

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

2016 No. 343

1. Introduction

- 1.1. This Explanatory Memorandum has been prepared by the Department for Infrastructure to accompany the Statutory Rule (details above) which is laid before the Northern Ireland Assembly.
- 1.2. The Statutory Rule is made under section 2(2) of, and paragraph 1A of Schedule 2 to, the European Communities Act 1972 and Article 83(1) of the Road Traffic (Northern Ireland) Order 1981 and is subject to the negative resolution procedure.

2. Purpose

- 2.1. The purpose of the Statutory Rule (“SR”) covered by this Memorandum is to facilitate the implementation of Regulation (EU) No. 165/2014 on tachographs in road transport (“the EU Regulation”).
- 2.2. Accordingly, the SR amends provisions in domestic legislation relating to the use of tachograph equipment on passenger and goods vehicles and updates the existing domestic enforcement regime to comply with the EU Regulation. It also introduces certain new requirements.

3. Background

- 3.1. Tachographs monitor and record the amount of time a commercial driver has spent driving and allow the enforcement of drivers’ hours rules. They improve road safety by ensuring that working hours are not excessive, subsequently reducing the risk of accidents due to fatigue. The EU Regulation replaces the previous EEC Regulation on recording equipment in road transport. It updates the requirements relating to tachographs to introduce a new generation of more reliable and resilient models. This will reduce tampering and fraud and make devices easier to operate and for enforcement agencies to interrogate.
- 3.2. While the EU Regulation is directly applicable in Member States, this SR facilitates its implementation by updating provisions in both primary and subordinate domestic legislation. In particular, these amendments will ensure that our domestic enforcement framework appropriately reflects the new Regulation rather than the one it has replaced.

3.3. The SR amends the following legislation –

The Road Traffic (Northern Ireland) Order 1995

The Passenger and Goods Vehicles (Recording Equipment) Regulations (Northern Ireland) 1996

The Passenger and Goods Vehicles (Recording Equipment) (Tachograph Card) Regulations (Northern Ireland) 2007

The Community Drivers' Hours and Recording Equipment (Exemptions and Supplementary Provisions) Regulations (Northern Ireland) 2009

The Road Traffic (Fixed Penalty) Order (Northern Ireland) 2007

The Road Traffic (Financial Penalty Deposit) (Appropriate Amount) Order (Northern Ireland) 2012

The Road Traffic (Fixed Penalty) (Offences) Order (Northern Ireland) 1997

The Motor Vehicles (Construction and Use) Regulations (Northern Ireland) 1999

The Motor Vehicles (Driving Licences) Regulations (Northern Ireland) 1996

The Public Service Vehicles Regulations (Northern Ireland) 1985

The Motor Vehicle Testing Regulations (Northern Ireland) 2003

The Goods Vehicles (Testing) Regulations (Northern Ireland) 2003

3.4. The EU Regulation provides some areas of flexibility where Member States have discretion on how to implement the requirements. Accordingly, the SR also makes the following amendments:

- The Passenger and Goods Vehicles (Recording Equipment) Regulations (Northern Ireland) 1996 are amended to allow for field testing of tachographs that have not yet been type approved and to ensure that transport undertakings are conditionally liable for tachograph offences committed by their drivers; and
- The Community Drivers' Hours and Recording Equipment (Exemptions and Supplementary Provisions) Regulations (Northern Ireland) 2009 are amended to extend national exemptions for specified vehicles from drivers' hours rules, increasing the radius from base within which they are exempt from 50km to 100km.

3.5. A transposition note has been prepared and is published alongside this memorandum.

4. Consultation

4.1. A targeted stakeholder consultation exercise was carried out by the former Department of the Environment in partnership with the Department for Transport from 17th March 2015 to 14th May 2015. Thirteen responses were received and there was broad support from the respondents for the proposals.

5. Equality Impact

5.1. In accordance with its duty under section 75 of the Northern Ireland Act 1998, the Department conducted a screening exercise on the proposals and concluded that they do not have implications for equality of opportunity. The measures will not affect any group disproportionately. In light of this the Department considers that an equality impact assessment is not necessary.

6. Regulatory Impact

6.1. A Regulatory Impact Assessment (“RIA”) was carried out and is published alongside this memorandum. It concluded that the benefits of implementing the EU Regulation will outweigh the costs given that the use of the new technologies provided for will facilitate better enforcement and cut down on potential fraud. The EU Regulation also extends exemptions and derogations from drivers’ hours rules. This will be beneficial as it is deregulatory and imposes no costs, transitional or otherwise.

7. Financial Implications

7.1. The EU Regulation provides for the introduction of a new generation of more reliable and resilient tachograph models. The annual costs to business of introducing this new technology are negligible, as set out in the accompanying RIA, and given that it will provide for better enforcement and cut down on any potential fraud, the benefits are deemed to outweigh the costs.

7.2. There are no financial implications for the Department as a result of the introduction of the SR.

8. Section 24 of the Northern Ireland Act 1998

8.1. The Department has considered the matter of Convention Rights and Community Law and is satisfied that the proposed legislation is compatible with section 24 of the Northern Ireland Act 1998.

9. EU Implications

9.1. The SR will ensure compliance with the requirements of the EU Regulation.

10. Parity or replicatory measure

10.1 The SR is based on similar provisions contained in the GB Statutory Instrument 2016 No. 248.

11. Additional information

11.1. Not applicable.