

Transport Act 1968

1968 CHAPTER 73

PART VI

DRIVERS' HOURS

Modifications etc. (not altering text)

- C1** Pt. VI (ss. 95–103) modified by S.I. 1986/1459, arts. 2, 3
- C2** Pt. VI (ss. 95-103) excluded (23.6.1999) by S.I. 1999/1736, art. 8(1)(a)(6)(7)
- C3** Pt. VI modified (16.8.2006) by The Dover Harbour Revision Order 2006 (S.I. 2006/2167), arts. 1(1), 27

95 Vehicles and drivers subject to control under Part VI.

- (1) This Part of this Act shall have effect with a view to securing the observance of proper hours [^{F1}or periods] of work by persons engaged in the carriage of passengers or goods by road and thereby protecting the public against the risks which arise in cases where the drivers of motor vehicles are suffering from fatigue. [^{F2}but the Secretary of State may by regulations make such provision by way of substitution for or adaptation of the provisions of this Part, or supplemental or incidental to this Part, as he considers necessary or expedient to take account of the operation of any relevant [^{F3}EU] provision.
- (1A) Regulations under subsection (1) above may in particular—
- substitute different requirements for the requirements of the domestic drivers' hours code or add to, make exceptions from or otherwise modify any of the requirements of that code;
 - apply to journeys and work to which no relevant [^{F3}EU] provision applies;
 - include provision as to the circumstances in which a period of driving or duty to which a relevant [^{F3}EU] provision or the domestic drivers' hours code applies is to be included or excluded in reckoning any period for purposes of the domestic drivers' hours code or any relevant [^{F3}EU] provision respectively; and

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- (d) may contain such transitional, supplemental or consequential provisions as the Secretary of State thinks necessary or expedient]
- (2) This Part of this Act applies to—
- (a) passenger vehicles, that is to say—
- (i) public service vehicles; and
 - (ii) motor vehicles (other than public service vehicles) constructed or adapted to carry more than twelve passengers;
- (b) goods vehicles, that is to say—
- (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 (except those mentioned in paragraph (a) of this subsection) constructed or adapted to carry goods other than the effects of passengers.
- [^{F4}(c) vehicles not falling within paragraph (a) or (b) of this subsection which—
- (i) are vehicles within the meaning given by Article 4 of the Community Drivers' Hours Regulation; and
 - (ii) are not referred to in Article 3 of that Regulation.]
- (3) This Part of this Act applies to any such person as follows (in this Part of this Act referred to as “a driver”), that is to say—
- (a) a person who drives a vehicle to which this Part of this Act applies in the course of his employment (in this Part of this Act referred to as “an employee-driver”); and
 - (b) a person who drives such a vehicle for the purposes of a trade or business carried on by him (in this Part of this Act referred to as “an owner-driver”);
- and in this Part of this Act references to driving by any person are references to his driving as aforesaid.

Textual Amendments

- F1** Words inserted with saving by [Road Traffic \(Drivers' Ages and Hours of Work\) Act 1976 \(c. 3\)](#), **s. 2(1)(d)**
- F2** Words substituted with saving by [Road Traffic \(Drivers' Ages and Hours of Work\) Act 1976 \(c. 3\)](#), **s. 2(1)(d)(5)**
- F3** Word in Act substituted (22.4.2011) by [The Treaty of Lisbon \(Changes in Terminology\) Order 2011 \(S.I. 2011/1043\)](#), arts. 2, 3, 6 (with arts. 3(2)(3), 4(2), 6(4)(5))
- F4** S. 95(2)(c) substituted (2.7.2007) by [The Community Drivers Hours and Recording Equipment Regulations 2007 \(S.I. 2007/1819\)](#), regs. 1(1), 6

Modifications etc. (not altering text)

- C4** S. 95 applied (with modifications) (S.) (4.1.1995) by [1994 c. 39](#), **s. 40(7)** (with s. 7(2)); [S.I. 1994/2850](#), art. 3(a), **Sch. 2**

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96 Permitted driving time and periods of duty.

- (1) Subject to the provisions of this section, a driver shall not on any working day drive a vehicle or vehicles to which this Part of this Act applies for periods amounting in the aggregate to more than ten hours.
- (2) Subject to the provisions of this section, if on any working day a driver has been on duty for a period of, or for periods amounting in the aggregate to, five and a half hours and—
 - (a) there has not been during that period, or during or between any of those periods, an interval of not less than half an hour in which he was able to obtain rest and refreshment; and
 - (b) the end of that period, or of the last of those periods, does not mark the end of that working day,there shall at the end of that period, or of the last of those periods, be such an interval as aforesaid.
- (3) Subject to the provisions of this section, the working day of a driver—
 - (a) except where paragraph (b) or (c) of this subsection applies, shall not exceed eleven hours;
 - (b) if during that day he is off duty for a period which is, or periods which taken together are, not less than the time by which his working day exceeds eleven hours, shall not exceed twelve and a half hours;
 - (c) if during that day—
 - (i) all the time when he is driving vehicles to which this Part of this Act applies is spent in driving one or more express carriages or contract carriages; and
 - (ii) he is able for a period of not less than four hours to obtain rest and refreshment,shall not exceed fourteen hours.
- (4) Subject to the provision of this section, there shall be, between any two successive working days of a driver, an interval for rest which—
 - (a) subject to paragraph (b) of this subsection, shall not be of less than eleven hours;
 - (b) if during both those days all or the greater part of the time when he is driving vehicles to which this Part of this Act applies is spent in driving one or more passenger vehicles, may, on one occasion in each working week, be of less than eleven hours but not of less than nine and a half hours;and for the purposes of this Part of this Act a period of time shall not be treated, in the case of an employee-driver, as not being an interval for rest by reason only that he may be called upon to report for duty if required.
- (5) Subject to the provisions of this section a driver shall not be on duty in any working week for periods amounting in the aggregate to more than sixty hours.
- (6) Subject to the provisions of this section, there shall be, in the case of each working week of a driver, a period of not less than twenty-four hours for which he is off duty, being a period either falling wholly in that week or beginning in that week and ending in the next week; but—
 - (a) where the requirements of the foregoing provisions of this subsection have been satisfied in the case of any week by reference to a period ending in the

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- next week, no part of that period (except any part after the expiration of the first twenty-four hours of it) shall be taken into account for the purpose of satisfying those requirements in the case of the next week; and
- (b) those requirements need not be satisfied in the case of any working week of a driver who on each working day falling wholly or partly in that week drives one or more stage carriages if that week is immediately preceded by a week in the case of which those requirements have been satisfied as respects that driver or during which he has not at any time been on duty.
- (7) If in the case of the working week of any driver the following requirement is satisfied, that is to say, that, in each of the periods of twenty-four hours beginning at midnight which make up that week, the driver does not drive a vehicle to which this Part of this Act applies for a period of, or periods amounting in the aggregate to, more than four hours, the foregoing provisions of this section shall not apply to him in that week, except that the provisions of subsections (1), (2) and (3) shall nevertheless have effect in relation to the whole of any working day falling partly in that week and partly in a working week in the case of which that requirement is not satisfied.
- (8) If on any working day a driver does not drive any vehicle to which this Part of this Act applies—
- (a) subsections (2) and (3) of this section shall not apply to that day, and
- (b) the period or periods of duty attributable to that day for the purposes of subsection (5) of this section shall, if amounting to more than eleven hours, be treated as amounting to eleven hours only.
- (9) For the purposes of subsections (1) and (7) of this section no account shall be taken of any time spent driving a vehicle elsewhere than on a road if the vehicle is being so driven in the course of operations of agriculture or forestry.
- [^{F5}For the purposes of subsections (1) and (7) of section 96 no account shall be taken of any time spent in driving a goods vehicle elsewhere than on a road if the vehicle is being so driven in the course of [^{F6}operations of quarrying or of] carrying out any work in the construction, reconstruction, alteration, extension or maintenance of, or of a part of, a building, or of any other fixed works of construction or civil engineering (including works for the construction, improvement or maintenance of a road) and, for the purposes of this exemption where the vehicle is being driven on, or on a part of a road in the course of carrying out any work for the improvement or maintenance of, or of that part of, that road, it shall be treated as if it were being driven elsewhere than on a road.]
- (10) For the purpose of enabling drivers to deal with cases of emergency or otherwise to meet a special need, the Minister may by regulations—
- (a) create exemptions from all or any of the requirements of subsections (1) to (6) of this section in such cases and subject to such conditions as may be specified in the regulations;
- (b) empower the traffic [^{F7}commissioner] for any area, subject to the provisions of the regulations—
- (i) to dispense with the observance of all or any of those requirements (either generally or in such circumstances or to such extent as the [^{F7}commissioner thinks] fit) in any particular case for which provision is not made under paragraph (a) of this subsection;
- (ii) to grant a certificate (which, for the purposes of any proceedings under this Part of this Act, shall be conclusive evidence of the

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facts therein stated) that any particular case falls or fell within any exemption created under the said paragraph (a);

and regulations under this subsection may enable any dispensation under paragraph (b)(i) of this subsection to be granted retrospectively and provide for a document purporting to be a certificate granted by virtue of paragraph (b) (ii) of this subsection to be accepted in evidence without further proof.

(11) If any of the requirements of [^{F8}the domestic drivers’ hours code], is contravened in the case of any driver—

- (a) that driver; and
- (b) any other person (being that driver’s employer or a person to whose orders that driver was subject) who caused or permitted the contravention,

shall be liable on summary conviction to a fine not exceeding [^{F9}level 4 on the standard scale]; but a person shall not be liable to be convicted under this subsection if he proved to the court—

- (i) that the contravention was due to unavoidable delay in the completion of a journey arising out of circumstances which he could not reasonably have foreseen; or
- (ii) in the case of a person charged under paragraph (b) of this subsection, that the contravention was due to the fact that the driver had for any particular period or periods driven or been on duty otherwise than in the employment of that person or, as the case may be, otherwise than in the employment in which he is subject to the orders of that person, and that the person charged was not, and could not reasonably have become, aware of that fact.

[^{F10}(11A) Where, in the case of a driver ^{F11} of a motor vehicle, there is ^{F12}... a contravention of any requirement of [^{F13}the applicable Community rules] as to periods of driving, or distance driven, or periods on or off duty, then the offender and [^{F14}the offender’s employer, and any other person to whose orders the offender was subject,] shall be liable on summary conviction to a fine not exceeding [^{F9}level 4 on the standard scale]]

[^{F15}(11B) But a person shall not be liable to be convicted under subsection (11A) if—

- (a) he proves the matters specified in paragraph (i) of subsection (11); or
- (b) being charged as the offender’s employer or a person to whose orders the offender was subject, he proves the matters specified in paragraph (ii) of that subsection][^{F16}; or
- (c) being charged as mentioned in paragraph (b), he proves—
 - (i) that at the time of the contravention he was complying with Article 10(1) (distance-related payments etc) and Article 10(2) (organisation of drivers’ work etc) of the Community Drivers’ Hours Regulation; and
 - (ii) that he took all reasonable steps to avoid the contravention.]

[^{F17}(11C) A person who—

- (a) is subject to the requirement imposed by Article 10(4) of the Community Drivers’ Hours Regulation (undertakings etc to ensure that contractually agreed transport time schedules respect that Regulation); and
- (b) fails to take all reasonable steps to comply with that requirement,

shall be liable on summary conviction to a fine not exceeding level 4 on the standard scale.]

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[^{F18}(11D) If a driver who is subject to the orders of more than one transport undertaking fails, without reasonable excuse, to provide each of them with sufficient information to enable them to avoid a contravention of Chapter 2 of the Community Drivers' Hours Regulation, he shall be liable on summary conviction to a fine not exceeding level 4 on the standard scale.]

(12) The Minister may by order—

- (a) direct that subsection (1) of this section shall have effect with the substitution for the reference to ten hours of a reference to nine hours, either generally or with such exceptions as may be specified in the order;
- (b) direct that paragraph (a) of subsection (3) of this section shall have effect with the substitution for the reference to eleven hours of a reference to any shorter period, or remove, modify or add to the provisions of that subsection containing exceptions to the said paragraph (a);
- (c) remove, modify or add to any of the requirements of subsections (2), (4), (5) or (6) of this section or any of the exemptions provided for by subsections (7), (8) and (9) thereof;

and any order under this subsection may contain such transitional and supplementary provisions as the Minister thinks necessary or expedient, including provisions amending any definition in section 103 of this Act which is relevant to any of the provisions affected by the order.

[^{F19}(13) In this Part of this Act “the domestic driver’s hours code” means the provisions of subsections (1) to (6) of this section as for the time being in force (and, in particular, as modified, added to or substituted by or under any instrument in force under section 95(1) of this Act or subsection (10) or (12) of this section)]

Textual Amendments

- F5** Exemption added by [S.I. 1970/257, art. 4](#)
- F6** Words inserted by [S.I. 1971/818, art. 5\(b\)](#)
- F7** Words substituted by [Transport Act 1985 \(c. 67, SIF 126\), s. 3, Sch. 2 Pt. II para. 1\(2\)](#)
- F8** Words substituted by [Road Traffic \(Drivers' Ages and Hours of Work\) Act 1976 \(c. 3\), s. 2\(1\)\(e\)](#)
- F9** Words substituted by virtue of (E.W.) [Criminal Justice Act 1982 \(c. 48, SIF 39:1\), ss. 38, 46](#) and (S.) [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\), ss. 289F, 289G](#) (as inserted by [Criminal Justice Act 1982 \(c. 48, SIF 39:1\), s. 54](#))
- F10** S. 96(11A) inserted by [European Communities Act 1972 \(c. 68\), Sch. 4 para. 9\(2\)\(a\)](#)
- F11** Words repealed by [S.I. 1986/1457, reg. 2](#)
- F12** Words in s. 96(11A) omitted (2.7.2007) by virtue of [The Community Drivers Hours and Recording Equipment Regulations 2007 \(S.I. 2007/1819\), regs. 1\(1\), 7\(a\)\(i\)](#)
- F13** Words substituted by [Road Traffic \(Drivers' Ages and Hours of Work\) Act 1976 \(c. 3\), s. 2\(1\)\(c\)](#)
- F14** Words in s. 96(11A) substituted (2.7.2007) by [The Community Drivers Hours and Recording Equipment Regulations 2007 \(S.I. 2007/1819\), regs. 1\(1\), 7\(a\)\(ii\)](#)
- F15** S. 96(11B) inserted by [Transport Act 1978 \(c. 55\), s. 10](#)
- F16** S. 96(11B)(c) and preceding word inserted (2.7.2007) by [The Community Drivers Hours and Recording Equipment Regulations 2007 \(S.I. 2007/1819\), regs. 1\(1\), 7\(b\)](#)
- F17** S. 96(11C) inserted (2.7.2007) by [The Community Drivers Hours and Recording Equipment Regulations 2007 \(S.I. 2007/1819\), regs. 1\(1\), 7\(c\)](#)
- F18** S. 96(11D) inserted (5.2.2008) by [The Passenger and Goods Vehicles \(Recording Equipment\) \(Downloading and Retention of Data\) Regulations 2008 \(S.I. 2008/198\), regs. 1\(1\), 4\(a\)](#)
- F19** S. 96(13) added by [Road Traffic \(Drivers' Ages and Hours of Work\) Act 1976 \(c. 3\), s. 2\(1\)\(f\)](#)

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Modifications etc. (not altering text)

- C5 Power to restrict s. 96 conferred by [Energy Act 1976 \(c. 76\)](#), s. 4(2), [Sch. 1 para. 3](#)
- C6 S. 96 applied (with modifications) (S.) (4.1.1995) by [1994 c. 39](#), s. 40(7) (with s. 7(2)); S.I. 1994/2850, art. 3(a), [Sch. 2](#)
- C7 S. 96(1)–(6) excluded by [S.I. 1986/1458](#), [art. 2\(1\)](#)

[^{F20}97 Installation and use of recording equipment.

[No person shall use, or cause or permit to be used, a vehicle to which this section ^{F21}(1) applies

- [unless there is in the vehicle recording equipment which—
- ^{F22}(a)
- (i) has been installed in accordance with the Community Recording Equipment Regulation;
 - (ii) complies with [^{F23}the relevant Annexes] to that Regulation; and
 - (iii) is being used as provided by [^{F24}Articles 13 to 15] of that Regulation;]^{F25}, or]
- ^{F25}(b) [in which there is recording equipment which has been repaired (whether before or after installation) otherwise than in accordance with the Community Recording Equipment Regulation;]

and any person who contravenes this subsection shall be liable on summary conviction to a fine not exceeding [^{F26}level 5] on the standard scale.]

^{F27}(1A) [A person shall not be liable to be convicted under subsection (1) of this section if he proves to the court that he 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 Community Recording Equipment Regulation.]

- (2) A person shall not be liable to be convicted under subsection (1) [^{F28}(a)] of this section if he proves to the court that the vehicle in question was proceeding to a place where recording equipment which would comply with the requirements of [^{F29}substitute “the relevant Annexes to] of the Community Recording Equipment Regulation was to be installed in the vehicle in accordance with that Regulation.
- (3) A person shall not be liable to be convicted under subsection (1) [^{F28}(a)] of this section by reason of the recording equipment installed in the vehicle in question not being in working order if he 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 [^{F30}Article 16(2)] of the Community Recording Equipment Regulation were being complied with.
- (4) A person shall not be liable to be convicted under subsection (1) [^{F28}(a)] of this section by reason of any seal on the recording equipment installed in the vehicle in question not being intact if he 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 [^{F31}Articles 13 to 15] of the Community Recording Equipment Regulation.

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- [A person shall not be liable to be convicted under subsection (1)(a) of this section by ^{F32}(4A) reason of the driver card not being used with the recording equipment installed in the vehicle in question if he proves to the court that—
- (a) the driver card was damaged, malfunctioning, lost or stolen;
 - (b) the requirements of Article 16(2) and, apart from the last paragraph thereof, Article 16(3) of the Community Recording Equipment Regulation were being complied with; and
 - (c) in all other respects the recording equipment was being used as provided by Articles 13 to 15 of that Regulation.]
- (5) For the purposes of this section recording equipment is used as provided by [^{F31}Articles 13 to 15] of the Community Recording Equipment Regulation if, and only if, the circumstances of its use are such that each requirement of those Articles is complied with.
- (6) This section applies at any time to any vehicles to which this Part of this Act applies if, at that time, Article 3 of the Community Recording Equipment Regulation requires recording equipment to be installed and used in that vehicle; and in this section and [^{F33}sections 97B to 97G] of this Act any expression which it is also used in that Regulation has the same meaning as in that Regulation.
- (7) In this Part of this Act—
- [^{F34}“the Community Recording Equipment Regulation” means [Council Regulation \(EEC\) No. 3821/85](#) on recording equipment in road transport as read with the Community Drivers' Hours and Recording Equipment Regulations 2007]
- “recording equipment” means equipment for recording information as to the use of a vehicle.]
- [^{F35}“the relevant Annexes” to the Community Recording Equipment Regulation —
- (a) in the case of a vehicle put into service for the first time before 1st May 2006 means—
 - (i) either Annex I or Annex IB to that Regulation; and
 - (ii) Annex II to that Regulation; and
 - (b) in the case of a vehicle put into service for the first time on or after that date means—
 - (i) Annex IB to that Regulation; and
 - (ii) Annex II to that Regulation.]

Textual Amendments

- F20** Ss. 97, 97A, 97B substituted for s. 97 by [S.I. 1979/1746](#), [reg. 2](#)
- F21** S. 97(1) substituted by [S.I. 1984/144](#), [reg. 2\(1\)](#)
- F22** By [S.I. 1989/2121](#), [art. 2\(2\)](#) it is provided that in s. 97(1) the words from “unless” to the end of paragraph (c) shall become paragraph(a), with paragraphs (a), (b) and (c) becoming sub-paragraphs “(i)”, “(ii)” and “(iii)” of that paragraph
- F23** Words in s. 97(1)(a)(ii) substituted (5.8.2005) by [The Passenger and Goods Vehicles \(Recording Equipment\) Regulations 2005](#) (S.I. 2005/1904), [regs. 1\(1\), 2\(2\)](#)
- F24** Words substituted by [S.I. 1986/1457](#), [reg. 3\(3\)\(a\)](#)
- F25** S. 97(1)(b) and word “or” preceding it inserted by [S.I. 1989/2121](#), [art. 2\(2\)](#)
- F26** Words substituted by [S.I. 1989/2121](#), [art. 2\(2\)](#)

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- F27** S. 97(1A) inserted by S.I. 1989/2121, **art. 2(3)**
- F28** “(a)” inserted by S.I. 1989/2121, **art. 2(4)**
- F29** Words in s. 97(2) substituted (5.8.2005) by [The Passenger and Goods Vehicles \(Recording Equipment\) Regulations 2005 \(S.I. 2005/1904\)](#), regs. 1(1), **2(3)**
- F30** Words substituted by S.I. 1986/1457, **reg. 3(3)(b)**
- F31** Words substituted by S.I. 1986/1457, **reg. 3(3)(a)**
- F32** S. 97(4A) inserted (5.8.2005) by [The Passenger and Goods Vehicles \(Recording Equipment\) Regulations 2005 \(S.I. 2005/1904\)](#), regs. 1(1), **2(4)**
- F33** Words in s. 97(6) substituted (5.2.2008) by [The Passenger and Goods Vehicles \(Recording Equipment\) \(Downloading and Retention of Data\) Regulations 2008 \(S.I. 2008/198\)](#), regs. 1(1), **4(b)**
- F34** Words in s. 97(7) substituted (23.4.2010) by [The Passenger and Goods Vehicles \(Community Recording Equipment Regulation\) Regulations 2010 \(S.I. 2010/892\)](#), **regs. 1, 3(2)(a)**
- F35** Words in s. 97(7) substituted (1.5.2006) by [The Passenger and Goods Vehicles \(Recording Equipment\) \(Fitting Date\) Regulations 2006 \(S.I. 2006/1117\)](#), regs. 1, **2**

Modifications etc. (not altering text)

- C8** S. 97 applied (with modifications) (S.) (4.1.1995) by [1994 c. 39, s. 40\(7\)](#); S.I. 1994/2850, art. 3(a), **Sch. 2**

^{F36}97A Provisions supplementary to section 97.

.....

Textual Amendments

- F36** S. 97A omitted (5.2.2008) by virtue of [The Passenger and Goods Vehicles \(Recording Equipment\) \(Downloading and Retention of Data\) Regulations 2008 \(S.I. 2008/198\)](#), regs. 1(1), **4(c)**

Modifications etc. (not altering text)

- C9** S. 97A applied (with modifications) (S.) (4.1.1995) by [1994 c. 39, s. 40\(7\)](#); S.I. 1994/2850, art. 3(a), **Sch. 2**

PROSPECTIVE

[^{F37}97AA Forgeries, etc of seals on recording equipment

- (1) A person who, with intent to deceive, forges, alters or uses any seal on recording equipment installed in, or designed for installation in, a vehicle to which section 97 of this Act applies, shall be guilty of an offence.
- (2) A person guilty of an offence under subsection (1) above shall be liable—
 - (a) on conviction on indictment, to imprisonment for a term not exceeding two years, or
 - (b) on summary conviction, to a fine not exceeding the statutory maximum.
- (3) In the application of this section to England and Wales a person “forges” a seal if he makes a false seal in order that it may be used as genuine.]

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Textual Amendments

F37 S. 97AA inserted by [S.I. 1989/2121](#), [art. 3](#)

[^{F38}97B

- (1) Where recording equipment is installed in a vehicle to which this Part of this Act applies, any record produced by means of the equipment shall, in any proceedings under this Part of this Act, be evidence, and in Scotland sufficient evidence, of matters appearing from the record.
- (2) Any entry made on a record sheet [^{F39}or print out] by a [^{F40}driver] for the purposes of [^{F41}Article 15(2) or (5) or 16(2)] of the Community Recording Equipment Regulation shall, in any proceedings under this Part of this Act, be evidence, and in Scotland sufficient evidence, of matters appearing from that entry.]

Textual Amendments

F38 Ss. 97, 97A, 97B substituted for s. 97 by [S.I. 1979/1746](#), [reg. 2](#)

F39 Words in s. 97B(2) inserted (5.8.2005) by [The Passenger and Goods Vehicles \(Recording Equipment\) Regulations 2005 \(S.I. 2005/1904\)](#), [regs. 1\(1\), 3](#)

F40 Word substituted by [S.I. 1986/1457](#), [reg. 3\(3\)\(e\)](#)

F41 Words substituted by [S.I. 1986/1457](#), [reg. 3\(3\)\(e\)](#)

Modifications etc. (not altering text)

C10 S. 97B applied (with modifications) (4.1.1995) by [1994 c. 39, s. 40\(7\)](#) (with [s. 7\(2\)](#)); [S.I. 1994/2850](#), [art. 3\(a\)](#), [Sch. 2](#)

[^{F42}97C. **Delivery of record sheets and other documents**

- (1) This section applies to the following documents—
 - (a) record sheets;
 - (b) manual records and printouts made in accordance with the Community Recording Equipment Regulation.
- (2) If such a document relates to a person in his capacity as the driver of a vehicle to which section 97 applies, he must before the end of the delivery period deliver the document to the transport undertaking to whose orders he was subject in driving the vehicle.
- (3) The delivery period is the period of 42 days starting on the day after the latest date to which the document relates.
- (4) A person who without reasonable excuse fails to comply with subsection (2) is liable on summary conviction to a fine not exceeding level 4 on the standard scale.
- (5) If a transport undertaking fails without reasonable excuse to secure that each driver subject to its orders complies with subsection (2), in respect of documents relating to him in his capacity as such a driver, it is liable on summary conviction to a fine not exceeding level 4 on the standard scale.
- (6) If a person is subject to the orders of two or more transport undertakings in driving a vehicle during a period to which a document relates-

Status: This version of this part contains provisions that are prospective.

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Transport Act 1968. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) [View outstanding changes](#)

- (a) subsection (2) has effect as if it were a requirement to deliver that document to the undertaking to whose orders he was first subject in driving the vehicle during that period;
- (b) subsection (5), in relation to that document, applies only to the undertaking to whose orders he was first subject in driving the vehicle during that period.]

Textual Amendments

F42 Ss. 97C-97H inserted (5.2.2008) by [The Passenger and Goods Vehicles \(Recording Equipment\) \(Downloading and Retention of Data\) Regulations 2008 \(S.I. 2008/198\)](#), regs. 1(1), 2

[^{F42}97D. Vehicle units: downloading data

- (1) This section applies where a transport undertaking is required by article 10 of the Community Drivers' Hours Regulation to ensure that data is downloaded from a vehicle unit in a vehicle.
- (2) The undertaking must ensure that relevant data is downloaded from the unit not later than the end of the download period if—
 - (a) it controls the use of the vehicle throughout that period, and
 - (b) it uses the vehicle at some point during that period.
- (3) The download period begins and ends as set out in the following table—

<i>Case</i>	<i>Download period begins</i>	<i>Download period ends</i>
1. The undertaking has not previously downloaded data from the unit under this section	On the first day after the commencement of this section on which the undertaking— <ul style="list-style-type: none">(a) controls the use of the vehicle, and(b) is required by article 10 to ensure that data is downloaded from the unit	On the earlier of— <ul style="list-style-type: none">(a) the expiry of the period of 56 days starting on the first day of the download period;(b) any downloading of the data before the expiry of that period
2. The undertaking uses the vehicle during the period of 56 days starting on the day after the last downloading under this section	On the day after the last downloading under this section	
3. The undertaking does not use the vehicle during the period of 56 days starting on the day after the last downloading under this section	On the first day of the undertaking's use of the vehicle after the last downloading under this section	

- (4) The undertaking must ensure that all relevant data is downloaded from the unit—

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- (a) immediately before transferring control of the use of the vehicle to another person;
 - (b) without delay upon permanently removing the unit from service in the vehicle;
 - (c) without delay upon becoming aware that the unit is malfunctioning;
 - (d) without delay in any circumstances such that the imminent erasure of the data by the unit, in the normal course of its operations, is reasonably foreseeable.
- (5) But subsection (4)(c) does not apply if because of the malfunctioning of the unit it is impossible to download the data.
- (6) For the purposes of this section “relevant data” means any data recorded by the vehicle unit in a vehicle, other than detailed speed data.
- (7) For the purposes of this section and section 97E an undertaking controls the use of a vehicle during any period in which it may determine when, by whom and for what purpose the vehicle may be driven.
- (8) In this section and sections 97E to 97G, “downloaded” is to be construed in accordance with the definition of “downloading” in Annex 1B to the Community Recording Equipment Regulation.]

Textual Amendments

F42 Ss. 97C-97H inserted (5.2.2008) by [The Passenger and Goods Vehicles \(Recording Equipment\) \(Downloading and Retention of Data\) Regulations 2008 \(S.I. 2008/198\)](#), regs. 1(1), 2

[^{F42}97E. Driver cards: downloading data

- (1) This section applies where a transport undertaking is required by article 10 of the Community Drivers' Hours Regulation to ensure that data is downloaded from a driver card issued to a driver.
- (2) The undertaking must ensure that all data is downloaded from the card not later than the end of the download period.
- (3) The download period begins and ends as set out in the following table—

<i>Case</i>	<i>Download period begins</i>	<i>Download period ends</i>
1. The undertaking has not previously downloaded data from the card under this section	On the first day after the commencement of this section on which— (a) the driver drives for the undertaking, and (b) the undertaking is required by article 10 to ensure that data is downloaded from the card	On the earlier of— (a) the expiry of the period of 28 days starting on the first day of the download period; (b) any downloading of the data before the expiry of that period
2. The undertaking has previously downloaded data from the card under this section	On the first day on which the driver drives for the undertaking after the last	

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<i>Case</i>	<i>Download period begins</i>	<i>Download period ends</i>
	downloading under this section	

- (4) The undertaking must ensure that the data is downloaded from the card—
- immediately before the driver ceases to be employed by the undertaking as a driver, or otherwise to carry out work for the undertaking as a driver;
 - without delay upon becoming aware that the card has been damaged or is malfunctioning;
 - without delay in any circumstances such that the imminent erasure of the data, in the normal course of use of the card, is reasonably foreseeable;
 - if it is not possible to do so other than by means of a vehicle unit installed in a vehicle, immediately before ceasing to control the use of that vehicle.
- (5) But subsection (4)(b) does not apply if because of the damage to the card or its malfunctioning it is impossible to download the data.]

Textual Amendments

F42 Ss. 97C-97H inserted (5.2.2008) by [The Passenger and Goods Vehicles \(Recording Equipment\) \(Downloading and Retention of Data\) Regulations 2008 \(S.I. 2008/198\)](#), regs. 1(1), 2

[^{F42}97F. Downloading data: requirement imposed by an officer

- (1) This section applies where—
- an officer has reason to believe that an offence under this Part of this Act or under the Traffic Acts has been committed in respect of the use of a vehicle, and
 - article 10(5) of the Community Drivers' Hours Regulation applies to a transport undertaking in respect of the vehicle unit in the vehicle or a driver card issued to a person who has driven the vehicle.
- (2) The officer may, on production if so required of his authority, require the undertaking without delay—
- to download data from the vehicle unit or driver card;
 - to permit him to inspect or copy the downloaded data.
- (3) In this section—
- “download” is to be construed in accordance with the definition of “downloading” in Annex 1B to the Community Recording Equipment Regulation;
 - “the Traffic Acts” has the meaning given in section 192(1) of the Road Traffic Act 1988.]

Textual Amendments

F42 Ss. 97C-97H inserted (5.2.2008) by [The Passenger and Goods Vehicles \(Recording Equipment\) \(Downloading and Retention of Data\) Regulations 2008 \(S.I. 2008/198\)](#), regs. 1(1), 2

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[^{F42}97G. Downloading and retaining data: offences

- (1) A transport undertaking commits an offence if, without reasonable excuse, it fails to comply with section 97D or 97E, or with a requirement imposed under section 97F.
- (2) A transport undertaking commits an offence if, without reasonable excuse, it fails to comply with any requirement imposed by article 10 of the Community Drivers' Hours Regulation in respect of the retention of data downloaded in accordance with section 97D to 97F.
- (3) An offence under this section is punishable on summary conviction with a fine not exceeding level 5 on the standard scale.]

Textual Amendments

F42 Ss. 97C-97H inserted (5.2.2008) by [The Passenger and Goods Vehicles \(Recording Equipment\) \(Downloading and Retention of Data\) Regulations 2008 \(S.I. 2008/198\)](#), regs. 1(1), 2

[^{F42}97H. Access to downloaded data

- (1) An officer may, on production if so required of his authority, require a person to make readily accessible to him, either on or from premises occupied or controlled by the person in question, that person's retained data.
- (2) Any person who without reasonable excuse fails to comply with a requirement under subsection (1) is liable on summary conviction to a fine not exceeding level 5 on the standard scale.
- (3) For the purposes of subsection (1), data is a person's "retained data" if he is required by article 10 of the Community Drivers' Hours Regulation to retain it for at least 12 months following its recording.]

Textual Amendments

F42 Ss. 97C-97H inserted (5.2.2008) by [The Passenger and Goods Vehicles \(Recording Equipment\) \(Downloading and Retention of Data\) Regulations 2008 \(S.I. 2008/198\)](#), regs. 1(1), 2

98 Written records.

- (1) The Minister may make regulations—
 - (a) for requiring drivers to keep, and employers of employee-drivers to cause to be kept, in such books as may be specified in the regulations records with respect to such matters relevant to the enforcement of this Part of this Act as may be so specified; and
 - (b) for requiring owner-drivers and the employers of employee-drivers to maintain such registers as may be so specified with respect to any such books as aforesaid which are in their possession or in that of any employee-drivers in their employment.
- (2) Regulations under this section may contain such supplementary and incidental provisions [^{F43}including provisions supplementary and incidental to the requirements

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of [^{F44}the applicable Community rules] as to [^{F45}books, records or documents]] as the Minister thinks necessary or expedient, including in particular provisions—

- (a) specifying the person or persons from whom books and registers required for the purposes of the regulations [^{F43}or of [^{F44}the applicable Community rules]] are to be obtained and, if provision is made for them to be obtained from the Minister, charging a fee for their issue by him (which shall be payable into the Consolidated Fund);
- (b) as to the form and manner of making of entries in such books and registers;
- (c) as to the issue by and return to the employers of employee-drivers of books required to be kept by the latter for the purposes of the regulations;
- (d) requiring any book in current use for the purposes of the regulations to be carried on, or by the driver of, any vehicle, as to the preservation of any books and registers used for those purposes, and otherwise as to the manner in which those books and registers are to be dealt with;
- (e) for exemptions from all or any of the requirements of the regulations in respect of drivers of small goods vehicles as defined in section 103(6) of this Act and for other exemptions from all or any of those requirements.

[^{F46}(2A) The requirements of regulations made under this section shall not apply as respects the driving of a vehicle to which section 97 of this Act applies and [^{F47}which is installed with recording equipment complying with the relevant Annexes (within the meaning of that section)].]

(3) Subject to the provisions of any regulations made by the Minister, the traffic [^{F48}commissioner] for any area may dispense with the observance by any employee-driver or his employer, or by any owner-driver, of any requirement imposed under this section, either generally or in such circumstances or to such extent as the [^{F49}commissioner thinks] fit, but the traffic [^{F48}commissioner] shall not grant such a dispensation unless satisfied that it is not reasonably practicable for the requirement dispensed with to be observed.

(4) Any person who contravenes any regulations made under this section [^{F50}or any requirement as to [^{F45}books, records or documents] of [^{F44}the applicable Community rules]] shall be liable on summary conviction to a fine not exceeding [^{F51}level 4 on the standard scale], but the employer of an employee-driver shall not be liable to be convicted under this subsection by reason of contravening any such regulation whereby he is required to cause any records to be kept if he proved to the court that he has given proper instructions to his employees with respect to the keeping of the records and has from time to time taken reasonable steps to secure that those instructions are being carried out.

[^{F52}(4A) A person shall not be liable to be convicted under subsection (4) of this section by reason of contravening any regulation made under this section if he proves to the court that, if the vehicle in question had been such a vehicle as is mentioned in subsection (2A) of this section, there would have been no contravention of the provisions of this Part of this Act so far as they relate to the use of such vehicles.]

(5) Any entry made by an employee-driver for the purposes of regulations under this section [^{F50}or of [^{F44}the applicable Community rules]] shall, in any proceedings under this Part of this Act, be admissible in evidence against his employer.

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Textual Amendments

- F43** Words inserted by [European Communities Act 1972 \(c. 68\), Sch. 4 para. 9\(2\)\(c\)](#)
- F44** Words substituted by [Road Traffic \(Drivers' Ages and Hours of Work\) Act 1976 \(c. 3\), s. 2\(1\)\(c\)](#)
- F45** Words substituted by [Road Traffic \(Drivers' Ages and Hours of Work\) Act 1976 \(c. 3\), s. 2\(1\)\(g\)](#)
- F46** S. 98(2A) inserted by [S.I. 1979/1746, reg. 3\(1\)](#)
- F47** Words in s. 98(2A) substituted (5.8.2005) by [The Passenger and Goods Vehicles \(Recording Equipment\) Regulations 2005 \(S.I. 2005/1904\), regs. 1\(1\), 4](#)
- F48** Word substituted by [Transport Act 1985 \(c. 67, SIF 126\), s. 3, Sch. 2 Pt. II para. 1\(3\)](#)
- F49** Words substituted by [Transport Act 1985 \(c. 67, SIF 126\), s. 3, Sch. 2 Pt. II para. 1\(3\)](#)
- F50** Word inserted by [European Communities Act 1972 \(c. 68\), Sch. 4 para. 9\(2\)\(a\)](#)
- F51** Words substituted by virtue of (E.W.) [Criminal Justice Act 1982 \(c. 48, SIF 39:1\), ss. 38, 46](#) and (S.) [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\), ss. 289F, 289G](#) (as inserted by [Criminal Justice Act 1982 \(c. 48, SIF 39:1\), s. 54](#))
- F52** S. 98(4A) inserted by [S.I. 1979/1746, reg. 3\(3\)\(b\)](#)

Modifications etc. (not altering text)

- C11** S. 98 applied (with modifications) (S.) (4.1.1995) by [1994 c. 39, s. 40\(7\)](#) (with s. 7(2)); [S.I. 1994/2850, art. 3\(a\), Sch. 2](#)

99 Inspection of records and other documents.

- (1) An officer may, on production if so required of his authority, require any person to produce, and permit him to inspect and copy—
- (a) any book or register which that person is required by regulations under section 98 of this Act to carry or have in his possession for the purpose of making in it any entry required by those regulations or which is required under those regulations to be carried on any vehicle of which that person is the driver;
 - (b) any ^{F53} book or register which that person is required by regulations under section ^{F53} 98 of this Act to preserve;
 - ^{F54}(bb)
 - (c) if that person is the owner of a vehicle to which this Part of this Act applies, any other document of that person which the officer may reasonably acquire to inspect for the purpose of ascertaining whether the provisions of this Part of this Act or of regulations made thereunder have been complied with;
 - ^{F55}(d)
- and that ^{F56}, book, register or document shall, if the officer so requires by notice in writing served on that person, be produced at the office of the traffic [^{F57} commissioner] specified in the notice within such time (not being less than ten days) from the service of the notice as may be so specified.
- (2) An officer may, on production if so required of his authority—
- ^{F58}(a) at any time, enter any vehicle to which this Part of this Act applies and inspect that vehicle and any recording equipment installed in it and inspect and copy any record sheet on the vehicle on which a record has been produced by means of the equipment or an entry has been made;
 - (b) 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 [^{F59} record sheets], books, registers or other documents as

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are mentioned in subsection (1) of this section are to be found, and inspect any such vehicle, and inspect and copy any such record [^{F60}sheet], book, register or document, which he finds there.

(3) For the purpose of exercising his powers under subsection (2)(a) and, in respect of a document carried on, or by the driver of, a vehicle, under subsection (1)(a) ^{F61}... of this section, an officer 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 subsection (1) of this section; or
- (b) obstructs an officer in the exercise of his powers under subsection (2) or (3) of this section,

shall be liable on summary conviction to a fine not exceeding [^{F62}level 3 on the standard scale].

^{F63}(4A) A person shall not be liable to be convicted under subsection (4) of this section by reason of failing to comply with any requirement under subsection (1)(a) or (b) of this section if he proves to the court that, if the vehicle in question had been such a vehicle as is mentioned in section 98(2A) of this Act, there would have been no contravention of the provisions of this Part of this Act so far as they relate to the use of such vehicles.]

(5) Any person who makes, or causes to be made, ^{F64}...any entry in a [^{F65}book, register or document kept or carried] for the purposes of regulations under section 98 thereof ^{F64}... 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 two years.

(6) If an officer has reason to believe that an offence under subsection (5) of this section has been committed in respect of any record or document inspected by him under this section, he may seize that record or document; and where a record or document is seized as aforesaid and within six 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 document under that subsection and the record or document has not been returned to the person from whom it was taken, a magistrate's court shall, on an application made for the purpose by that person or by an officer, make such order respecting the disposal of the record or document and award such costs as the justice of the case may require.

(7) Any proceedings in Scotland under subsection (6) of this section shall be taken by way of summary application in the sheriff court; and in the application of that subsection to Scotland references to costs shall be construed as references to expenses.

(8) [^{F66}In this Part of this Act] “officer” means [^{F67}an examiner appointed under section 66A of the Road Traffic Act 1988] and any person authorised for the purposes [^{F68}of this Part] by the traffic [^{F69}commissioner] for any area.

(9) The powers conferred by [^{F70}this Part of this Act on an officer] shall be exercisable also by a police constable, who shall not, if wearing uniform, be required to produce any authority.

(10) In this section references to the inspection and copying of any record produced by means of [^{F71}recording equipment installed] in a vehicle include references to the

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application to the record of any process for eliciting the information recorded thereby and to taking down the information elicited from it.

[^{F72}(11) Subsections (1) to (7) and (10) do not apply in respect of vehicles to which section 97 of this Act applies.]

Textual Amendments

- F53** Words repealed by S.I. 1979/1746, reg. (3)(3)(a)
- F54** S. 99(1)(bb) omitted (5.8.2005) by virtue of The Passenger and Goods Vehicles (Recording Equipment) Regulations 2005 (S.I. 2005/1904), regs. 1(1), **5(2)(a)**
- F55** S. 99(1)(d) omitted (5.8.2005) by virtue of The Passenger and Goods Vehicles (Recording Equipment) Regulations 2005 (S.I. 2005/1904), regs. 1(1), **5(2)(b)**
- F56** Words in s. 99(1) omitted (5.8.2005) by virtue of The Passenger and Goods Vehicles (Recording Equipment) Regulations 2005 (S.I. 2005/1904), regs. 1(1), **5(2)(c)**
- F57** Word substituted by Transport Act 1985 (c. 67, SIF 126), s.3, **Sch. 2 Pt. II para. 1(4)**
- F58** S. 99(2)(a) substituted by S.I. 1979/1746, **reg. 3(4)(a)**
- F59** Words substituted by S.I. 1979/1746, **reg. 3(4)(b)**
- F60** Word inserted by S.I. 1979/1746, **reg. 3(4)(b)**
- F61** Words in s. 99(3) omitted (5.8.2005) by virtue of The Passenger and Goods Vehicles (Recording Equipment) Regulations 2005 (S.I. 2005/1904), regs. 1(1), **5(3)**
- F62** Words substituted by virtue of (E.W.) Criminal Justice Act 1982 (c. 48, SIF 39:1), **ss. 38, 46** and (S.) Criminal Procedure (Scotland) Act 1975 (c. 21, SIF 39:1), **ss. 289F, 289G** (as inserted by Criminal Justice Act 1982 (c. 48, SIF 39:1), **s. 54**)
- F63** S. 99(4A) inserted by S.I. 1979/1746, **reg. 3(5)**
- F64** Words in s. 99(5) omitted (5.8.2005) by virtue of The Passenger and Goods Vehicles (Recording Equipment) Regulations 2005 (S.I. 2005/1904), regs. 1(1), **5(4)**
- F65** Words substituted by Road Traffic (Drivers' Ages and Hours of Work) Act 1976 (c. 3), **s. 2(1)(h)**
- F66** Words in s. 99(8) substituted (5.8.2005) by The Passenger and Goods Vehicles (Recording Equipment) Regulations 2005 (S.I. 2005/1904), regs. 1(1), **5(5)(a)**
- F67** Words in s. 99(8) substituted (1.7.1992) by Road Traffic Act 1991 (c. 40), s. 48, **Sch. 4 para.2**; S.I. 1992/1286, **art. 2**, Sch.
- F68** Words in s. 99(8) substituted (5.8.2005) by The Passenger and Goods Vehicles (Recording Equipment) Regulations 2005 (S.I. 2005/1904), regs. 1(1), **5(5)(b)**
- F69** Word substituted by Transport Act 1985 (c. 67, SIF 126), s. 3, **Sch. Pt. II para. 1(4)**
- F70** Words in s. 99(9) substituted (5.8.2005) by The Passenger and Goods Vehicles (Recording Equipment) Regulations 2005 (S.I. 2005/1904), regs. 1(1), **5(6)**
- F71** Words in s. 99(10) substituted (5.8.2005) by The Passenger and Goods Vehicles (Recording Equipment) Regulations 2005 (S.I. 2005/1904), regs. 1(1), **5(7)**
- F72** S. 99(11) inserted (5.8.2005) by The Passenger and Goods Vehicles (Recording Equipment) Regulations 2005 (S.I. 2005/1904), regs. 1(1), **5(8)**

Modifications etc. (not altering text)

- C12** S. 99 amended by Road Traffic (Foreign Vehicles) Act 1972 (c. 27), s. 1, **Sch. 1**
- C13** S. 99 applied (with modifications) (S.) (4.1.1995) by 1994 c. 39, **s. 40(7)** (with s. 7(2)); S.I. 1994/2850, art. 3(a), **Sch. 2**

Commencement Information

- I1** S. 99(1)-(9) in force at 1.9.2003 in so far as not already in force by S.I. 2003/1985, **art. 2**
- I2** S. 99(10) in force at 1.9.2003 by S.I. 2003/1985, **art. 2**

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[^{F73}99ZA] **Inspection of records and other documents and data relating to recording equipment**

- (1) An officer may, on production if so required of his authority, require any person to produce, and permit him to inspect, remove, retain and copy—
 - (a) if that person is the owner of a vehicle to which section 97 applies, any document of that person which the officer may reasonably require to inspect for the purpose of ascertaining whether the provisions of this Part of this Act have been complied with;
 - (b) any record sheet or hard copy of electronically stored data which that person is required by the Community Recording Equipment Regulation to retain or to be able to produce;
 - (c) any book, register or other document required by the applicable Community Rules or which the officer may reasonably require to inspect for the purpose of ascertaining whether the requirements of the applicable Community rules have been complied with.
- (2) An officer may, on production if so required of his authority, require any person—
 - (a) to produce and permit him to inspect any driver card which that person is required by Article 15(7) of the Community Recording Equipment Regulation to be able to produce; and
 - (b) to permit the officer to copy the data stored on the driver card (and to remove temporarily the driver card for the purpose of doing so) and to remove and retain the copy.
- (3) If the officer so requires by notice in writing, anything that a person is required to produce under subsection (1) or (2) of this section shall, instead of being produced when the requirement under those subsections is imposed, be produced at an address specified in the notice, within such time (not being less than ten days) from the service of the notice as is so specified.
- (4) Where a notice is served under subsection (3) of this section, the officer may exercise his powers under this section at the place specified in the notice.
- (5) In this Part of this Act any reference to copying data stored on a driver card or on digital recording equipment includes a reference to making a hard copy or an electronic copy of the data (and any reference to copies of data shall be construed accordingly).
- (6) In this Part of this Act—
 - “digital recording equipment” means recording equipment that complies with Annex IB to the Community Recording Equipment Regulation;
 - “driver card” has the meaning given in that Annex;
 - “electronic copy” of data means a copy of data stored electronically together with the data’s digital signature (within the meaning of that Annex);
 - “hard copy” in relation to data stored electronically means a printed out version of the data.

[^{F73}99ZB] **Power of entry**

- (1) An officer may, on production if so required of his authority, at any time enter any vehicle to which section 97 of this Act applies in order to inspect that vehicle and any recording equipment in or on it.
- (2) Where any officer enters any vehicle under subsection (1) of this section he may—

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- (a) inspect, remove, retain and copy any record sheet that he finds there on which a record has been produced by means of analogue recording equipment or on which an entry has been made;
 - (b) inspect, remove, retain and copy any hard copy of data that he finds there which was stored on any digital recording equipment or on a driver card;
 - (c) inspect, remove, retain and copy any other document that he finds there which the officer may reasonably require to inspect for the purpose of ascertaining whether the requirements of the applicable Community rules have been complied with;
 - (d) inspect any driver card that he finds there, copy the data stored on it (using any digital recording equipment in or on the vehicle or temporarily removing the driver card for the purpose of copying the data) and remove and retain the copy;
 - (e) copy data stored on any digital recording equipment that is in or on the vehicle and remove and retain that copy;
 - (f) inspect any recording equipment that is in or on the vehicle and, if necessary for the purposes of the inspection, remove it from the vehicle;
 - (g) retain the recording equipment as evidence if he finds that it has been interfered with;
 - (h) inspect the vehicle for the purpose of ascertaining whether there is in or on the vehicle any device which is capable of interfering with the proper operation of any recording equipment in or on the vehicle;
 - (i) inspect anything in or on the vehicle which he believes is such a device and, if necessary for the purpose of the inspection, remove it from the vehicle;
 - (j) retain the device as evidence if he finds that it is capable of interfering with the proper operation of the recording equipment.
- (3) Where any officer who is an examiner appointed under section 66A of the Road Traffic Act 1988, or any constable, enters any vehicle under subsection (1) of this section, he may, if he has reason to believe that—
- (a) any recording equipment in or on the vehicle has been interfered with so as to affect its proper operation, or
 - (b) there is in or on the vehicle any device which is capable of interfering with the proper operation of any recording equipment in or on the vehicle,
- require the driver or operator of the vehicle to take it to an address specified by the officer or constable for the purposes of enabling an inspection of the recording equipment, the vehicle or any device in or on it to be carried out.
- (4) An officer may, on production if so required of his authority, 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—
- (a) a vehicle to which section 97 of this Act applies is kept;
 - (b) any such document as is mentioned in section 99ZA(1) of this Act is to be found;
 - (c) any driver card or copy of data previously stored on a driver card or on recording equipment is to be found; or
 - (d) any digital recording equipment is to be found.
- (5) Where any officer enters any premises under subsection (4) of this section he may—
- (a) inspect any vehicle which he finds there and to which section 97 of this Act applies;

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- (b) inspect, remove, retain and copy any such document as is mentioned in section 99ZA(1) of this Act that he finds there;
 - (c) make a copy of any such copy of data as is mentioned in subsection (4)(c) of this section that he finds there, and remove and retain the copies he makes;
 - (d) inspect any driver card that he finds there, copy the data stored on it (using any digital recording equipment on the premises or temporarily removing the driver card for the purpose of copying the data) and remove and retain the copy;
 - (e) copy data stored on any digital recording equipment that he finds there and remove and retain that copy;
 - (f) inspect any recording equipment that he finds there and, if necessary for the purposes of inspection, remove it from the premises;
 - (g) retain any such recording equipment as evidence if he finds that it has been interfered with;
 - (h) inspect anything that he finds there which he believes is a device capable of interfering with the proper operation of any recording equipment and, if necessary for the purpose of the inspection, remove it from the premises;
 - (i) retain any such device as evidence if he finds that it is capable of interfering with the proper operation of recording equipment.
- (6) For the purposes of—
- (a) exercising any of his powers under this section in relation to a vehicle or anything found in or on a vehicle, or
 - (b) exercising any of his powers under section 99ZA(1) or (2) of this Act in respect of a document or driver card carried by the driver of a vehicle,
- an officer may detain the vehicle during such time as is required for the exercise of that power.
- (7) If—
- (a) at the time when a requirement is imposed under subsection (3) of this section the vehicle is more than five miles from the address specified by the officer or constable to which the vehicle is to be taken; and
 - (b) the Community Recording Equipment Regulation is found not to have been contravened in relation to the recording equipment, the vehicle or any device in or on it;
- the relevant person must pay, in respect of loss occasioned, such amount as in default of agreement may be determined by a single arbitrator (in Scotland, arbiter) agreed upon by the parties or, in default of agreement, appointed by the Secretary of State.
- (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, the Secretary of State, and
 - (b) if the requirement was imposed by a constable, the chief officer of police for the police area in which the requirement was imposed.
- (9) In this Part of this Act “analogue recording equipment” means recording equipment that complies with Annex I to the Community Recording Equipment Regulation.

[^{F73}99ZC Sections 99ZA and 99ZB: supplementary

- (1) Where an officer makes any hard copy of data stored on a driver card or on recording equipment under section 99ZA or 99ZB of this Act he may require a person to sign

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the hard copy (if necessary with manual corrections) to confirm that it is a true and complete record of his activities during the period covered by it.

- (2) Any record sheet, book, register, other document or any electronic copy of data that is retained by an officer under section 99ZA or 99ZB of this Act may only be retained—
 - (a) for six months; and
 - (b) if it is required as evidence in any proceedings, any further period during which it is so required.
- (3) In sections 99ZA and 99ZB of this Act references to the inspection and copying of any record produced by means of equipment in or on a vehicle include references to the application to the record of any process for eliciting the information recorded by it and to taking down the information elicited from it.

[^{F73}99ZD Offence of failing to comply with requirements or obstructing an officer

- (1) A person commits an offence if he—
 - (a) fails without reasonable excuse to comply with any requirement imposed on him by an officer under any of sections 99ZA to 99ZC of this Act; or
 - (b) obstructs an officer in the exercise of his powers under section 99ZB or 99ZF of this Act.
- (2) A person guilty of an offence under subsection (1) of this section is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

[^{F73}99ZE Offences: false records and data etc.

- (1) A person commits an offence—
 - (a) if he makes, or causes or permits to be made, a relevant record or entry which he knows to be false;
 - (b) if, with intent to deceive, he alters, or causes or permits to be altered, a relevant record or entry;
 - (c) if he destroys or suppresses, or causes or permits to be destroyed or suppressed, a relevant record or entry; or
 - (d) if he fails without reasonable excuse to make a relevant record or entry, or causes or permits such a failure.
- (2) For the purposes of subsection (1) of this section a “relevant record or entry” is—
 - (a) any record or entry required to be made by or for the purposes of the Community Recording Equipment Regulation or section 97 of this Act; or
 - (b) any entry in a book, register or document kept or carried for the purposes of the applicable Community rules.
- (3) A person commits an offence—
 - (a) if he records or causes or permits to be recorded any data which he knows to be false on recording equipment or on a driver card;
 - (b) if he records or causes or permits to be recorded any data which he knows to be false on any hard copy of data previously stored on recording equipment or on a driver card;
 - (c) if, with intent to deceive, he alters, or causes or permits to be altered, any data stored on recording equipment or on a driver card or appearing on any copy of data previously so stored;
 - (d) if, with intent to deceive, he produces anything falsely purporting to be a hard copy of data stored on recording equipment or on a driver card;

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- (e) if he destroys or suppresses, or causes or permits to be destroyed or suppressed, any data stored in compliance with the requirements of the applicable Community rules on recording equipment or on a driver card; or
 - (f) if he fails without reasonable excuse to record any data on recording equipment or on a driver card, or causes or permits such a failure.
- (4) A person guilty of an offence under subsection (1) or (3) of this section consisting otherwise than in permitting an act or omission is liable—
- (a) on summary conviction, to a fine not exceeding the statutory maximum; or
 - (b) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine, or to both.
- (5) A person guilty of an offence under subsection (1) or (3) of this section consisting in permitting an act or omission is liable on summary conviction to a fine not exceeding level 5 on the standard scale.
- (6) A person commits an offence if he produces, supplies or installs any device—
- (a) that is designed to interfere with the proper operation of any recording equipment, or
 - (b) that is designed to enable the falsification, alteration, destruction or suppression of data stored in compliance with requirements of the applicable Community Rules on any recording equipment or driver's card.
- (7) A person commits an offence if without reasonable excuse he provides information which would assist other persons in producing any such device.
- (8) A person shall not be liable to be convicted under subsection (6) or (7) of this section if he proves to the court that he produced, supplied or installed the device, or provided information to assist a person in producing a device, for use in connection with the enforcement of the provisions of this Part of this Act.
- (9) A person guilty of an offence under subsection (6) or (7) of this section is liable on summary conviction to a fine not exceeding level 5 on the standard scale.
- (10) For the purposes of this section, a person shall be taken to permit an act or omission if he is, or ought reasonably to be, aware of the act or omission, or of it being a likelihood, and takes no steps to prevent it.

[^{F73}99ZF Power to seize documents

- (1) If an officer has reason to believe that an offence under section 99ZE of this Act has been committed in respect of any document inspected by him under section 99ZA or 99ZB of this Act, he may seize that document.
- (2) Where a document is so seized, a magistrates' court shall, on an application made for the purpose by that person or by an officer, make such order respecting the disposal of the document and award such costs as the justice of the case may require if—
 - (a) within six months of the date on which it was seized no person has been charged since that date with an offence under section 99ZE of this Act in relation to that document; and
 - (b) the document has not been returned to the person from whom it was taken.
- (3) Any proceedings in Scotland under subsection (2) of this section shall be taken by way of summary application in the sheriff court.

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In the application of that subsection to Scotland the reference to costs shall be construed as a reference to expenses.]

Textual Amendments

F73 Ss. 99ZA-99ZF inserted (5.8.2005) by [The Passenger and Goods Vehicles \(Recording Equipment\) Regulations 2005 \(S.I. 2005/1904\)](#), regs. 1(1), 6

[^{F74}99ZG Power to stop

- (1) Subsection (2) applies if a vehicle appears to a stopping officer to be one to which this Part could apply.
- (2) The officer may direct the driver to stop the vehicle for the purpose of enabling a Part 6 officer to exercise powers under this Part.
- (3) In this section—
 - “Part 6 officer” means an officer as defined in section 99(8);
 - “stopping officer” means an officer appointed under section 66B of the Road Traffic Act 1988.]

Textual Amendments

F74 S. 99ZG inserted (30.3.2011) by [The Road Vehicles \(Powers to Stop\) Regulations 2011 \(S.I. 2011/996\)](#), reg. 4(2)

[^{F75}99A Power to prohibit driving of vehicle.

- (1) If—
 - (a) the driver of a UK vehicle obstructs an authorised person in the exercise of his powers under subsection (2) or (3) of section 99 [^{F76}or under section 99ZB] of this Act or fails to comply with any requirement made by an authorised person under subsection (1) of [^{F77}section 99 or under any of sections 99ZA to 99ZC of this Act],
 - (b) it appears to an authorised person that, in relation to a UK vehicle or its driver, there has been a contravention of any of the provisions of—
 - (i) sections 96 to 98 of this Act and any orders or regulations under those sections, or
 - (ii) the applicable Community rules,
 or that there will be such a contravention if the vehicle is driven on a road, or
 - (c) it appears to an authorised person that an offence under section 99(5) [^{F78}or section 99ZE] of this Act has been committed in respect of a UK vehicle or its driver,
 the authorised person may prohibit the driving of the vehicle on a road either for a specified period or without limitation of time.
- (2) Where an authorised person prohibits the driving of a vehicle under this section, he may also direct the driver to remove the vehicle (and, if it is a motor vehicle drawing a trailer, also to remove the trailer) to such place and subject to such conditions as

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are specified in the direction; and the prohibition shall not apply to the removal of the vehicle in accordance with that direction.

- (3) On imposing a prohibition under subsection (1) of this section, the authorised person shall give notice in writing of the prohibition to the driver of the vehicle, specifying the circumstances (as mentioned in paragraph (a), (b) or (c) of that subsection) in consequence of which the prohibition is imposed and stating whether it is imposed only for a specified period (and if so specifying the period) or without limitation of time.
- (4) Any direction under subsection (2) of this section may be given—
- (a) in the notice under subsection (3) of this section, or
 - (b) in a separate notice in writing given to the driver of the vehicle.
- (5) In this section—
- “authorised person” means—
 - (a) an examiner appointed by the Secretary of State under section 66A of the ^{M1}Road Traffic Act 1988, or
 - (b) a constable authorised to act for the purposes of this section by or on behalf of a chief officer of police;
 - “UK vehicle” means a vehicle registered under the ^{M2}Vehicle Excise and Registration Act 1994.

[Schedule 4 to the Road Safety Act 2006 makes provision about the immobilisation of ^{F79}(6) vehicles the driving of which has been prohibited under subsection (1) of this section and about their removal and disposal.]]

Textual Amendments

- F75** Ss. 99A-99C inserted (1.2.2001) by 2000 c. 38, s. 266; S.I. 2001/57, art. 3, Sch. 2 Pt. I (subject to transitional provision and saving in Sch. 2 Pt. II)
- F76** Words in s. 99A(1)(a) inserted (5.8.2005) by The Passenger and Goods Vehicles (Recording Equipment) Regulations 2005 (S.I. 2005/1904), regs. 1(1), 7(2)(a)
- F77** Words in s. 99A(1)(a) substituted (5.8.2005) by The Passenger and Goods Vehicles (Recording Equipment) Regulations 2005 (S.I. 2005/1904), regs. 1(1), 7(2)(b)
- F78** Words in s. 99A(1)(c) inserted (5.8.2005) by The Passenger and Goods Vehicles (Recording Equipment) Regulations 2005 (S.I. 2005/1904), regs. 1(1), 7(3)
- F79** S. 99A(6) inserted (5.1.2009) by Road Safety Act 2006 (c. 49), ss. 12(1), 61(1)(10); S.I. 2008/3164, art. 2(c)

Marginal Citations

- M1** 1988 c. 52.
M2 1994 c. 22.

^{F80}99B Duration and removal of prohibition.

- (1) Subject to any exemption granted under subsection (2) of this section, a prohibition under subsection (1) of section 99A of this Act shall come into force as soon as notice of it has been given in accordance with subsection (3) of that section and shall continue in force—
- (a) until it is removed under subsection (3) of this section, or

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- (b) in the case of a prohibition imposed for a specified period, until it is removed under that subsection or that period expires, whichever first occurs.
- (2) Where notice of a prohibition has been given under section 99A(3) of this Act in respect of a vehicle, an exemption in writing for the use of the vehicle in such manner, subject to such conditions and for such purposes as may be specified in the exemption may be granted by any authorised person.
- (3) A prohibition under section 99A(1) of this Act may be removed by any authorised person, if he is satisfied that appropriate action has been taken to remove or remedy the circumstances (as mentioned in paragraph (a), (b) or (c) of section 99A(1) of this Act) in consequence of which the prohibition was imposed; and on doing so the authorised person shall give notice in writing of the removal of the prohibition to the driver of the vehicle.
- (4) In this section, “authorised person” has the same meaning as in section 99A of this Act.

Textual Amendments

F80 Ss. 99A-99C inserted (1.2.2001) by 2000 c. 38, s. 266; S.I. 2001/57, art. 3, Sch. 2 Pt. I (subject to transitional provision and saving in Sch. 2 Pt. II)

^{F81}99C Failure to comply with prohibition.

Any person who—

- (a) drives a vehicle on a road in contravention of a prohibition imposed under section 99A(1) of this Act,
- (b) causes or permits a vehicle to be driven on a road in contravention of such a prohibition, or
- (c) refuses or fails to comply within a reasonable time with a direction given under section 99A(2) of this Act,

shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.

Textual Amendments

F81 Ss. 99A-99C inserted (1.2.2001) by 2000 c. 38, s. 266; S.I. 2001/57, art. 3, Sch. 2 Pt. I (subject to transitional provision and saving in Sch. 2 Pt. II)

100 Power to give effect to international agreements.

- (1) The Minister may by order make, in relation to Great Britain, such provision as appears to him to be requisite for enabling the United Kingdom to become a party to any international agreement relating to the drivers or crews of vehicles used on international journeys, and, without prejudice to the generality of the foregoing provisions of this subsection, an order under this subsection may—
- (a) modify or exclude any of the provisions contained in or having effect under this Part of this Act or contained in or having effect under any other enactment passed before or after this Act;
 - (b) provide for exemptions from all or any of the provisions of the order;

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- (c) provide for the punishment of contraventions of any provision of the order;
 - (d) contain such supplementary, incidental or consequential provisions as appear to the Minister to be necessary or expedient.
- (2) The Governor of Northern Ireland may, by Order in the Privy Council of Northern Ireland, make provision in relation to Northern Ireland for any purpose for which provision may be made in relation to Great Britain under subsection (1) of this section, and in relation to any such Order the provisions of that subsection shall apply accordingly as if for references to the Minister there were substituted references to the Governor of Northern Ireland; and any such Order may authorise the Ministry of Home Affairs for Northern Ireland to make regulations for any of the purposes of the Order.

Modifications etc. (not altering text)

- C14** Reference to the making of an Order in Council by the Governor of Northern Ireland to be construed as a reference to the making of an order by the Secretary of State: [Northern Ireland Constitution Act 1973 \(c. 36, SIF 29:3\)](#), [Sch. 5 para. 4\(2\)](#)
- C15** Functions of Privy Council of Northern Ireland transferred to Secretary of State: [S.I. 1973/2163](#), [arts. 1\(4\), 2\(5\)](#)
- C16** Functions of Ministry of Home Affairs for Northern Ireland transferred to Department of Finance and Personnel for Northern Ireland: [S.R. & O. 1973/504](#) and [S.I.1982/338 \(N.I.6\)](#), [art. 3](#)
- C17** S. 100 applied (with modifications) (S.) (4.1.1995) by [1994 c. 39, s. 40\(7\)](#) (with s. 7(2)); [S.I. 1994/2850](#), [art. 3\(a\)](#), [Sch. 2](#)

101 Orders and regulations under Part VI.

- (1) In relation to orders or regulations made under this Part of this Act, the provisions of this section shall have effect in addition to the provisions of section 157 of this Act.
- (2) Any order or regulations under this Part of this Act may make different provision for different classes of case.
- (3) No order shall be made under section 96(12) or 100(1) of this Act unless a draft of the order has been laid before, and approved by a resolution of, each House of Parliament; and any regulations made under this Part of this Act (except regulations made [^{F82}under section 95(1) or] by virtue of an Order under section 100(2)) shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- [^{F83}(3A) No regulations shall be made under section 95(1) of this Act unless a draft of the regulations has been laid before, and approved by a resolution of, each House of Parliament.]
- (4) No recommendation shall be made to the Governor of Northern Ireland in Council to make an Order under subsection (2) of section 100 of this Act unless a draft thereof has been laid before the Parliament of Northern Ireland and has been approved by resolution of each House of Parliament of Northern Ireland; and an Order under that subsection which authorises the making of regulations may make provision for the laying of such regulations before the Parliament of Northern Ireland and for their annulment in such circumstances as may be specified in the Order.

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- (5) A definition or description of a class of vehicles for the purposes of any order or regulation under this Part of this Act may be framed by reference to any characteristic of the vehicles or to any other circumstances whatsoever.
- (6) Before making any order or regulations under this Part of this Act the Minister shall consult with such representative organisations as he thinks fit.

Textual Amendments

F82 Words inserted by [Road Traffic \(Drivers' Ages and Hours of Work\) Act 1976 \(c. 3\), s. 2\(1\)\(i\)](#)

F83 S. 101(3A) inserted by [Road Traffic \(Drivers' Ages and Hours of Work\) Act 1976 \(c. 3\), s. 2\(1\)\(i\)](#)

Modifications etc. (not altering text)

C18 Reference to the making of an Order in Council by the Governor of Northern Ireland to be construed as a reference to the making of an order by the Secretary of State: [Northern Ireland Constitution Act 1973 \(c. 36, SIF 29:3\), Sch. 5 para. 4\(2\)](#)

C19 Reference to the Parliament of Northern Ireland and to each House of Parliament of Northern Ireland to be construed as a reference to the Northern Ireland Assembly: [Northern Ireland Constitution Act 1973 \(c. 36, SIF 29:3\), Sch. 5 para. 3](#)

C20 S. 101 applied (with modifications) (S.) (4.1.1995) by [1994 c. 39, s. 40\(7\)](#) (with s. 7(2)); S.I. 1994/2850, art. 3(a), [Sch. 2](#)

102 Application to the Crown and exemption for police and fire brigade.

- (1) Subject to subsection (2) of this section, this Part of this Act shall apply to vehicles and persons in the public service of the Crown.
- (2) This Part of this Act shall not apply in the case of motor vehicles owned by the Secretary of State for Defence and used for naval, military or air force purposes or in the case of vehicles so used while being driven by persons for the time being subject to the orders of a member of the armed forces of the Crown.
- ^{F84}(3) Where an offence under this Part of this Act is alleged to have been committed in connection with a vehicle in the public service of the Crown, proceedings may be brought in respect of the offence against a person nominated for the purpose on behalf of the Crown; and, subject to subsection (3A) below, where any such offence is committed any person so nominated shall also be guilty of the offence as well as any person actually responsible for the offence (but without prejudice to proceedings against any person so responsible).
- (3A) Where a person is convicted of an offence by virtue of subsection (3) above—
 - (a) no order may be made on his conviction save an order imposing a fine,
 - (b) payment of any fine imposed on him in respect of that offence may not be enforced against him, and
 - (c) apart from the imposition of any such fine, the conviction shall be disregarded for all purposes other than any appeal (whether by way of case stated or otherwise).]
- (4) This Part of this Act shall not apply in the case of motor vehicles while being used for police ^{F85}or ^{F86}fire and rescue authority] purposes ^{F87}or for or in connection with the exercise of any function of a relevant authority (as defined in section 6 of the Fire (Scotland) Act 2005 (asp 5))].

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Textual Amendments

- F84** S. 102(3)(3A) as substituted by Transport Act 1982 (c. 49, SIF 126), s. 64 fell upon the repeal of that Act by Road Traffic (Consequential Provisions) Act 1988 (c. 54, SIF 107:1), s. 3, Sch. 1 (with Sch. 4 paras. 1–3) and the new s. 102(3)(3A) was substituted for s. 102 by Road Traffic (Consequential Provisions) Act 1988 (c. 54, SIF 107:1), s. 4, Sch. 3 para. 6(6) for section 102(3)
- F85** Words in s. 102(4) repealed (S.) (2.8.2005) by Fire (Scotland) Act 2005 (asp 5), s. 90, sch. 3 para. 4(a) (with s. 77); S.S.I. 2005/392, art. 2(k)
- F86** Words in s. 102(4) substituted (E.W.) (1.10.2004 except in relation to W., 10.11.2004 for W.) by Fire and Rescue Services Act 2004 (c. 21), s. 61, Sch. 1 para. 25; S.I. 2004/2304, art. 2; S.I. 2004/2917, art. 2
- F87** Words in s. 102(4) inserted (S.) (2.8.2005) by Fire (Scotland) Act 2005 (asp 5), s. 90, sch. 3 para. 4(b) (with s. 77); S.S.I. 2005/392, art. 2(k)

Modifications etc. (not altering text)

- C21** S. 102 applied (with modifications) (S.) (4.1.1995) by 1994 c. 39, s. 40(7) (with s. 7(2)); S.I. 1994/2850, art. 3(a), Sch. 2

[^{F88} 102A Exclusion of application to tramcars and trolley vehicles.

- (1) This Part of this Act and section 255 of the Road Traffic Act 1960 in its application thereto shall not apply to tramcars or trolley vehicles operated under statutory powers.
- (2) In this section “operated under statutory powers” means, in relation to tramcars or trolley vehicles, that their use is authorised or regulated by special Act of Parliament or by an order having the force of an Act.
- (3) Subsection (1) above shall have effect subject to any such Act or order as is mentioned in subsection (2) above, and any such Act or order may apply to tramcars or trolley vehicles to which it relates any of the provisions excluded by the said subsection (1).]

Textual Amendments

- F88** S. 102A was inserted by Road Traffic Act 1972 and fell upon the repeal of that 1972 Act by Road Traffic (Consequential Provisions) Act 1988 (c. 54, SIF 107:1), s. 3, Sch. 1 (with Sch. 4, paras. 1–3); the text of s. 102A appearing here inserted by Road Traffic (Consequential Provisions) Act 1988 (c. 54, SIF 107:1), s. 4, Sch. 3 para. 6(7)

[^{F89} 102B Partnerships and other unincorporated associations

- (1) Proceedings for an offence under this Part of this Act alleged to have been committed by a partnership must be brought in the name of the partnership (and not in that of any of the partners).
- (2) Proceedings for an offence under this Part of this Act alleged to have been committed by an unincorporated association (other than a partnership) must be brought in the name of the association (and not in that of any of its members).
- (3) Rules of court relating to the service of documents have effect as if the partnership or association were a body corporate.

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- (4) In proceedings for an offence under this Part of this Act brought against a partnership or an unincorporated association, the following provisions apply as they do in relation to a body corporate—
 - (a) section 33 of the Criminal Justice Act 1925 and Schedule 3 to the Magistrates' Courts Act 1980;
 - (b) section 70 of the Criminal Procedure (Scotland) Act 1995
- (5) A fine imposed on a partnership on its conviction for an offence under this Part of this Act must be paid out of the partnership assets.
- (6) A fine imposed on an unincorporated association on its conviction for an offence under this Part of this Act must be paid out of the funds of the association.
- (7) Subsections (1) and (2) do not affect any liability of a partner, officer or member under section 102C.

Textual Amendments

F89 S. 102B - S. 102C inserted (5.2.2008) by [The Passenger and Goods Vehicles \(Recording Equipment\) \(Downloading and Retention of Data\) Regulations 2008 \(S.I. 2008/198\)](#), regs. 1(1), 3

102C. Offences by bodies corporate etc

- (1) If an offence under this Part of this Act committed by a body corporate is proved—
 - (a) to have been committed with the consent or connivance of an officer of the body, or
 - (b) to be attributable to any neglect on the part of an officer of the body,
 he, as well as the body corporate, is guilty of the offence.
- (2) In subsection (1) a reference to an officer of a body includes a reference to—
 - (a) a director, manager or secretary;
 - (b) a person purporting to act as an officer of the body.
- (3) If the affairs of a body corporate are managed by its members, subsection (1) applies in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body.
- (4) If an offence under this Part of this Act committed by a partnership is proved—
 - (a) to have been committed with the consent or connivance of a partner, or
 - (b) to be attributable to any neglect on the part of a partner,
 he, as well as the partnership, is guilty of the offence.
- (5) In subsection (4) a reference to a partner includes a reference to a person purporting to act as a partner.
- (6) If an offence under this Part of this Act committed by an unincorporated association (other than a partnership) is proved—
 - (a) to have been committed with the consent or connivance of an officer of the association, or
 - (b) to be attributable to any neglect on the part of an officer of the association,
 he, as well as the association, is guilty of the offence.

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- (7) In subsection (6) a reference to an officer of an association includes a reference to—
- (a) a member of its governing body;
 - (b) a person purporting to act in the capacity of an officer of the association.]

Textual Amendments

F89 S. 102B - S. 102C inserted (5.2.2008) by [The Passenger and Goods Vehicles \(Recording Equipment\) \(Downloading and Retention of Data\) Regulations 2008 \(S.I. 2008/198\)](#), regs. 1(1), 3

103 Interpretation, supplementary provisions, etc., for Part VI.

- (1) In this Part of this Act—

“agriculture” has the meaning assigned by section 109(3) of the ^{M3}Agriculture Act 1947 or, in relation to Scotland, section 86(3) of the ^{M4}Agriculture (Scotland) Act 1948;

[^{F90}“analogue recording equipment” has the meaning given by section 99ZB(9) of this Act;]

[^{F91}“the Community Drivers’ Hours Regulation” means Regulation (EC) No. 561/2006 of the European Parliament and of the Council as amended from time to time;]

[^{F92}“the Community Recording Equipment Regulation” has the same meaning given by section 97(7) of this Act;]

[^{F90}“copying” and “copies”, in relation to data stored on a driver card or digital recording equipment, is to be construed in accordance with section 99ZA(5) of this Act;]

[^{F90}“digital recording equipment” has the meaning given by section 99ZA(6) of this Act;]

“driver”, “employee-driver” and “owner-driver” have the meaning assigned by section 95(3) of this Act;

[^{F90}“driver card” has the meaning given by section 99ZA(6) of this Act;]

[^{F90}“electronic copy” of data has the meaning given by section 99ZA(6) of this Act;]

“employer”, in relation to an employee-driver, means the employer of that driver in the employment by virtue of which that driver is an employee-driver;

[^{F90}“hard copy” in relation to data stored electronically has the meaning given by section 99ZA(6) of this Act;]

[^{F93}“the applicable Community rules” means any directly applicable [^{F3}EU] provision for the time being in force about the driving of road vehicles][^{F94}and includes the European Agreement concerning the Work of Crews of Vehicles engaged in International Road Transport of 1st July 1970, as amended, as applied by Article 2(3) of the Community Drivers’ Hours Regulation]

[^{F95}“the domestic drivers’ hours code” has the meaning given by section 96(13) of this Act]

[^{F90}“officer” has the meaning given by section 99(8) of this Act;]

[^{F96}“prescribed” means prescribed by regulations made by the Minister;

[^{F97}“recording equipment” has the meaning given by section 97(7) of this Act;

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“record sheet” includes a temporary sheet attached to a record sheet in accordance with [F98Article 16(2)] of the Community Recording Equipment Regulation;]

[F95 “relevant [F3EU] provision” means any [F3EU] provision for the time being in force about the driving of road vehicles, whether directly applicable or not]

[F99“transport undertaking” has the meaning given in the Community Drivers' Hours Regulation;]

“working day”, in relation to any driver, means—

- (a) any period during which he is on duty and which does not fall to be aggregated with any other such period by virtue of paragraph (b) of this definition; and
- (b) where a period during which he is on duty is not followed by an interval for rest of not less than eleven hours or (where permitted by virtue of section 96(4)(b) of this Act) of not less than nine and a half hours, the aggregate of that period and each successive such period until there is such an interval as aforesaid, together with any interval or intervals between periods so aggregated;

[F100“working week” means, subject to subsection (5) of this section, a week beginning at midnight between Sunday and Monday;]

and any expression not defined above which is also used in the Act of 1960 has the same meaning as in that Act.

- (2) For the purposes of this Part of this Act a director of a company shall be deemed to be employed by it.
- (3) In this Part of this Act references to a person driving a vehicle are references to his being at the driving controls of the vehicle for the purpose of controlling its movements, whether it is in motion or is stationary with the engine running.
- (4) In this Part of this Act references to a driver being on duty are references—
 - (a) in the case of an employee-driver, to his being on duty (whether for the purpose of driving a vehicle to which this Part of this Act applies or for other purposes) in the employment by virtue of which he is an employee-driver, or in any other employment under the person who is his employer in the first-mentioned employment; and
 - (b) in the case of an owner-driver, to his driving a vehicle to which this Part of this Act applies for the purposes of a trade or business carried on by him or being otherwise engaged in work for the purposes of that trade or business, being work in connection with such a vehicle or the load carried thereby.
- (5) The traffic [F101commissioner] for any area may, on the application of an owner-driver or of the employer of an employee-driver, from time to time direct that a week beginning at midnight between two days other than [F102Sunday and Monday] shall be, or be deemed to have been, a working week in relation to that owner-driver or employee-driver; but where by virtue of any such direction a new working week begins before the expiration of a previous working week then, without prejudice to the application of the provisions of this Part of this Act in relation to the new working week, those provisions shall continue to apply in relation to the previous working week until its expiration.
- (6) In [F103section] 98(2)(e) of this Act “a small goods vehicle” means a goods vehicle which has a plated weight of the prescribed description not exceeding [F1043500 kilograms] or (not having a plated weight) has an unladen weight not exceeding [F1041525 kilograms]; but the Minister may by regulations direct that the foregoing

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provisions of this subsection shall have effect, in relation to either or both of those sections—

- (a) with the substitution for either of the weights there specified of such other weight as may be specified in the regulations;
- (b) with the substitution for either of those weights or for any other weight for the time being specified as aforesaid of a weight expressed in terms of the metric system, being a weight which is equivalent to that for which it is substituted or does not differ from it by more than five per cent. thereof.

[^{F105}(7) An offence under this Part of this Act may be treated for the purpose of conferring jurisdiction on a court (but without prejudice to any jurisdiction it may have apart from this subsection) as having been committed in any of the following places, that is to say—

- (a) the place where the person charged with the offence was driving when evidence of the offence first came to the attention of a constable or vehicle examiner;
- (b) the place where that person resides or is or is believed to reside or be at the time when the proceedings are commenced: or
- (c) the place where at that time that person or, in the case of an employee-driver, that person's employer or, in the case of an owner-driver, the person for whom he was driving, has his place or principal place of business or his operating centre for the vehicle in question.

In this subsection “vehicle examiner” means an officer within the meaning of section 99 of this Act.]

- (8) The enactments specified in Schedule 11 to this Act shall have effect subject to the amendments there specified.
- (9) Any order made under section 166(2) of this Act appointing a day for the purposes of any of the provisions of this Part of this Act may contain such transitional provision as the Minister thinks necessary or expedient as respects the application of any particular provision of this Part of this Act to a working week or working day falling partly before and partly after the date on which that provision comes into operation.

Textual Amendments

- F3** Word in Act substituted (22.4.2011) by [The Treaty of Lisbon \(Changes in Terminology\) Order 2011 \(S.I. 2011/1043\)](#), arts. 2, 3, 6 (with arts. 3(2)(3), 4(2), 6(4)(5))
- F90** Words in s. 103(1) inserted (5.8.2005) by [The Passenger and Goods Vehicles \(Recording Equipment\) Regulations 2005 \(S.I. 2005/1904\)](#), regs. 1(1), 8
- F91** Words in s. 103(1) inserted (2.7.2007) by [The Community Drivers Hours and Recording Equipment Regulations 2007 \(S.I. 2007/1819\)](#), regs. 1(1), 8(a)
- F92** Definition inserted by S.I. 1979/1746, reg. 3(7)(a)
- F93** Words substituted by [Road Traffic \(Drivers' Ages and Hours of Work\) Act 1976 \(c. 3\)](#), s. 2(1)(a)
- F94** Words in s. 103(1) inserted (2.7.2007) by [The Community Drivers Hours and Recording Equipment Regulations 2007 \(S.I. 2007/1819\)](#), regs. 1(1), 8(b)
- F95** Definitions inserted by [Road Traffic \(Drivers' Ages and Hours of Work\) Act 1976 \(c. 3\)](#), s. 2(1)(b)
- F96** Definition repealed by [Transport Act 1985 \(c. 67, SIF 126\)](#), s. 139(3), Sch. 8
- F97** Definitions inserted by S.I. 1979/1746, reg. 3(7)(b)
- F98** Words substituted by S.I. 1986/1457, reg. 3(3)(g)
- F99** Words in s. 103(1) inserted (5.2.2008) by [The Passenger and Goods Vehicles \(Recording Equipment\) \(Downloading and Retention of Data\) Regulations 2008 \(S.I. 2008/198\)](#), regs. 1(1), 4(d)

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- F100** Definition substituted by S.I. 1986/1458, **art. 3(1)**
- F101** Word substituted by Transport Act 1985 (c. 67, SIF 126), s. 3, **Sch. 2 Pt II para. 1(5)**
- F102** Words substituted by S.I. 1986/1458, **art. 3(2)**
- F103** Word substituted by S.I. 1979/1746, **reg. 3(8)**
- F104** Words substituted by S.I. 1981/1373, **Sch. Pt. IIIB**
- F105** S. 103(7) substituted by Road Traffic (Drivers' Ages and Hours of Work) Act 1976 (c. 3), **s. 3**

Modifications etc. (not altering text)

- C22** S. 103 applied (with modifications) (S.) (4.1.1995) by 1994 c. 39, **s. 40(7)** (with s. 7(2)); S.I. 1994/2850, **art. 3(a)**, **Sch. 2**
- C23** The text of s. 103(8), 161(4), 162(5), Sch. 16, paras. 8(1)(3), 9, 10 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

Marginal Citations

- M3** 1947 c. 48.
- M4** 1948 c. 45.

Status:

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 9(1)(a)(ia) omitted by S.I. 2014/866 Sch. para. 2(2)(b)
- s. 9(1)(b)(ib) inserted by S.I. 2018/1133 art. 11(a)(ii)
- s. 9(1)(b)(ia) substituted by S.I. 2014/866 Sch. para. 2(4)
- s. 9(1)(b)(ia) words inserted by S.I. 2018/1133 art. 11(a)(i)
- s. 9(1)(c)(ib)-(ie) inserted by 2015 c. 20 Sch. 8 para. 9(2)(b)
- s. 9(1)(c)(ia) inserted by S.I. 2014/864 Sch. 2 para. 2(2)(b)
- s. 9(1)(c)(iaa) inserted by S.I. 2016/653 Sch. 2 para. 2(2)
- s. 9(1)(c)(ie) substituted by S.I. 2018/1133 art. 11(b)
- s. 9(1)(aa)(ab) inserted by S.I. 2014/866 Sch. para. 2(3)
- s. 9(5A) omitted by S.I. 2014/866 Sch. para. 2(6)
- s. 9(6A) inserted by S.I. 2014/864 Sch. 2 para. 2(3)
- s. 9(6A) words substituted by S.I. 2016/653 Sch. 2 para. 2(3)
- s. 9(6B) inserted by S.I. 2016/653 Sch. 2 para. 2(4)
- s. 9(6C)(6D) inserted by S.I. 2018/1133 art. 11(c)
- s. 9A(12) inserted by S.I. 2014/864 Sch. 2 para. 3
- s. 9A(12) words substituted by S.I. 2016/653 Sch. 2 para. 3(2)
- s. 9A(13) inserted by S.I. 2016/653 Sch. 2 para. 3(3)
- s. 10(1)(viiiia) inserted by 2015 c. 20 Sch. 8 para. 2(4)
- s. 10(1)(ia) inserted by 2015 c. 20 s. 49(1)(a)
- s. 10(10) inserted by S.I. 2014/864 Sch. 2 para. 4
- s. 10(10) words substituted by S.I. 2016/653 Sch. 2 para. 4(2)
- s. 10(11) inserted by S.I. 2016/653 Sch. 2 para. 4(3)
- s. 10A(1) words inserted by S.I. 2014/866 Sch. para. 5
- s. 10B(6)(b) words substituted by 2014 c. 14 Sch. 4 para. 22
- s. 11(3B) inserted by S.I. 2014/864 Sch. 2 para. 5
- s. 11(3B) words substituted by S.I. 2016/653 Sch. 2 para. 5(2)
- s. 11(3C) inserted by S.I. 2016/653 Sch. 2 para. 5(3)
- s. 12(8) inserted by S.I. 2014/864 Sch. 2 para. 6
- s. 12(8) substituted by S.I. 2016/653 Sch. 2 para. 6
- s. 14(4) inserted by S.I. 2014/864 Sch. 2 para. 8
- s. 14(4) substituted by S.I. 2016/653 Sch. 2 para. 8
- s. 15(8) inserted by S.I. 2014/864 Sch. 2 para. 9
- s. 15(8) substituted by S.I. 2016/653 Sch. 2 para. 9
- s. 15A(4) inserted by S.I. 2014/864 Sch. 2 para. 10
- s. 15A(4) substituted by S.I. 2016/653 Sch. 2 para. 10
- s. 16(2A) inserted by S.I. 2014/864 Sch. 2 para. 11
- s. 16(2A) words substituted by 2015 c. 20 Sch. 8 para. 9(3)(a)
- s. 16(2A) words substituted by S.I. 2016/653 Sch. 2 para. 11(2)(a)
- s. 16(2A) words substituted by S.I. 2016/653 Sch. 2 para. 11(2)(b)
- s. 16(2A)(b) word omitted by 2015 c. 20 Sch. 8 para. 9(3)(b)
- s. 16(2A)(d) and word inserted by 2015 c. 20 Sch. 8 para. 9(3)(c)
- s. 16(2B) inserted by S.I. 2016/653 Sch. 2 para. 11(3)
- s. 20(2A) inserted by 2015 c. 20 Sch. 8 para. 4(3)
- s. 23A(1A) inserted by 2015 c. 20 Sch. 8 para. 5

- s. 96(11B)(d) inserted by [S.I. 2019/453 reg. 3\(2\)\(c\)](#)
- s. 96A inserted by [S.I. 2016/248 reg. 3](#)
- s. 96A(1)(a) words substituted by [S.I. 2019/453 reg. 34](#)
- s. 97(1)(a)(i) words inserted by [S.I. 2019/1379 reg. 4\(2\)\(a\)](#)
- s. 97(1)(a)(i) words inserted by [S.I. 2019/453 reg. 35\(2\)\(a\)](#) (This amendment not applied to legislation.gov.uk. Reg. 35(2) substituted (24.10.2019) by S.I. 2019/1379, regs. 1, 8(a))
- s. 97(1)(a)(i) words inserted by S.I. 2019/453, reg. 35(2) (as substituted) by [S.I. 2019/1379 reg. 8\(a\)](#)
- s. 97(1)(a)(i) words substituted by [S.I. 2016/248 reg. 4\(2\)\(a\)](#)
- s. 97(1)(a)(ii) substituted by [S.I. 2019/453 reg. 4\(b\)](#)
- s. 97(1)(a)(ii) words substituted by [S.I. 2019/1379 reg. 4\(2\)\(b\)](#)
- s. 97(1)(a)(ii) words substituted by [S.I. 2019/453 reg. 35\(2\)\(b\)](#) (This amendment not applied to legislation.gov.uk. Reg. 35(2) substituted (24.10.2019) by S.I. 2019/1379, regs. 1, 8(a))
- s. 97(1)(a)(iii) words substituted by [S.I. 2016/248 reg. 4\(2\)\(b\)](#)
- s. 97(1)(a)(iii) words substituted by [S.I. 2019/1379 reg. 4\(2\)\(c\)](#)
- s. 97(4B)-(4D) inserted by [S.I. 2016/248 reg. 4\(7\)](#)
- s. 97(4B) words substituted by [S.I. 2019/453 reg. 35\(4\)](#)
- s. 97ZA-97ZC inserted by [S.I. 2019/453 reg. 5](#)
- s. 97ZB(5) words inserted by [S.I. 2019/453 reg. 36\(c\)](#)
- s. 97ZB(5) words substituted by [S.I. 2019/453 reg. 36\(a\)](#)
- s. 97ZB(5) words substituted by [S.I. 2019/453 reg. 36\(b\)](#)
- s. 98(2A)(a) substituted for words by [S.I. 2019/453 reg. 14\(2\)](#)
- s. 98(2A)(a) words substituted by [S.I. 2019/1379 reg. 5](#)
- s. 98(2A)(a) words substituted by [S.I. 2019/453 reg. 14\(3\)](#)
- s. 98(2A)(a) words substituted by [S.I. 2019/453 reg. 37\(a\)](#) (This amendment not applied to legislation.gov.uk. Reg. 37(a) omitted (24.10.2019) by virtue of S.I. 2019/1379, regs. 1, 9)
- s. 98(2A)(b) inserted by [S.I. 2019/453 reg. 14\(4\)](#)
- s. 98(4)(b) words inserted by [S.I. 2020/1658 reg. 4\(3\)](#)
- s. 98(4)(b) words substituted by [S.I. 2019/453 reg. 37\(b\)](#)
- s. 99ZA(7) inserted by [S.I. 2019/453 reg. 16\(5\)](#)
- s. 99ZA(7)(a) substituted by [S.I. 2019/1379 reg. 6](#)
- s. 99ZA(7)(a)(i)(ii) substituted for words by [S.I. 2019/453 reg. 38](#) (This amendment not applied to legislation.gov.uk. Reg. 37(a) omitted (24.10.2019) by virtue of S.I. 2019/1379, regs. 1, 10)
- s. 103(10) inserted by [S.I. 2016/248 reg. 11\(3\)](#)
- s. 117(1E)(1F) inserted by [S.I. 2013/2314 art. 5\(2\)](#)
- s. 118(1C) inserted by [S.I. 2013/2314 art. 5\(3\)](#)
- Sch. 5 para. 2 words inserted by [2015 c. 20 Sch. 8 para. 9\(4\)\(a\)](#)