

2007 No. 58

ROAD TRAFFIC

The Road Tolling (Interoperability of Electronic Road User Charging and Road Tolling Systems) Regulations 2007

<i>Made</i>	- - - -	<i>13th January 2007</i>
<i>Laid before Parliament</i>		<i>17th January 2007</i>
<i>Coming into force</i>	- -	<i>12th February 2007</i>

The Secretary of State for Transport makes the following Regulations in exercise of the powers conferred by section 2(2) of the European Communities Act 1972(a).

The Secretary of State is the Minister designated(b) for the purposes of section 2(2) of that Act in relation to measures relating to the interoperability of electronic road user charging and road tolling systems.

Citation and commencement

1.—(1) These Regulations may be cited as the Road Tolling (Interoperability of Electronic Road User Charging and Road Tolling Systems) Regulations 2007.

(2) These Regulations shall come into force on 12th February 2007.

Interpretation

2. In these Regulations—

“the appropriate national authority” means—

- (a) the Secretary of State as respects England,
- (b) the National Assembly for Wales as respects Wales,
- (c) the Scottish Ministers as respects Scotland, and
- (d) the Department for Regional Development in Northern Ireland as respects Northern Ireland;

“electronic toll system” means a system for the charge and collection of a toll or fare in respect of the use of a road or ferry by a motor vehicle, where—

(a) 1972 c.68. Section 2(2) was amended by section 27 of the Legislative and Regulatory Reform Act 2006 (c.51). By virtue of the amendment of section 1(2) of the European Communities Act 1972 by section 1 of the European Economic Area Act 1993 (c.51) regulations may be made under section 2(2) of the European Communities Act 1972 to implement obligations of the United Kingdom created or arising by or under the Agreement on the European Economic Area signed at Oporto on 2nd May 1992 (Cm 2073) and the Protocol adjusting the Agreement signed at Brussels on 17th March 1993 (Cm 2183).

(b) S.I. 2006/1461.

- (a) the system operates by means of a communications interface comprising two or more electronic devices (whether or not the system also uses equipment and technologies which are not electronic),
 - (b) the electronic devices collect or transmit data used to determine the amount of the toll or fare payable, and
 - (c) at least one of the electronic devices is carried on-board the motor vehicle;
- “motor vehicle” has the same meaning as in the Road Traffic Act 1988(a);
- “operator”, in relation to a system for the charge and collection of a toll or fare in respect of the use of a road or ferry by a motor vehicle, means the undertaking responsible for charging and collecting the tolls or fares; and
- “road” includes any bridge or tunnel over or through which a road passes.

Application of Regulations

3.—(1) These Regulations—

- (a) apply to any new electronic toll system which is brought into service on or after 12th February 2007; but
- (b) do not apply if an exemption certificate has been issued under regulation 5 in respect of the system and has not been revoked.

(2) A new electronic toll system is to be regarded as being brought into service when—

- (a) a new system becomes operational for the purpose of charging and collecting tolls or fares;
- (b) changes are made to an existing system which enable new electronic devices with significantly improved technical specifications to be used for the purpose of charging and collecting tolls or fares;
- (c) new equipment is introduced into an existing system which results in a significant improvement in the way the system operates; or
- (d) there is a significant addition to the roads or ferries to which an existing system applies (for example, by the addition of a new bridge, tunnel or other road or the replacement of a road by a ferry service).

(3) For the purposes of paragraph (2), it is irrelevant whether a system was an electronic toll system before the occurrence of the events described in that paragraph.

Technical requirements for electronic toll systems

4. An electronic toll system must use one or more of the following technologies(b) for the electronic devices used in its communications interface—

- (a) satellite positioning;
- (b) mobile communications using the GSM-GPRS standard (reference GSM TS 03.60/23.060);
- (c) 5.8 gigahertz microwave technology.

Exemption certificates

5.—(1) If the appropriate national authority is satisfied that one or more of the grounds specified in paragraph (2) is established in respect of an electronic toll system, it must issue an exemption certificate in respect of the system.

(a) 1988 c.52.

(b) The technologies are those specified in article 2(1) of European Parliament and Council Directive 2004/52/EC (OJ L200, 07.06.2004, p.50, incorporating changes made by the corrigendum to the original version of the directive published in OJ L 166, 30.04.2004, p.124).

- (2) The grounds are—
- (a) that no electronic means exist for the purpose of charging and collecting any tolls or fares;
 - (b) that the system is designed to operate without the use by the motor vehicle of an on-board electronic device;
 - (c) that—
 - (i) the system is small and strictly local, and
 - (ii) the costs of complying with regulation 4 would be disproportionate to the benefits of doing so.

- (3) An application for an exemption certificate must—
- (a) state the grounds on which the application is made,
 - (b) be made in such manner as the authority may direct, and
 - (c) contain, or be accompanied by, such other information as the authority may require.

(4) At any time after receiving an application and before determining it, the authority may require the applicant to provide the authority with such further information as it reasonably considers necessary to enable it to determine the application.

(5) The applicant may withdraw his application, by giving the authority written notice, at any time before the authority determines it.

(6) If the authority issues an exemption certificate, it must give the applicant written notice.

(7) An appropriate national authority which issues an exemption certificate under this regulation may revoke the certificate if it considers that grounds for issuing the certificate no longer exist.

Refusal or revocation of exemption certificate

6.—(1) If the appropriate national authority proposes to refuse to issue an exemption certificate, it must give the person who applied for the certificate written notice of that proposal.

(2) If the appropriate national authority proposes to revoke an exemption certificate, it must give to the person to whom the certificate was issued written notice of that proposal.

(3) A notice under paragraph (1) or (2) must specify a reasonable period (which may not be less than 28 days) within which the person concerned may make representations to the authority.

(4) The authority must then decide, within a reasonable period, whether or not to issue a final notice of refusal or revocation.

- (5) A notice given under paragraph (1), (2) or (4) must—
- (a) be in writing, and
 - (b) state the authority's reasons for refusing an application or revoking an exemption certificate.

Power to require information and carry out investigations

7.—(1) The appropriate national authority may exercise either or both of the powers conferred by paragraphs (2) and (4) for the purpose of—

- (a) determining whether a system for charging and collecting tolls or fares in respect of the use of a road or ferry by a motor vehicle is an electronic toll system;
- (b) determining whether an electronic toll system is one to which these Regulations apply (see regulation 3);
- (c) ensuring that the requirements of regulation 4 are met in relation to the system; or
- (d) determining whether to revoke an exemption certificate under regulation 5(7).

(2) The authority may, by notice in writing given to the operator of a system, require the operator—

- (a) to provide specified information, or information of a specified description, about the operation of the system and the equipment the system uses; or
 - (b) to produce specified documents or documents of a specified description.
- (3) The information or documents required under paragraph (2) must be provided or produced—
- (a) before the end of such reasonable period as may be specified, and
 - (b) at such place as may be specified.
- (4) The authority may appoint one or more competent persons to conduct an investigation on its behalf into the operation of the system and the equipment the system uses.
- (5) “Specified” means specified in the notice.

Notice of non-compliance with technical requirements

8.—(1) Where the appropriate national authority considers that the requirements of regulation 4 are not, or may not be, met in relation to an electronic toll system, it may give the operator of the system a notice to that effect.

- (2) A notice given under paragraph (1) must—
- (a) state the reasons why the authority considers that the technical requirements are not, or may not be, met,
 - (b) provide details of any remedial steps that the authority considers to be necessary,
 - (c) specify the period before the end of which remedial steps are to be taken, and
 - (d) inform the operator that he may make representations to the authority within such period as may be specified in the notice.

(3) The authority may extend each of the periods allowed under the notice for—

- (a) taking any remedial steps, or
- (b) making representations.

(4) When both of those periods have expired, the authority must then decide within a reasonable period whether to issue a stop notice.

(5) A stop notice is a notice requiring the operator of the system to cease charging and collecting tolls or fares by means of electronic devices which do not use one or more of the technologies specified in regulation 4.

(6) A stop notice must—

- (a) be in writing,
- (b) give details of the action the operator must take,
- (c) state the date on which the action is to be taken, and
- (d) be given to the operator.

(7) A stop notice is enforceable by the appropriate national authority in civil proceedings—

- (a) for an injunction or interdict, or
- (b) for specific performance of a statutory duty under section 45 of the Court of Session Act 1988(a).

(8) If, having considered any representations made by the operator, the authority decides not to issue a stop notice, it must give the operator written notice.

Signed by authority of the Secretary of State

13th January 2007

S.J. Ladyman
Minister of State
Department for Transport

(a) 1988 c.36.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations implement the provisions of European Parliament and Council Directive 2004/52/EC (OJ L200, 07.06.2004, p.50, incorporating changes made by the corrigendum to the original version of the directive published in OJ L 166, 30.04.2004, p.124) which require the use of certain technical standards for the interoperability of electronic road toll systems in the Community (see articles 1 and 2 of the Directive).

Under *regulation 2* “electronic toll systems” are systems with certain electronic features which operate for the purpose of charging and collecting tolls or fares in respect of the use by a motor vehicle of a road (including any bridge or tunnel) or a ferry. Regulation 2 contains other definitions (including a definition of “the appropriate national authority”).

Regulation 3 specifies that the Regulations apply to new electronic toll systems brought into service on or after 12th February 2007. Regulation 3(2) sets out the circumstances in which a new electronic toll system is to be regarded as being brought into service. This includes certain significant upgrades.

The technological requirements specified in *regulation 4* apply to all new electronic toll systems other than those which have been exempted under regulation 5.

Regulation 5 provides for the issue by the appropriate national authority of an exemption certificate on the grounds which are set out in regulation 5(2) (which implements article 1(2) of the Directive). The operator of a toll system may apply for an exemption certificate and *regulation 6* sets out the procedure which must be followed where the appropriate national authority turns down an application or revokes an exemption certificate.

Regulations 7 and 8 contain enforcement provisions. The appropriate national authority may require certain information and documents for the purpose of determining whether a system is an electronic toll system to which the Regulations apply or whether the system is using the required technologies. If the appropriate national authority considers that the technological requirements of regulation 4 are not met, it may issue a stop notice requiring the operator of the system to cease charging and collecting tolls or fares by use of non-compliant electronic devices.

A copy of the regulatory impact assessment prepared in respect of these Regulations can be obtained from the Department for Transport, Zone 2/15, Great Minster House, 76 Marsham Street, London, SW1P 4DR. Copies have been placed in the Library of each House of Parliament.

A copy of the transposition note is available from the Department for Transport.

Copies of the Regulatory Impact Assessment and of the Transposition Note may also be accessed on the HMSO website www.opsi.gov.uk.

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