

Council Regulation (EEC) No 3821/85 of 20 December
1985 on recording equipment in road transport

CHAPTER IV

Use of equipment

[^{F1}Article 13

The employer and drivers shall ensure the correct functioning and proper use of, on the one hand, the recording equipment and, on the other, the driver card where a driver is required to drive a vehicle fitted with recording equipment in conformity with Annex IB.]

Textual Amendments

- F1** Substituted by [Council Regulation \(EC\) No 2135/98 of 24 September 1998 amending Regulation \(EEC\) No 3821/85 on recording equipment in road transport and Directive 88/599/EEC concerning the application of Regulations \(EEC\) No 3820/85 and \(EEC\) No 3821/85.](#)

Article 14

[^{F1} The employer shall issue a sufficient number of record sheets to drivers of vehicles fitted with recording equipment in conformity with Annex I, bearing in mind the fact that these sheets are personal in character, the length of the period of service and the possible obligation to replace sheets which are damaged, or have been taken by an authorised inspecting officer. The employer shall issue to drivers only sheets of an approved model suitable for use in the equipment installed in the vehicle.

Where the vehicle is fitted with recording equipment in conformity with Annex IB, the employer and the driver shall ensure that, taking into account the length of the period of service, the printing on request referred to in Annex IB can be carried out correctly in the event of an inspection.]

[^{F2} The undertaking shall keep record sheets and printouts, whenever printouts have been made to comply with Article 15(1), in chronological order and in a legible form for at least a year after their use and shall give copies to the drivers concerned who request them. The undertaking shall also give copies of downloaded data from the driver cards to the drivers concerned who request them and the printed papers of these copies. The record sheets, printouts and downloaded data shall be produced or handed over at the request of any authorised inspecting officer.]

[^{F3} The driver card as defined in Annex IB shall be issued, at the request of the driver, by the competent authority of the Member State where the driver has his normal residence.

A Member State may require any driver subject to the provisions of Regulation (EEC) No 3820/85 and normally resident on its territory to hold a driver card.

- a For the purposes of this Regulation ‘normal residence’ means the place where a person usually lives, that is for at least 185 days in each calendar year, because of personal and occupational ties, or, in the case of a person with no occupational ties, because of personal ties which show close links between that person and the place where he is living.

Changes to legislation: There are currently no known outstanding effects for the Council Regulation (EEC) No 3821/85, CHAPTER IV. (See end of Document for details)

However, the normal residence of a person whose occupational ties are in a different place from his personal ties and who consequently lives in turn in different places situated in two or more Member States shall be regarded as being the place of his personal ties, provided that such person returns there regularly. This last condition need not be met where the person is living in a Member State in order to carry out a fixed-term assignment.

- b Drivers shall give proof of their place of normal residence by any appropriate means, such as their identity card or any other valid document.
- c Where the competent authorities of the Member State issuing the driver card have doubts as to the validity of a statement as to normal residence made in accordance with point (b), or for the purpose of certain specific controls, they may request any additional information or evidence.
- d The competent authorities of the issuing Member State shall, as far as this can be done, ensure that the applicant does not already hold a valid driver card.

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- a The competent authority of the Member State shall personalise the driver card in accordance with the provisions of Annex IB.

For administrative purposes, the driver card may not be valid for more than five years.

The driver may hold one valid driver card only. The driver is authorised to use only his own personalised driver card. The driver shall not use a driver card which is defective or which has expired.

When a new driver card is issued replacing the old, the new card shall bear the same driver card issue number but the index shall be increased by one. The issuing authority shall keep records of issued, stolen, lost or defective driver cards for a period at least equivalent to their period of administrative validity.

If the driver card is damaged, malfunctions or is lost or stolen, the authority shall supply a replacement card within five working days of receiving a detailed request to that effect.

In the event of a request for the renewal of a card whose expiry date is approaching, the authority shall supply a new card before the expiry date provided that the request was sent to it within the time limits laid down in the second subparagraph of Article 15(1).

- b Driver cards shall be issued only to applicants who are subject to the provisions of Regulation (EEC) No 3820/85.
- c The driver card shall be personal. It may not, during its official period of validity, be withdrawn or suspended for whatever reason unless the competent authority of a Member State finds that the card has been falsified, or the driver is using a card of which he is not the holder, or that the card held has been obtained on the basis of false declarations and/or forged documents. If such suspension or withdrawal measures are taken by a Member State other than the Member State of issue, the former shall return the card to the authorities of the Member State which issued it and shall indicate the reasons for returning it.
- d Driver cards issued by Member States shall be mutually recognised.

Where the holder of a valid driver card issued by a Member State has established his normal place of residence in another Member State, he may ask for his card to be exchanged for an equivalent driver card; it shall be the responsibility of the Member State which carries out the exchange to verify if necessary whether the card produced is actually still valid.

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- Member States carrying out an exchange shall return the old card to the authorities of the Member State of issue and indicate the reasons for so doing.
- e Where a Member State replaces or exchanges a driver card, the replacement or exchange, and any subsequent replacement or renewal, shall be registered in that Member State.
 - f Member States shall take all the necessary measures to prevent any possibility of driver cards being falsified.

5 Member States shall ensure that data needed to monitor compliance with Regulation (EEC) No 3820/85 and Council Directive 92/6/EEC of 10 February 1992 on the installation and use of speed limitation devices for certain categories of motor vehicles in the Community⁽¹⁾ which are recorded and stored by recording equipment in conformity with Annex IB to this Regulation can be made available for at least 365 days after the date of their recording and that they can be made available under conditions that guarantee the security and accuracy of the data.

Member States shall take any measures necessary to ensure that the resale or decommissioning of recording equipment cannot detract, in particular, from the satisfactory application of this paragraph.]

Textual Amendments

- F1** Substituted by Council Regulation (EC) No 2135/98 of 24 September 1998 amending Regulation (EEC) No 3821/85 on recording equipment in road transport and Directive 88/599/EEC concerning the application of Regulations (EEC) No 3820/85 and (EEC) No 3821/85.
- F2** Substituted by 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 (Text with EEA relevance).
- F3** Inserted by Council Regulation (EC) No 2135/98 of 24 September 1998 amending Regulation (EEC) No 3821/85 on recording equipment in road transport and Directive 88/599/EEC concerning the application of Regulations (EEC) No 3820/85 and (EEC) No 3821/85.

Article 15

1 Drivers shall not use dirty or damaged record sheets [^{F3}or driver cards]. The sheets [^{F3}or driver cards] shall be adequately protected on this account.

[^{F3}Where a driver wishes to renew his driver card, he shall apply to the competent authorities of the Member State in which he has his normal residence not later than 15 working days before the expiry date of the card.]

In case of damage to a sheet bearing recordings [^{F3}or driver card], drivers shall attach the damaged sheet [^{F3}or driver card] to the spare sheet used to replace it.

[^{F3}If the driver card is damaged, malfunctions or is lost or stolen, the driver shall apply within seven calendar days for its replacement to the competent authorities of the Member State in which he has his normal residence.]

[^{F4}Where a driver card is damaged, malfunctions, or is not in the possession of the driver, the driver shall:

- a at the start of his journey, print out the details of the vehicle the driver is driving, and shall enter onto that printout:


- (i) details that enable the driver to be identified (name, driver card or driver's licence number), including his signature;
 - (ii) the periods referred to in paragraph 3, second indent (b), (c) and (d);
- b at the end of his journey, print out the information relating to periods of time recorded by the recording equipment, record any periods of other work, availability and rest undertaken since the printout that was made at the start of the journey, where not recorded by the tachograph, and mark on that document details that enable the driver to be identified (name, driver card or driver's licence number), including the driver's signature.]
- 2 Drivers shall use the record sheets [^{F3}or driver cards] every day on which they are driving, starting from the moment they take over the vehicle. The record sheet [^{F3}or driver card] shall not be withdrawn before the end of the daily working period unless its withdrawal is otherwise authorized. No record sheet [^{F3}or driver card] may be used to cover a period longer than that for which it is intended.

[^{F2}When as a result of being away from the vehicle, a driver is unable to use the equipment fitted to the vehicle, the periods of time referred to in paragraph 3, second indent (b), (c) and (d) shall:

- a if the vehicle is fitted with recording equipment in conformity with Annex I, be entered on the record sheet, either manually, by automatic recording or other means, legibly and without dirtying the sheet; or
- b if the vehicle is fitted with recording equipment in conformity with Annex IB, be entered onto the driver card using the manual entry facility provided in the recording equipment.

Where there is more than one driver on board the vehicle fitted with recording equipment in conformity with Annex IB, each driver shall ensure that his driver card is inserted into the correct slot in the tachograph.]


Drivers shall amend the record sheets as necessary should there be more than one driver on board the vehicle, so that the information referred to in Chapter II (1) to (3) of Annex I is recorded on the record sheet of the driver who is actually driving.

- 3 Drivers shall:
- ensure that the time recorded on the sheet agrees with the official time in the country of registration of the vehicle,
 - operate the switch mechanisms enabling the following periods of time to be recorded separately and distinctly:
 - (a) under the sign  : driving time;
 - (b) [^{F2}other work' means any activity other than driving, as defined in Article 3(a) of Directive 2002/15/EC of the European Parliament and of the Council of 11 March 2002 on the organisation of the working time of persons performing mobile road transport activities⁽²⁾, and also any work for the same or another employer within or outside of the transport sector, and must be recorded under this sign




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(c) 'availability' defined in Article 3(b) of Directive 2002/15/EC must be

recorded under this sign ;]

(d)

under the sign  : breaks in work and daily rest periods.

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5 Each crew member shall enter the following information on his record sheet:

- a on beginning to use the sheet — his surname and first name;
- b the date and place where use of the sheet begins and the date and place where such use ends;
- c the registration number of each vehicle to which he is assigned, both at the start of the first journey recorded on the sheet and then, in the event of a change of vehicle, during use of the sheet;
- d the odometer reading:
 - at the start of the first journey recorded on the sheet,
 - at the end of the last journey recorded on the sheet,
 - in the event of a change of vehicle during a working day (reading on the vehicle to which he was assigned and reading on the vehicle to which he is to be assigned);
- e the time of any change of vehicle.

^{F35a} The driver shall enter in the recording equipment in conformity with Annex IB the symbols of the countries in which he begins and ends his daily work period. However, a Member State may require drivers of vehicles engaged in transport operations inside its territory to add more detailed geographic specifications to the country symbol provided that the Member State has notified them to the Commission before 1 April 1998 and that they do not number more than 20.

The above data entries shall be activated by the driver, and may be entirely manual or automatic if the recording equipment is linked to a satellite tracking system.]

6 The ^{F1}recording equipment defined in Annex I] shall be so designed that it is possible for an authorized inspecting officer, if necessary after opening the equipment, to read the recordings relating to the nine hours preceding the time of the check without permanently deforming, damaging or soiling the sheet.

The equipment shall, furthermore, be so designed that it is possible, without opening the case, to verify that recordings are being made.

^{F27}

- a Where the driver drives a vehicle fitted with recording equipment in conformity with Annex I, the driver must be able to produce, whenever an inspecting officer so requests:
 - (i) the record sheets for the current week and those used by the driver in the previous 15 days;
 - (ii) the driver card if he holds one, and
 - (iii) any manual record and printout made during the current week and the previous 15 days as required under this Regulation and Regulation (EC) No 561/2006.

Changes to legislation: There are currently no known outstanding effects for the Council Regulation (EEC) No 3821/85, CHAPTER IV. (See end of Document for details)

However, after 1 January 2008, the time periods referred to under (i) and (iii) shall cover the current day and the previous 28 days.

- b Where the driver drives a vehicle fitted with recording equipment in conformity with Annex IB, the driver must be able to produce, whenever an inspecting officer so requests:
- (i) the driver card of which he is holder;
 - (ii) any manual record and printout made during the current week and the previous 15 days as required under this Regulation and Regulation (EC) No 561/2006, and
 - (iii) the record sheets corresponding to the same period as the one referred to in the previous subparagraph during which he drove a vehicle fitted with recording equipment in conformity with Annex I.

However, after 1 January 2008, the time periods referred to under (ii) shall cover the current day and the previous 28 days.

- c An authorised inspecting officer may check compliance with Regulation (EC) No 561/2006 by analysis of the record sheets, of the displayed or printed data which have been recorded by the recording equipment or by the driver card or, failing this, by analysis of any other supporting document that justifies non-compliance with a provision, such as those laid down in Article 16(2) and (3).]

[^{F38} It shall be forbidden to falsify, suppress or destroy data recorded on the record sheet, stored in the recording equipment or on the driver card, or print-outs from the recording equipment as defined in Annex IB. The same applies to any manipulation of the recording equipment, record sheet or driver card which may result in data and/or printed information being falsified, suppressed or destroyed. No device which could be used to this effect shall be present on the vehicle.]

Textual Amendments

- F1** Substituted by Council Regulation (EC) No 2135/98 of 24 September 1998 amending Regulation (EEC) No 3821/85 on recording equipment in road transport and Directive 88/599/EEC concerning the application of Regulations (EEC) No 3820/85 and (EEC) No 3821/85.
- F2** Substituted by 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 (Text with EEA relevance).
- F3** Inserted by Council Regulation (EC) No 2135/98 of 24 September 1998 amending Regulation (EEC) No 3821/85 on recording equipment in road transport and Directive 88/599/EEC concerning the application of Regulations (EEC) No 3820/85 and (EEC) No 3821/85.
- F4** Inserted by 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 (Text with EEA relevance).
- F5** Deleted by 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 (Text with EEA relevance).

Article 16

1 In the event of breakdown or faulty operation of the equipment, the employer shall have it repaired by an approved fitter or workshop, as soon as circumstances permit.

If the vehicle is unable to return to the premises within a period of one week calculated from the day of the breakdown or of the discovery of defective operation, the repair shall be carried out *en route*.

Measures taken by Member States pursuant to Article 19 may give the competent authorities power to prohibit the use of the vehicle in cases where breakdown or faulty operation has not been put right as provided in the foregoing subparagraphs.

[^{F12} While the recording equipment is unserviceable or malfunctioning, drivers shall mark on the record sheet or sheets, or on a temporary sheet to be attached to the record sheet or to the driver card, on which he shall enter data enabling him to be identified (driver's card number and/or name and/or driving licence number), including his signature, all information for the various periods of time which are no longer recorded or printed out correctly by the recording equipment.

If a driver card is damaged, malfunctions or is lost or stolen, the driver shall, at the end of his journey, print out the information relating to the periods of time recorded by the recording equipment and mark on that document the details that enable him to be identified (the driver card number and/or name and/or driving licence number), including his signature.]

[^{F33} If a driver card is damaged or if it malfunctions, the driver shall return it to the competent authority of the Member State in which he has his normal residence. Theft of the driver card shall be the subject of a formal declaration to the competent authorities of the State where the theft occurred.

Loss of the driver card must be reported in a formal declaration to the competent authorities of the State that issued it and to the competent authorities of the Member State of normal residence where they are different.

The driver may continue to drive without a driver card for a maximum period of 15 calendar days or for a longer period if this is necessary for the vehicle to return to its premises, provided he can prove the impossibility of producing or using the card during this period.

Where the authorities of the Member State in which the driver has his normal residence are different from those which issued his card and where the latter are requested to renew, replace or exchange the driver card, they shall inform the authorities which issued the old card of the precise reasons for its renewal, replacement or exchange.]

Textual Amendments

- F1** Substituted by [Council Regulation \(EC\) No 2135/98 of 24 September 1998 amending Regulation \(EEC\) No 3821/85 on recording equipment in road transport and Directive 88/599/EEC concerning the application of Regulations \(EEC\) No 3820/85 and \(EEC\) No 3821/85.](#)
- F3** Inserted by [Council Regulation \(EC\) No 2135/98 of 24 September 1998 amending Regulation \(EEC\) No 3821/85 on recording equipment in road transport and Directive 88/599/EEC concerning the application of Regulations \(EEC\) No 3820/85 and \(EEC\) No 3821/85.](#)

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- (1) [^{F3}OJ L 57, 2.3.1992, p.27.]
(2) [^{F2}OJ L 80, 23.3.2002, p. 35.]

Textual Amendments

- F2** Substituted by 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 (Text with EEA relevance).
- F3** Inserted by Council Regulation (EC) No 2135/98 of 24 September 1998 amending Regulation (EEC) No 3821/85 on recording equipment in road transport and Directive 88/599/EEC concerning the application of Regulations (EEC) No 3820/85 and (EEC) No 3821/85.

Changes to legislation:

There are currently no known outstanding effects for the Council Regulation (EEC) No 3821/85, CHAPTER IV.