

## 1977 No. 310

## ROAD TRAFFIC AND VEHICLES

Passenger and Goods Vehicles (Recording Equipment) Regulations  
(Northern Ireland) 1977

Made . . . . . 25th October 1977

Coming into operation . . . . . 12th December 1977

The Department of the Environment for Northern Ireland, being a Department designated(a) for the purposes of section 2(2) of the European Communities Act 1972(b) in relation to the regulation and supervision of working conditions of persons engaged in road transport, in exercise of the powers conferred by that section, by sections 49, 57, 74C and 189 of the Road Traffic Act (Northern Ireland) 1970(c) and by section 56(1), (2) and (5) of the Finance Act 1973(d) and now vested in it(e) and of every other power enabling it in that behalf, and with the approval of the Department of Finance, hereby makes the following Regulations:—

*Citation and commencement*

1. These Regulations may be cited as the Passenger and Goods Vehicles (Recording Equipment) Regulations (Northern Ireland) 1977 and shall come into operation on 12th December 1977.

*Revocation*

2. The Public Service and Goods Vehicles (Recording Equipment) Regulations (Northern Ireland) 1975(f) are hereby revoked.

*Interpretation*

3.—(1) In these Regulations—

“the Act” means the Road Traffic Act (Northern Ireland) 1970;

“Department” means the Department of the Environment for Northern Ireland;

“employee-driver” means a person who drives a vehicle in the course of his employment;

“goods vehicle” means—

- (i) heavy locomotives, light locomotives, motor tractors and any motor vehicle so constructed that a trailer may by partial superimposition be attached to the vehicle in such a manner as to cause a substantial part of the weight of the trailer to be borne by the vehicle; and
- (ii) motor vehicles (other than passenger vehicles) constructed or adapted to carry goods other than the effects of passengers;

(a) S.I. 1975/1707 (1975 III, p. 5814)

(b) 1972 c. 68

(c) 1970 c. 2 (N.I.) as amended by S.I. 1973/1229 (N.I. 17) Art. 5 and S.R. & O. (N.I.) 1972 No. 359 (p. 1755)

(d) 1973 c. 51

(e) S.R. & O. (N.I.) 1973 No. 504 Art. 5(b) (II, p. 2992)

(f) S.R. 1975/296 (II, p. 1420)

“owner-driver” means a person who drives a vehicle for the purposes of a trade or business carried on by him;

“passenger vehicle” means—

- (i) public service vehicles constructed or adapted to carry 8 or more passengers; and
- (ii) motor vehicles (other than public service vehicles) constructed or adapted to carry more than 12 passengers;

“recording equipment” means equipment which is designed for recording information as to the use of a vehicle and which is installed in a vehicle for the purposes of the relevant Community instrument;

“the relevant Community instrument” means Council Regulation (EEC) No. 1463/70 of 20th July 1970(g).

(2) Any reference in these Regulations to an Article or Annex followed by a number is a reference to the Article or the Annex, as the case may be, so numbered in the relevant Community instrument.

(3) The Interpretation Act (Northern Ireland) 1954(h) shall apply to the interpretation of these Regulations as it applies to an Act of the Parliament of Northern Ireland.

#### *Application of Regulations*

4. These Regulations apply to passenger vehicles and goods vehicles which are registered in any of the Member States and in which recording equipment is installed for the purposes of the relevant Community instrument.

#### *Use of recording equipment*

5.—(1) Where recording equipment in a vehicle to which these Regulations apply conforms to the provisions of Annexes I and II (which relate to the construction, testing, installation, inspection and marking of recording equipment) and is operated and used in accordance with Articles 15 and 17 (which relate to the functioning and use of recording equipment), any record produced by means of such equipment shall, in any proceedings under Part IV of the Act, be evidence of the matters appearing from the record.

(2) For the purposes of this regulation recording equipment shall, until the contrary is proved, be presumed to conform to the provisions of Annexes I and II if there is affixed to or alongside the equipment an installation plaque as required by paragraph V.3. of Annex I and if the seals referred to in paragraph V.4. of that Annex are unbroken.

(3) Any entry made by a crew member in accordance with Article 17(2) and (3) or Article 18(2) on the record sheet of the recording equipment or on a temporary sheet attached to the record sheet, shall, in any proceedings under Part IV of the Act, be evidence of the matters appearing from the sheet in question.

#### *Supply, return and retention of record sheets*

6.—(1) Where recording equipment in a vehicle to which these Regulations apply is used in accordance with Articles 15 and 17, any failure—

- (a) by an owner-driver, before a record sheet is taken for use by him, or by the employer of the crew members, before a record sheet is issued to a crew member, to insert in the record sheet a serial number which

is different from the serial number on any other record sheet taken for use or (as the case may be) issued by him during the preceding 12 months, or

(b) by the employer of the crew members—

- (i) to supply them with the appropriate record sheets in accordance with Article 16(1), or
- (ii) without reasonable excuse to secure that the crew members return to him, when completed, the record sheets supplied to them as aforesaid, or
- (iii) within 7 days from the date on which a record sheet is returned to him by the crew member to whom it was issued, to examine and sign that sheet, or
- (iv) to retain the sheets containing the records produced by the recording equipment, or entered in accordance with Article 18(2), for the period specified in Article 16(2), or

(c) by a crew member—

- (i) to be able to produce to an inspector of vehicles at any time during the prescribed period each record sheet containing records produced by the recording equipment, or entered in accordance with Article 18(2), and relating to him, or
- (ii) to return to his employer, within 21 days of the completion of the entries on that sheet (unless the sheet has been previously taken by an inspector of vehicles or constable in pursuance of regulation 9) each record sheet containing records produced by the recording equipment, or entered in accordance with Article 18(2), and relating to him, or
- (iii) when a record sheet supplied to him has been so damaged, or so affected by dirt, that it will not, if used in the recording equipment, produce a satisfactory record, to return that record sheet to his employer as soon as is reasonably practicable after the occurrence of the damage or the time when it became so affected, or
- (iv) on leaving the employment of the employer who has supplied him with any record sheets for use in the recording equipment, to return to that employer any unused record sheets in his possession, or
- (v) if an owner-driver of the vehicle, to retain the sheets containing the records produced by the recording equipment, or entered in accordance with Article 18(2), for the period specified in Article 16(2),

shall be an offence punishable on summary conviction by a fine not exceeding £200.

(2) In this regulation a failure to return, retain or be able to produce a record sheet includes a failure to return, retain or be able to produce a temporary sheet attached to a record sheet as mentioned in Article 18(2) (which relates to the making of manual entries on record sheets and on sheets attached thereto), and the expression “the prescribed period” in relation to a record sheet means the period prescribed by Article 17(5) or, as the case may be, prescribed in pursuance of Article 17(6) by regulation 7 (whichever period is appropriate as respects that record sheet).

*Period of retention of records by crew members*

7. For the purposes of these Regulations the period for which the crew members of a vehicle registered in Northern Ireland and engaging in national transport operations are required by Article 17 (which in paragraph (5) prescribes a period of 14 days but in paragraph (6) permits Member States to reduce that period for such crew members) to retain and have with them the record sheets relating to such operations shall be 2 days.

*Keeping of register of record sheets*

8.—(1) Where recording equipment in a vehicle to which these Regulations apply is used in accordance with Articles 15 and 17—

- (a) the employer who supplies the record sheets in accordance with Article 16(1) to the crew members employed by him shall keep a register containing particulars of the record sheets supplied, and
- (b) the owner-driver who uses the record sheets shall keep a register containing the particulars of the record sheets taken by him for use.

(2) Where the owner-driver of a vehicle employs other persons who act as crew members of the vehicle, the same register may be used for the record sheets used by the owner-driver and for the record sheets supplied by him to his employees.

(3) A register kept in accordance with this regulation at a place where record sheets are supplied by the employer to crew members employed by him or are taken by an owner-driver for use by him shall bear a number which is different from that borne by any other such register kept at that place and shall contain pages (numbered consecutively) each of which shall bear the number of the register and shall contain the following entries—

- (a) the name and address of the employer or owner-driver,
- (b) in a case where a goods vehicle is involved, the operator's licence number (where there is such a licence issued under section 14 of the Transport Act (Northern Ireland) 1967(i)),
- (c) the address of the place where the record sheets are supplied or taken for use, and
- (d) in respect of each occasion when record sheets are supplied by an employer to a crew member employed by him or are taken by an owner-driver for use by him—
  - (i) the serial numbers of the sheets supplied or taken,
  - (ii) the date on which they are supplied or taken,
  - (iii) the name of the crew member to whom the sheets are supplied by the employer,
  - (iv) the signature of the employer of the crew member,
  - (v) the signature of the crew member, and
  - (vi) the date or dates of the return of those sheets to the employer or of their removal from the vehicle by the owner-driver.

(4) Each register kept in accordance with this regulation shall be preserved not less than 12 months from the date of the making of the last entry in it.

(5) Any failure by an employer or an owner-driver to keep or preserve the register required by this regulation shall be an offence punishable on summary conviction by a fine not exceeding £200.

*Inspection of recording equipment and records*

9.—(1) In relation to any vehicle to which these Regulations apply an inspector of vehicles may, on production if so required of his authority—

- (a) require any person to produce, and permit him to inspect and copy, any record which is produced by the recording equipment, or on which entries are made in accordance with Article 18, and which that person is required by Article 16(2) to retain or by Article 17(5) to be able to produce,
- (b) at any time, enter the vehicle and inspect the vehicle and the recording equipment, and inspect and copy any record on the vehicle which has been produced by means of that equipment or on which entries are made in accordance with Article 18,
- (c) at any time which is reasonable having regard to the circumstances of the case, enter any premises on which he has reason to believe that such a vehicle is kept or that any such records are to be found or that a register required by regulation 8 is kept, and inspect any such vehicle and inspect and copy any such record or register which he finds there.

(2) Where an inspector of vehicles, in exercise of his powers under paragraph (1)(a), has required a person to produce to him any record, the inspector of vehicles may, by notice in writing served on that person, require the record to be produced by him at the office of the Department specified in the notice within such time (not being less than 10 days from the service of the notice) as may be specified therein.

(3) For the purpose of exercising his powers under paragraph (1)(b), an inspector of vehicles may detain the vehicle in question during such time as is required for the exercise of that power.

(4) Any person who—

- (a) fails to comply with any requirement under paragraph (1)(a) or (2), or
- (b) obstructs an inspector of vehicles in the exercise of his powers under paragraph (1) or (3),

shall be liable on summary conviction to a fine not exceeding £100.

(5) Any person who makes, or causes to be made, any such record, or any entry in such register, as is mentioned in paragraph (1), which he knows to be false or, with intent to deceive, alters or causes to be altered any such record or entry, shall be liable—

- (a) on summary conviction, to a fine not exceeding £200;
- (b) on conviction on indictment, to imprisonment for a term not exceeding 2 years.

(6) If an inspector of vehicles has reason to believe that an offence under paragraph (5) has been committed in respect of any record or register inspected by him under this regulation, he may seize that record or register; and where a record or register is seized as aforesaid and within 6 months of the date on which it was seized no person has been charged since that date with an offence in relation to that record or register under that paragraph and the record or register has not been returned to the person from whom it was taken, a magistrates' court shall, on application made for the purpose by that person, or by an inspector of vehicles, make such order respecting the disposal of the record or register and award such costs as the justice of the case may require.

(7) The powers conferred by this regulation on an inspector of vehicles shall be exercisable also by a constable.

(8) In this regulation references to the inspection and copying of any record produced by recording equipment include references to the application to the record of any process for eliciting the information recorded thereby and to taking down the information elicited from it.

*Approval of fitters and workshops for recording equipment*

10.—(1) The Department shall be the competent authority in Northern Ireland for approving fitters and workshops for recording equipment in accordance with Article 14 (which requires recording equipment to be installed and repaired by approved fitters or approved workshops).

(2) Any approval of a fitter or workshop shall be in writing which shall specify the scope of the approval, shall provide for its withdrawal by the Department on notice given by it and may contain conditions.

(3) Such conditions may in particular relate to—

- (a) the fees to be charged by the fitter or workshop,
- (b) the premises and equipment to be used for installing, repairing, checking or inspecting recording equipment,
- (c) the procedure to be adopted in carrying out such activities,
- (d) the training of persons for carrying out such activities,
- (e) the inspection by or on behalf of the Department of premises and equipment used or to be used for carrying out such activities, and
- (f) the display, in a conspicuous place on premises where such activities are carried out, of a sign indicating that such activities are carried out there with the approval of the Department.

(4) The Department shall publish from time to time a list of the fitters and workshops for the time being approved by it under this regulation and such list shall specify the mark used by each approved fitter or by each workshop for placing on the seals of the recording equipment installed or checked by that fitter or by that workshop.

*Fee payable for granting approval*

11. The fee to be paid to the Department for granting approval of a fitter or workshop for recording equipment in accordance with Article 14 shall be £120.

*Exemption from requirement to keep drivers' record books*

12. Where recording equipment in a vehicle to which these Regulations apply conforms to the provisions of Annexes I and II and is operated and used in accordance with Articles 15 and 17, and the relevant requirements of Articles 17 and 18(2) with respect to the making of manual entries on the record sheets or on temporary sheets attached thereto are complied with, the driver of that vehicle, and the employer of that driver (if an employee-driver), shall be exempted from the requirements of the Public Service Vehicles and Goods Vehicles (Drivers' Hours of Duty) Regulations 1935(j) and the European Communities Drivers' Hours (International Rules) Regulations (Northern Ireland) 1973(k) with respect to the keeping of, and making of

entries in, drivers' record books, so far as regards the driving of, and other work in connection with, that vehicle.

Sealed with the Official Seal of the Department of the Environment for Northern Ireland on 25th October 1977.

(L.S.)

*E. A. Simpson*

Assistant Secretary

The Department of Finance hereby approves of regulation 11.

Sealed with the Official Seal of the Department of Finance for Northern Ireland on 25th October 1977.

(L.S.)

*J. Murray*

Assistant Secretary

## EXPLANATORY NOTE

*(This note is not part of the Regulations but is intended to indicate their general purport.)*

These Regulations apply to passenger and goods vehicles which are registered in any of the Member States of the European Economic Community and in which recording equipment (tachographs) is installed for the purposes of Council Regulation (EEC) No. 1463/70. They revoke the Public Service and Goods Vehicles (Recording Equipment) Regulations (Northern Ireland) 1975 (S.R. No. 296) (which related only to vehicles registered in the original six Member States).

Regulation 5 enables any records produced by the recording equipment, if used in accordance with the EEC Regulation, to be treated as evidence for the purposes of proceedings relating to drivers' hours under Part IV of the Road Traffic Act (Northern Ireland) 1970.

Regulation 6 makes it an offence, punishable on summary conviction by a fine not exceeding £200, for employers and crew members to fail to comply with certain requirements as to the supply, return and retention of record sheets for the recording equipment.

Regulation 7 limits the period during which crew members engaging in national transport operations are required to retain record sheets.

Regulation 8 requires employers to keep a register of record sheets issued by them and owner-drivers to keep a register of record sheets used by them.

Regulation 9 provides for the production of record sheets to inspectors of vehicles or to the police and for the inspection and copying of record sheets and registers and the entry on vehicles and premises by inspectors of vehicles or the police. Failure to produce record sheets or obstruction of inspectors of vehicles or the police is an offence punishable on summary conviction by a fine not exceeding £100. Falsification of records or registers is an offence punishable on summary conviction by a fine not exceeding £200 or on indictment by imprisonment for a term not exceeding 2 years.

Regulation 10 provides for the approval by the Department of fitters and workshops for the installation and repair of recording equipment.

Regulation 11 sets the fee at £120 to be charged by the Department for approving fitters and workshops for the installation and repair of recording equipment.

Regulation 12 exempts drivers who use recording equipment from the requirement to keep drivers' record books.