hours Regulation,”;
- (b) for “that Regulation” substitute “the Community Drivers’ Hours Regulation”.

**53.**—(1) Regulation 4(c) is amended as follows.

(2) In paragraph (1)—

- (a) omit “Pursuant to Article 3(2) of the EU Tachographs Regulation,”;
- (b) for “that Regulation” substitute “the EU Tachographs Regulation”.

(3) In paragraph (2)—

- (a) omit “Pursuant to Article 3(3) of the EU Tachographs Regulation,”;
- (b) for “that Regulation” substitute “the EU Tachographs Regulation”.

### **Road Safety (Financial Penalty Deposit) Order 2009**

**54.** In Article 5(2)(a) of the Road Safety (Financial Penalty Deposit) Order 2009(d) (as amended by regulation 29 of these Regulations), for paragraphs (ii) and (iii) substitute—

“(ii) another contracting country,”.

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(a) Regulation 3A was inserted by S.I. 2012/991.  
(b) Regulation 2 was amended by S.I. 2016/248.  
(c) Regulation 4 was amended by S.I. 2016/248.  
(d) S.I. 2009/491. Article 5(2) was inserted by S.I. 2018/24.

## CHAPTER 3

### Amendments of retained direct EU legislation

#### **Regulation (EC) No 561/2006 of the European Parliament and of the Council**

**55.** Regulation (EC) No 561/2006 of the European Parliament and of the Council on the harmonisation of certain social legislation relating to road transport is amended as follows.

**56.** In Article 1, omit “by Member States”.

**57.** In Article 2—

- (a) in paragraph 2, for the words from “undertaken” to the end substitute “undertaken exclusively within the United Kingdom”;
- (b) in paragraph 3—
  - (i) in the words before point (a), for “in part outside the areas mentioned in paragraph 2” substitute “wholly or partly outside the United Kingdom”;
  - (ii) in points (a) and (b), for “Community” substitute “United Kingdom”;
  - (iii) omit the words after point (b).

**58.** In Article 3(i), for the words from “which have a historic” to the end substitute—

“which are used for the non-commercial carriage of passengers or goods and which have a historic status according to:

—in relation to England and Wales and Scotland, regulation 3 of the Community Drivers’ Hours and Recording Equipment Regulations 2007;

—in relation to Northern Ireland, regulation 4 of the Community Drivers’ Hours and Recording Equipment (Exemptions and Supplementary Provisions) Regulations (Northern Ireland) 2009(a) in Northern Ireland.”.

**59.** In Article 4—

- (a) in point (e), for “Article 3(a) of Directive 2002/15/EC” substitute “regulation 2 of the Road Transport (Working Time) Regulations 2005 in England and Wales and Scotland, or in regulation 2(2) of the Road Transport (Working Time) Regulations (Northern Ireland) 2005(b) in Northern Ireland”;
- (b) in point (j)—
  - (i) in the first indent, for the words from “Annex I” to the end substitute “Article 2(2)(a) of Regulation (EU) No 165/2014”;
  - (ii) in the second indent, for the words from “Article 16(2)” to the end substitute “Article 37(2) of Regulation (EU) No 165/2014”;
- (c) in point (n), for the words after “international services” substitute “which provide for the carriage of passengers at specified intervals along specified routes, passengers being picked up and set down at predetermined stopping points”.

**60.** In Article 5(2) omit the words from “However” to the end.

**61.**—(1) Article 6 is amended as follows.

(2) In paragraph 2, for the words from “result” to the end substitute—

“(a) in relation to England and Wales and Scotland, result in the maximum weekly working time laid down in the Road Transport (Working Time) Regulations 2005 being exceeded;

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(a) S.R. 2009 No. 91, amended by S.R. 2016 No. 343.

(b) S.R. 2005 No. 241, amended by S.R. 2012 No. 169, 2016 No. 49.



- (b) in relation to Northern Ireland, result in the maximum weekly working time laid down in the Road Transport (Working Time) Regulations (Northern Ireland) 2005 being exceeded”.

(3) In paragraph 4, for “on the territory of the Community or of a third country” substitute “, whether within or outside the United Kingdom”.

(4) In paragraph 5, omit “, as defined in Article 15(3)(c) of Regulation (EEC) No 3821/85,”.

(5) After paragraph 5 insert—

“6. In paragraph 5, “periods of availability” is to be read in accordance with—

- (a) in relation to England and Wales and Scotland, the definition of “period of availability” in regulation 2 of the Road Transport (Working Time) Regulations 2005;
- (b) in relation to Northern Ireland, the definition of “period of availability” in regulation 2(2) of the Road Transport (Working Time) Regulations (Northern Ireland) 2005.”

**62.** Omit Article 8(6a).

**63.**—(1) Article 10 is amended as follows.

(2) In paragraph 2, for “Regulation (EEC) No 3821/85” substitute “Regulation (EU) No 165/2014”.

(3) Omit paragraph 3.

(4) In paragraph 5(a)—

- (a) in the words before point (i), for “Regulation (EEC) No 3821/85” substitute “Regulation (EU) No 165/2014”;
- (b) in point (i), for the words from “as regularly” to the end substitute “in accordance with sections 97D and 97E of the Transport Act 1968 or regulations 6B and 6C of the Passenger and Goods Vehicles (Recording Equipment) Regulations (Northern Ireland) 1996(a) (as applicable)”.

(5) In paragraph 5(b), for the words from “shall” to the end substitute “means copied, together with the digital signature, from a part, or from a complete set, of data files recorded in the data memory of the vehicle unit or in the memory of a tachograph card, provided that this process does not alter or delete any stored data”.

(6) Omit paragraph 5(c).

**64.** For Article 11 substitute—

*“Article 11*

Articles 6 to 9 are subject to—

- (a) regulation 2 of the Community Drivers’ Hours and Recording Equipment Regulations 2007;
- (b) regulation 3 of the Community Drivers’ Hours and Recording Equipment Regulations 2012(b);
- (c) regulation 3 of the Community Drivers’ Hours and Recording Equipment (Exemptions and Supplementary Provisions) Regulations (Northern Ireland) 2009;
- (d) any provision made under Article 14(1) or (2).”.

**65.** Omit Article 13.

**66.** In Article 14—

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(a) S.R. 1996 No. 145, amended by S.R. 1998 No. 270, 2002 No. 50, 2005 No. 325, 2005 No. 441, 2006 No. 274, 2010 No. 23, 2011 No. 235, 2016 No. 2, 2016 No. 343.  
(b) S.I. 2012/1502.

- (a) in paragraph 1, for “Member States may, after authorisation by the Commission,” substitute “the appropriate authority may by regulations”;
- (b) for paragraphs 2 and 3 substitute—

“2. In an urgent case the appropriate authority may grant a temporary exception by publishing a notice specifying—

- (a) the transport operations and circumstances to which the exception relates, and
- (b) the period for which the exception has effect, which may not exceed 30 days.

3. In this Article “the appropriate authority” means—

- (a) in relation to transport operations carried out in England, Wales or Scotland, the Secretary of State;
- (b) in relation to transport operations carried out in Northern Ireland, the Department for Infrastructure in Northern Ireland.”.

**67.** Omit Articles 15 to 19.

**68.** In Article 20—

- (a) in paragraph 1—
  - (i) for “evidence provided by a Member State” substitute “documentation provided by an enforcement officer or a court”;
  - (ii) for “pursuant to this Regulation” substitute “by virtue of this Regulation read with Part 6 of the Transport Act 1968 or Part 6 of the Road Traffic (Northern Ireland) Order 1981(a)”;
- (b) after paragraph 3 insert—

“4. In this Article “enforcement officer” means—

- (a) an examiner appointed under section 66A of the Road Traffic Act 1988 or Article 74 of the Road Traffic (Northern Ireland) Order 1995(b),
- (b) a person authorised for the purposes of Part 6 of the Transport Act 1968 by a traffic commissioner, or
- (c) a police constable.”.

**69.** Omit Articles 21 to 25.

**70.** After Chapter 5 insert—

“CHAPTER 5A  
SUPPLEMENTARY  
*Article 25A*

**1.** Regulations under this Regulation may—

- (a) make consequential, supplementary, incidental, transitional, transitory or saving provision;
- (b) make different provision for different purposes.

**2.** Regulations made by the Secretary of State under this Regulation are to be made by statutory instrument.

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(a) S.I. 1981/154 (N.I. 1), amended by the Road Traffic (Amendment) Act (Northern Ireland) 2016 (c. 11 (N.I.)), S.I. 2007/916 (N.I. 10), S.R. 2009 No. 91, 2010 No. 23, S.I. 2015/583. There are other amendments which are not relevant to these Regulations.

(b) S.I. 1995/2994 (N.I. 18); Article 74 was amended by the Goods Vehicles (Licensing of Operators) Act (Northern Ireland) 2010 (c. 2 (N.I.)), S.I. 2011/996.

3. A statutory instrument containing regulations made by the Secretary of State under this Regulation is subject to annulment in pursuance of a resolution of either House of Parliament.

4. Regulations made by the Department of Infrastructure in Northern Ireland under this Regulation are to be made by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979(a).

5. Regulations made by the Department of Infrastructure in Northern Ireland under this Regulation are subject to negative resolution (within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954(b)).”.

71. After Article 29, omit “This Regulation shall be binding in its entirety and directly applicable in all Member States.”.

### **Regulation (EU) No 165/2014 of the European Parliament and of the Council**

72. Regulation (EU) No 165/2014 of the European Parliament and of the Council on tachographs in road transport, repealing Council Regulation (EEC) No 3821/85 on recording equipment in road transport and amending Regulation (EC) No 561/2006 of the European Parliament and of the Council on the harmonisation of certain social legislation relating to road transport is amended as follows.

73. In Article 1(1) for the words from “Regulation (EC)” to the end substitute—

- “(a) Regulation (EC) No 561/2006;
- (b) regulations 36A to 36C and 70A of, and Schedule 3B to, the Road Vehicles (Construction and Use) Regulations 1986(c);
- (c) the Road Transport (Working Time) Regulations 2005;
- (d) regulations 42, 43 and 83 of, and Schedule 3 to, the Motor Vehicles (Construction and Use) Regulations (Northern Ireland) 1999(d);
- (e) the Road Transport (Working Time) Regulations (Northern Ireland) 2005.”.

74. In Article 2(2)—

- (a) in point (f), for “authorities of a Member State” substitute “Secretary of State”;
- (b) in point (i), for “authorities of a Member State” substitute “Secretary of State”;
- (c) in point (j), for “authorities of a Member State” substitute “Secretary of State”;
- (d) in point (k)—
  - (i) for “authorities of a Member State” substitute “Secretary of State”;
  - (ii) for “that Member State” substitute “the Secretary of State”;
- (e) in point (u), omit the words from “, by a Member State” to “Article 13,”;
- (f) after point (z) insert—
  - “(z1) “control officer” means—
    - (i) an examiner appointed under section 66A of the Road Traffic Act 1988 or Article 74 of the Road Traffic (Northern Ireland) Order 1995,

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(a) S.I. 1979 No. 1573 (N.I. 12), to which there are amendments not relevant to these Regulations.

(b) 1954 c. 33 (N.I.).

(c) S.I. 1986/1078; regulations 36A to 36C and Schedule 3B were amended by S.I. 1992/422, 1993/1946, 1993/3048, 1995/329, 1996/2064, 1997/1340, 2003/1946, 2003/2096, 2004/2102, 2004/3168, S.S.I. 2005/344, S.I. 2005/2929 (W. 214), S.I. 2005/3170, 2007/1898, 2007/3132, 2009/142, S.S.I. 2013/119. Regulation 70A was amended by S.I. 1993/3048, 2004/2102. There are other amendments to this instrument which are not relevant to these Regulations.

(d) S.R. 1999 No. 454; regulations 42 and 43 were amended by S.R. 2005 No. 249, 2006 No. 32, 2011 No. 303. Regulation 83 and Schedule 3 were amended by S.R. 2005 No. 249. There are other amendments to this instrument which are not relevant to these Regulations.

- (ii) a person authorised for the purposes of Part 6 of the Transport Act 1968 by a traffic commissioner, or
- (iii) a police constable;
- (z2) “equivalent EU regulation” means Regulation (EU) No 165/2014 of the European Parliament and of the Council of 4 February 2014 on tachographs in road transport<sup>(a)</sup>, as it has effect in EU law, as amended from time to time.”.

**75.**—(1) Article 3 is amended as follows.

(2) In paragraph 1 omit “registered in a Member State”.

(3) For paragraphs 2 to 5 substitute—

“2. This Regulation is subject to—

- (a) regulation 4 of the Community Drivers’ Hours and Recording Equipment Regulations 2007;
- (b) regulation 5 of the Community Drivers’ Hours and Recording Equipment (Exemptions and Supplementary Provisions) Regulations (Northern Ireland) 2009;
- (c) any provision made under paragraph 3.

3. The appropriate authority may by regulations except from the application of this Regulation vehicles used for transport operations which are being (or have been) granted an exception by regulations under Article 14(1) of Regulation (EC) No 561/2006. An exception granted under regulations under this Article ceases to have effect when the exception granted under regulations under Article 14(1) of Regulation (EC) No 561/2006 ceases to have effect (unless the regulations under this Article cease to have effect first).

In an urgent case the appropriate authority may grant a temporary exception in respect of vehicles which are being (or have been) granted an exception under Article 14(2) of Regulation (EC) No 561/2006 by publishing a notice specifying—

- (a) the transport operations and circumstances to which the exception relates, and
- (b) the period for which the exception has effect, which may not exceed 30 days.

4. In this Article “the appropriate authority” means—

- (a) in relation to transport operations carried out in England, Wales or Scotland, the Secretary of State;
- (b) in relation to transport operations carried out in Northern Ireland, the Department for Infrastructure in Northern Ireland.”.

**76.** In Article 4(8)—

- (a) in the first sentence—
  - (i) for “the Commission shall, by means of implementing acts, adopt” substitute “the Secretary of State may, by regulations, make”;
  - (ii) omit “uniform”;
- (b) omit the second sentence.

**77.** In Article 6(5)—

- (a) in the first sentence—
  - (i) for “the Commission shall, by means of implementing acts, adopt” substitute “the Secretary of State may, by regulations, make”;
  - (ii) omit “uniform”;
- (b) omit the second sentence.

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(a) OJ No. L 60, 28.2.2014, p.1.

78. Omit Article 7.

79. (1) Article 9 is amended as follows.

(2) In paragraph (2)—

- (a) in the first sentence, for “Member States shall equip their control authorities” substitute “the Secretary of State must ensure that control authorities are equipped”;
- (b) omit the second sentence.

(3) In paragraph (8), for the words from “the risk” to the end substitute “a risk rating system based on the relative number and severity of infringements of Regulation (EC) 561/2006 of the European Parliament and of the Council that an individual undertaking has committed”.

80. In Article 11—

- (a) in the first sentence—
  - (i) for “the Commission shall, by means of implementing acts, adopt” substitute “the Secretary of State may, by regulations, make”;
  - (ii) omit “uniform”;
- (b) omit the second sentence.

81. For Chapter 3 (type-approval) substitute—

#### “CHAPTER III

#### TYPE-APPROVAL

#### *Article 11A*

#### **Requirement for UK or EU type-approval**

1. A vehicle unit, motion sensor, model record sheet or tachograph card shall, where installed or used in a vehicle to which Article 3 applies, be of a type approved in accordance with—

- (a) this Chapter and the Motor Vehicles (Type Approval) Regulations 1980 (“the 1980 Regulations”), or
- (b) Chapter 3 of the equivalent EU Regulation.

2. In this Chapter a reference to “UK type-approval” is a reference to type-approval in accordance with this Chapter and the 1980 Regulations, and related expressions are to be read accordingly.

#### *Article 12*

#### **Applications for UK type-approval: certificates**

1. An application for UK type-approval shall be made to the Secretary of State.

2. The application shall be made in accordance with regulation 6 of the 1980 Regulations.

3. The form of the document issued by the Secretary of State for the purposes of such an application (in accordance with paragraph (iii) of the definition of “information document” in regulation 3(1) of the 1980 Regulations) shall require the application to be accompanied by—

- (a) a security certificate;
- (b) a functionality certificate;
- (c) an interoperability certificate;
- (d) in the case of an application relating to a vehicle unit, information about the seals.

4. A security certificate shall be issued by a person appointed by the Secretary of State (which may be a person outside the United Kingdom).

5. A functionality certificate shall be issued by the Secretary of State.
6. An interoperability certificate shall be issued by a person appointed by the Secretary of State (which may be a person outside the United Kingdom).
7. In respect of tachographs, their relevant components, and tachograph cards:
- (a) the security certificate shall certify the following for the vehicle unit, tachograph cards, motion sensor, and connection to the satellite navigation system receiver when the satellite navigation system is not embedded in the vehicle units:
    - (i) compliance with security targets;
    - (ii) fulfilment of the following security functions: identification and authentication, authorisation, confidentiality, accountability, integrity, audit, accuracy and reliability of service;
  - (b) the functional certificate shall certify that the tested item fulfils the appropriate requirements in terms of functions performed, environmental characteristics, electromagnetic compatibility characteristics, compliance with physical requirements and compliance with other applicable standards;
  - (c) the interoperability certificate shall certify that the tested item is fully interoperable with the necessary tachographs or tachograph card models.
8. The Secretary of State shall give notice to manufacturers as provided for in regulation 10(1)(c) of the 1980 Regulations to ensure that a manufacturer is required to give notice under that regulation of any alterations in software or hardware of a tachograph or in the nature of materials used for its manufacture.
9. Where notice of alterations is given to the Secretary of State under regulation 10 of the 1980 Regulations, the Secretary of State may require an update or a confirmation of the relevant functional, security or interoperability certificates, before confirming to the manufacturer the extension of the type-approval or taking action under regulation 11 of those Regulations.

*Article 17*

**Approval of record sheets**

1. For the purposes of an application for UK type-approval of a model record sheet, the form of information document issued by the Secretary of State (as mentioned in Article 12(3)) shall require that—
- (a) an applicant for UK type-approval of a model record sheet states on the application form the type or types of analogue tachograph on which the record sheet in question is designed to be used, and
  - (b) suitable equipment of such type or types is required in connection with the application for type-approval, for the purpose of testing the record sheet.
2. The Secretary of State shall indicate on the approval certificate for the model record sheet the type or types of analogue tachograph on which that model record sheet may be used.

*Article 20*

**Security**

1. Manufacturers shall design, test and review vehicle units, motion sensors and tachograph cards put into production so as to detect vulnerabilities arising in all phases of the product life-cycle, and shall prevent or mitigate their possible exploitation. The frequency of tests shall be at least every two years.

2. Manufacturers shall submit the documentation necessary for vulnerability analysis to the person who, under Article 12, is responsible for issuing security certificates.

3. If, in the course of the tests referred to in paragraph 1, vulnerabilities in system elements (vehicle units, motion sensors and tachograph cards) are detected, no security certificate is to be issued and, accordingly, no type-approval application is to be considered (see Article 12(3)). If vulnerabilities are detected in the course of the tests referred to in paragraph 1 for elements already on the market, the manufacturer shall inform the Secretary of State. The Secretary of State shall take all measures necessary to ensure that the problem is addressed, in particular by the manufacturer (including, where necessary, the withdrawal of type-approval).

#### *Article 21*

#### **Field tests**

Drivers and transport undertakings participating in a field test authorised under section 96A of the Transport Act 1968 or regulation 2A of the Passenger and Goods Vehicles (Recording Equipment) Regulations (Northern Ireland) 1996 shall comply with the requirements of Regulation (EC) No 561/2006. In order to demonstrate such compliance, drivers shall follow the procedure set out in Article 35(2) of this Regulation.”.

**82.** In Article 22—

- (a) in paragraph 1—
  - (i) for “the competent authorities of the Member States” substitute “by the Secretary of State”;
  - (ii) at the end insert “(but see Article 25A)”;
- (b) in paragraph 2 omit “referred to in Article 15”;
- (c) in paragraph 3, omit the second and third sentences;
- (d) in paragraph 5, in the second indent, for the last sentence substitute “The Secretary of State may by regulations make provision about the form of the written statement”.

**83.**—(1) Article 23 is amended as follows.

(2) In paragraph 3, in the first sentence, for “national competent authority” substitute “Secretary of State”.

(3) In paragraph 4—

- (a) in the first sentence, after “retained” insert “by the workshop”;
- (b) omit the second sentence;
- (c) in the third sentence—
  - (i) for the words from the beginning to “upon” substitute “Upon”;
  - (ii) for “competent authority” substitute “Secretary of State”.

**84.**—(1) Article 24 is amended as follows.

(2) In paragraph 1, for “Member States” substitute “The Secretary of State”.

(3) In paragraph 2—

- (a) in the first sentence—
  - (i) for “Member States” substitute “The Secretary of State”;
  - (ii) after “manufacturers” insert “approved, controlled and certified under paragraph 1”;
- (b) in the second sentence, for “they” substitute “the Secretary of State”.

(4) In paragraph 3, in point (a), for “Member States” substitute “The Secretary of State”.

(5) In paragraph 4, for “Member States and their competent authorities” substitute “The Secretary of State”.

- (6) Omit paragraph 5.
- (7) In paragraph 6, for “The competent authorities in Member States” substitute “The Secretary of State”.

**85.**—(1) Article 25 is amended as follows.

- (2) In paragraph 1, for “competent authority” substitute “Secretary of State”.
- (3) In paragraph 2—
  - (a) for “competent authority”, in both places it occurs, substitute “Secretary of State”;
  - (b) for “Competent authorities” substitute “The Secretary of State”.
- (4) In paragraph 3—
  - (a) for “a Member State” substitute “the Secretary of State”;
  - (b) for “it” substitute “the Secretary of State”.
- (5) In paragraph 4, for “Member States” substitute “The Secretary of State”.

**86.** After Article 25 insert—

*“Article 25A*

**Recognition of EU approved fitters, workshops and vehicle manufacturers**

1. Fitters, workshops and vehicle manufacturers which are approved by an EU member State in accordance with Article 24 of the equivalent EU Regulation (“EU approved fitters, workshops and vehicle manufacturers”) shall be treated for the purposes of this Regulation as if they were approved by the Secretary of State in accordance with Article 24 of this Regulation.

2. The Secretary of State is not required by Article 24(1) of this Regulation to control or certify EU approved fitters, workshops and vehicle manufacturers and the following provisions of this Regulation do not apply in relation to EU approved fitters, workshops and vehicle manufacturers—

- (a) Article 2(2)(k);
- (b) Article 24(2) to (6);
- (c) Article 25.”.

**87.**—(1) Article 26 is amended as follows.

- (2) In paragraph 1—
  - (a) for the first sentence substitute “A driver card is to be issued by the Secretary of State on request to a person whose normal residence is in the United Kingdom.”;
  - (b) in the second sentence—
    - (i) for “They shall” substitute “A driver card is to”;
    - (ii) for “competent authority” substitute “Secretary of State”.
- (3) In paragraph 2, in the second subparagraph—
  - (a) omit “situated in two or more Member States”;
  - (b) for “Member State” substitute “place”.
- (4) In paragraph 3—
  - (a) in the first sentence, for “identity card” substitute “passport”;
  - (b) in the second sentence—
    - (i) for “competent authorities of the Member State issuing the driver card have” substitute “Secretary of State has”;
    - (ii) for “they” substitute “the Secretary of State”.
- (5) In paragraph 4—



- (a) in the first subparagraph—
    - (i) for “Member States” substitute “the Secretary of State”;
    - (ii) for “a Member State” substitute “the United Kingdom”;
    - (iii) for “issuing Member State” substitute “United Kingdom”;
  - (b) omit the second subparagraph.
- (6) In paragraph 5, for “competent authorities of the issuing Member State” substitute “Secretary of State”.
- (7) In paragraph 7—
- (a) in the first sentence, for “competent authorities of a Member State find” substitute “Secretary of State finds”;
  - (b) omit the second and third sentences.
- (8) In paragraph 8, for “Member States” substitute “The Secretary of State”.
- (9) Omit paragraph 9.
- 88.** In Article 28—
- (a) in paragraph 1, for “competent authorities of the Member State of his normal residence” substitute “Secretary of State”;
  - (b) omit paragraph 2;
  - (c) in paragraph 3, for “competent authority” substitute “Secretary of State”.
- 89.**—(1) Article 29 is amended as follows.
- (2) In paragraph 1, for “Issuing authorities” substitute “The Secretary of State”.
- (3) In paragraph 2—
- (a) in the first sentence, for the words from “competent authority” to the end substitute “Secretary of State”;
  - (b) in the second sentence, for the words from “competent authorities” to the end substitute “Secretary of State”.
- (4) In paragraph 3, for the words from “competent authorities”, in the first place it occurs, to the end substitute “Secretary of State”.
- (5) In paragraph 4—
- (a) in the first sentence, for the words from “competent authorities” to the end substitute “Secretary of State”;
  - (b) in the second sentence—
    - (i) for “Those authorities” substitute “The Secretary of State”;
    - (ii) omit “their”.
- 90.** In Article 30—
- (a) for the heading substitute “Recognition of EU driver cards”;
  - (b) in paragraph 1, omit “mutually”;
  - (c) omit paragraphs 2 to 4.
- 91.** Omit Article 31.
- 92.** Omit Article 32(5).
- 93.**—(1) Article 33 is amended as follows.
- (2) In paragraph 1, in the second subparagraph, for “an authorised” substitute “a”.
- (3) In paragraph 2, omit “authorised”.
- (4) Omit paragraph 3.

**94.** In Article 34—

- (a) in paragraph 3, in the second subparagraph, for “Member States shall not impose on drivers a requirement” substitute “Drivers are not required”;
- (b) omit paragraph 7.

**95.**—(1) Article 36 is amended as follows.

- (2) In paragraph 1, for “an authorised” substitute “a”.
- (3) In paragraph 2, for “an authorised” substitute “a”.
- (4) Omit paragraph 3.

**96.** In Article 37(1) omit the third subparagraph.

**97.**—(1) Article 38 is amended as follows.

- (2) In paragraph 1, omit “authorised”.
- (3) In paragraph 3, in the second sentence omit “national”.

**98.**—(1) Article 39 is amended as follows.

- (2) In paragraph 1 for “Member States” substitute “The Secretary of State”.
- (3) Omit paragraph 2.
- (4) In paragraph 3—
  - (a) in the first sentence, for “The Commission shall, by means of implementing acts,” substitute “The Secretary of State may, by regulations,”;
  - (b) in the second sentence, for “shall” substitute “may”;
  - (c) omit the final sentence.
- (5) Omit paragraph 4.

**99.** Omit Articles 40 and 41.

**100.** After Chapter 7 insert—

#### “CHAPTER 7A

#### REGULATIONS UNDER THIS REGULATION

##### *Article 41A*

#### **Regulations under this Regulation**

**1.** Regulations under this Regulation may—

- (a) make consequential, supplementary, incidental, transitional, transitory or saving provision;
- (b) make different provision for different purposes.

**2.** Regulations made by the Secretary of State under this Regulation are to be made by statutory instrument.

**3.** A statutory instrument containing regulations made by the Secretary of State under this Regulation is subject to annulment in pursuance of a resolution of either House of Parliament.

**4.** Regulations made by the Department of Infrastructure in Northern Ireland under this Regulation are to be made by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979.

**5.** Regulations made by the Department of Infrastructure in Northern Ireland under this Regulation are subject to negative resolution (within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954).”.

**101.** Omit Articles 42 to 44.

**102.** Omit Article 46.

**103.** After Article 48, omit “This Regulation shall be binding in its entirety and directly applicable in all Member States.”.

**104.** For Annexes I and II substitute—

## “ANNEX I

### Requirements for construction, testing, installation and inspection of analogue tachographs

**1.** In this Annex—

“AETR” means the European Agreement concerning the Work of Crews of Vehicles engaged in International Road Transport of 1st July 1970;

“enactment” includes—

- (a) an enactment contained in subordinate legislation within the meaning of the Interpretation Act 1978(a);
- (b) an enactment contained in, or in an instrument made under, Northern Ireland legislation.

**2.** Appendix 1 to the Annex to the AETR (which makes provision corresponding to Annex I to the equivalent EU regulation) applies for the purposes of this Regulation.

**3.** References in any enactment to Annex I to this Regulation are to be read as references to Appendix 1 to the Annex to the AETR as applied by paragraph 2.

## ANNEX IB

### Requirements for construction, testing, installation and inspection of digital tachographs

**1.** In this Annex—

“AETR” means the European Agreement concerning the Work of Crews of Vehicles engaged in International Road Transport of 1st July 1970;

“enactment” includes—

- (a) an enactment contained in subordinate legislation within the meaning of the Interpretation Act 1978(b);
- (b) an enactment contained in, or in an instrument made under, Northern Ireland legislation.

**2.** Appendix 1B to the Annex to the AETR (which is an adaptation of Annex IB to Regulation (EEC) No 3821/85, as it has effect in EU law) applies for the purposes of this Regulation.

**3.** References in any enactment to Annex IB to this Regulation are to be read as references to Appendix 1B to the Annex to the AETR (including the provisions adapted by it) as applied by paragraph 2.

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(a) 1978 c. 30.

(b) 1978 c. 30.

## ANNEX II

### Approval mark and certificate

**1.** In this Annex—

“AETR” means the European Agreement concerning the Work of Crews of Vehicles engaged in International Road Transport of 1st July 1970;

“enactment” includes—

- (a) an enactment contained in subordinate legislation within the meaning of the Interpretation Act 1978<sup>(a)</sup>;
- (b) an enactment contained in, or in an instrument made under, Northern Ireland legislation.

**2.** Appendix 2 to the Annex to the AETR (which makes provision corresponding to Annex II to the equivalent EU Regulation) applies for the purposes of this Regulation.

**3.** References in any enactment to Annex II to this Regulation are to be read as references to Appendix 2 to the Annex to the AETR as applied by paragraph 2.”

#### **Commission Implementing Regulation (EU) No 2016/799**

**105.** Commission Implementing Regulation (EU) No 2016/799, implementing Regulation (EU) No 165/2014 of the European Parliament and of the Council laying down the requirements for the construction, testing, installation, operation and repair of tachographs and their components, is amended as follows.

**106.**—(1) Article 1 is amended as follows.

(2) In paragraph 1, in the words before paragraph (a), omit “uniform”.

(3) In paragraph 3, for “Council Regulation (EEC) No 3821/85” substitute “Regulation (EU) No 165/2014”.

(4) In paragraph 4—

- (a) omit “Pursuant to Article 10d of Directive 96/53/EC,”;
- (b) for “an internal on-board weighing system” substitute “any internal on-board weighing system installed to aid the enforcement of requirements as to the maximum authorised weight of vehicles”.

(5) Omit paragraph 5.

**107.**—(1) Article 2 is amended as follows.

(2) In definition (3), for “type-approval authority” substitute “Secretary of State”.

(3) In definition (4)—

- (a) for “type-approval authority” substitute “Secretary of State”;
- (b) omit “EC”.

(4) In definition (5) omit “EC”.

(5) Omit definition (9).

**108.**—(1) Article 4 is amended as follows.

(2) In paragraph 1, in the first sentence, for “the type-approval authorities designated by each Member State” substitute “the Secretary of State”.

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(a) 1978 c. 30.

- (3) In paragraph 2—
  - (a) for “A Member State” substitute “The Secretary of State”;
  - (b) for “type-approval authority” substitute “Secretary of State”.
- (4) In paragraph 3, for “type-approval authority” substitute “Secretary of State”.
- (5) In paragraph 4—
  - (a) for “type-approval authorities” substitute “Secretary of State”;
  - (b) for “entities” substitute “persons”.
- (6) In paragraph 5—
  - (a) for “type-approval authorities” substitute “Secretary of State”;
  - (b) for “those authorities” substitute “the Secretary of State”.

**109. In Article 5—**

- (a) In paragraph 1, for “without delay the type-approval authorities that granted the original type-approval,” substitute “the Secretary of State without delay”.
- (b) In paragraph 2—
  - (i) in the first sentence, for “type-approval authorities” substitute “Secretary of State”;
  - (ii) for “type-approval authority”, in each place it occurs, substitute “Secretary of State”.

**110.** After Article 6, omit “This Regulation shall be binding in its entirety and directly applicable in all Member States.”.

**Council Regulation (EEC) No 3916/90**

**111.** Council Regulation (EEC) No 3916/90 on measures to be taken in the event of a crisis in the market in the carriage of goods by road is revoked.

**Commission Implementing Regulation (EU) No 2016/68**

**112.** Commission Implementing Regulation (EU) No 2016/68 on common procedures and specifications necessary for the interconnection of electronic registers of driver cards is revoked.

**Annex XIII to the EEA agreement**

**113.** In Annex XIII to the EEA agreement, omit the following (which refer to Regulations which are revoked by these Regulations)—

- (a) point 21ba;
- (b) point 26b.

## PART 4

### Saving

**Saving**

**114.** An enactment made under any provision repealed or revoked by these Regulations continues to have effect despite the repeal or revocation.

Signed by authority of the Secretary of State for Transport

4th March 2019

*Jesse Norman*  
Minister of State  
Department for Transport

## **EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

These Regulations make provision under section 2(2) of the European Communities Act 1972 implementing the EU Drivers' Hours Regulation (Regulation (EC) No 561/2006) and the EU Tachographs Regulation (Regulation (EU) No 165/2014). Article 2(3) of the EU Drivers' Hours Regulation applies the European Agreement concerning the Work of Crews of Vehicles engaged in International Road Transport of 1st July 1970 (known as the "AETR") in EU member States, requiring the implementation of the AETR in those States. The provision under section 2(2) includes provision implementing the AETR.

The Regulations also make provision in exercise of the powers in section 8(1) of, and Schedule 7, paragraph 21(b) to, the European Union (Withdrawal) Act 2018 (c.16) ("the 2018 Act") in order to address failures of retained EU law relating to drivers' hours and tachographs to operate effectively and other deficiencies (in particular under section 8(2)(a), (b), (c) and (g), (3)(a), (5) and (6)) arising from the withdrawal of the United Kingdom from the European Union.

Part 1 of the Regulations contains introductory provision. Part 2 contains the amendments made under section 2(2) of the European Communities Act 1972, which update pre-existing references to the two EU Regulations and the AETR, and include references to the EU Tachographs Regulation as amended from time to time and the AETR. The amendments in this Part also implement penalties relating to requirements on testing for security vulnerabilities and penalties relating to the prohibition of the supply of recording equipment without a type approval certificate; and provide for offences and penalties for failure to comply with requirements under AETR, in particular failing to properly install and use recording equipment; supplying recording equipment without a valid type approval certificate; and failing to notify authorities of security vulnerabilities. Chapter 1 of Part 2 amends primary legislation and Chapter 2 of Part 2 amends secondary legislation. Part 3 contains amendments under the 2018 Act to correct deficiencies in existing domestic legislation and EU retained law resulting from the withdrawal of the United Kingdom from the European Union. Chapter 1 of Part 3 amends primary legislation. Chapter 2 of Part 3 amends secondary legislation and Chapter 3 of Part 3 amends retained direct EU legislation.

An impact assessment has not been produced for this instrument as no, or no significant, impact on the private or voluntary sector is foreseen. An Explanatory Memorandum is published alongside this instrument on [www.legislation.gov.uk](http://www.legislation.gov.uk).

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