
 STATUTORY INSTRUMENTS

1979 No. 1746

ROAD TRAFFIC

**The Passenger and Goods Vehicles (Recording Equipment)
Regulations 1979**
*Laid before Parliament in draft**Made - - - - 21st December 1979**Coming into Operation 14th January 1980*

The Minister of Transport, being a Minister designated(a) for the purposes of section 2(2) of the European Communities Act 1972(b) in relation to the regulation and supervision of the working conditions of persons engaged in road transport and the regulation of the type, description, construction or equipment of vehicles, in exercise of the powers conferred by that section, and in exercise of the powers conferred by sections 95(1) and (1A), and 101(1), (2) and (5), and 157 of the Transport Act 1968(c), and now vested in him(d), and of all other enabling powers, and after consultation with representative organisations in accordance with section 101(6) of the said Act of 1968, hereby makes the following Regulations:—

Commencement, citation, revocation and interpretation

1.—(1) These Regulations shall come into operation on 14th January 1980 and may be cited as the Passenger and Goods Vehicles (Recording Equipment) Regulations 1979.

(2) The Passenger and Goods Vehicles (Recording Equipment) Regulations 1977(e) are hereby revoked.

(3) In these Regulations—

“the Act of 1968” means the Transport Act 1968;

“the Community Recording Equipment Regulation” means Council Regulation (EEC) No. 1463/70 of 20th July 1970 on the introduction of recording equipment in road transport(f), as amended by Council Regulations (EEC) Nos. 1787/73(g) and 2828/77(h), and as read with the Community Road Transport Rules (Exemptions) Regulations 1978(i).

Installation and use of recording equipment

2.—(1) For section 97 of the Act of 1968 (installation and use of recording equipment) there shall be substituted the following sections—

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- (a) S.I. 1975/1707, 1972/1811 and 1979/571. (b) 1972 c. 68.
 (c) 1968 c. 73 Section 95 was extended by Section 4 of, and paragraph 9 of Schedule 4 to, the European Communities Act 1972 (c. 68) and amended by Section 2 of the Road Traffic (Drivers' Ages and Hours of Work) Act 1976 (c. 3).
 (d) S.I. 1979/571. (e) S.I. 1977/777.
 (f) O.J. No. L.164/1 of 27.7.70. (g) O.J. No. L.181/1 of 4.7.73.
 (h) O.J. No. L.334/5 of 24.12.77. (i) S.I. 1978/1158.

“Installation and use of recording equipment.

97.—(1) If a person uses, or causes or permits to be used, a vehicle to which this section applies and—

- (a) there is not in the vehicle recording equipment which has been installed in accordance with the Community Recording Equipment Regulation and which complies with the requirements of Annexes I and II to that Regulation; or
- (b) recording equipment which has been installed in the vehicle in accordance with that Regulation and which complies with those requirements is not used as provided by Articles 15 to 17 of that Regulation,

he shall be liable on summary conviction to a fine not exceeding £200.

(2) A person shall not be liable to be convicted under subsection (1) 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 Annexes I and II 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) 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 Article 18(2) of the Community Recording Equipment Regulation were being complied with.

(4) A person shall not be liable to be convicted under subsection (1) 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 Articles 15 to 17 of the Community Recording Equipment Regulation.

(5) For the purposes of this section recording equipment is used as provided by Articles 15 to 17 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 vehicle 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 sections 97A and 97B of this Act any expression which is also used in that Regulation has the same meaning as in that Regulation.

(7) In this Part of this Act—

“the Community Recording Equipment Regulation” means Council Regulation (EEC) No. 1463/70 of 20th July 1970 on the introduction of recording equipment in road transport, as amended by Council Regulations (EEC) Nos. 1787/73 and 2828/77, and as read with the Community Road Transport Rules (Exemptions) Regulations 1978;

“recording equipment” means equipment for recording information as to the use of a vehicle.

97A.—(1) If an employed crew member of a vehicle to which section 97 of this Act applies fails—

(a) without reasonable excuse to return any record sheet which relates to him to his employer within twenty-one days of completing it; or

(b) where he has two or more employers by whom he is employed as a crew member of such a vehicle, to notify each of them of the name and address of the other or others of them,

he shall be liable on summary conviction to a fine not exceeding £200.

(2) If the employer of crew members of a vehicle to which section 97 of this Act applies fails without reasonable excuse to secure that they comply with subsection (1)(a) of this section, he shall be liable on summary conviction to a fine not exceeding £200.

(3) Where a crew member of a vehicle to which section 97 of this Act applies has two or more employers by whom he is employed as a crew member of such a vehicle, subsection (1)(a) and subsection (2) of this section shall apply as if any reference to his employer, or any reference which is to be construed as such a reference, were a reference to such of those employers as was the first to employ him in that capacity.

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 the matters appearing from the record.

(2) Any entry made on a record sheet by a crew member for the purposes of Article 17(2) or (3) or 18(2) of the Community Recording Equipment Regulation shall, in any

Provisions supplementary to section 97.

Records etc. produced by equipment may be used in evidence.

proceedings under this Part of this Act, be evidence, and in Scotland sufficient evidence, of the matters appearing from that entry.”.

(2) Subsection (1)(a) of section 97 of the Act of 1968 (as substituted by paragraph (1) above) shall come into force—

- (a) in relation to vehicles which are being used on international journeys, on 14th January 1980;
- (b) in relation to vehicles which do not fall within sub-paragraph (a) above but whose operating centre is on a U.K. island other than the Isle of Wight, on 31st December 1981;
- (c) in relation to vehicles which do not fall within either of the preceding sub-paragraphs but which fall within one of the classes specified in the first column of the following Table, on the date specified in relation to vehicles of that class in the second column of that Table; and
- (d) in relation to vehicles which do not fall within any of the preceding sub-paragraphs, on 1st April 1980.

TABLE

<i>Class of vehicles</i>	<i>Date</i>
Vehicles first registered on or after 1st August 1979 but before 1st December 1979	1st June 1980
Vehicles first registered on or after 1st August 1978 but before 1st August 1979	1st October 1980
Vehicles first registered on or after 1st August 1977 but before 1st August 1978	1st January 1981
Vehicles first registered on or after 1st August 1976 but before 1st August 1977	1st March 1981
Vehicles first registered on or after 1st August 1975 but before 1st August 1976	1st May 1981
Vehicles first registered on or after 1st August 1973 but before 1st August 1975	1st August 1981
Vehicles first registered before 1st August 1973	31st December 1981

In this Table “registered” means registered under—

- (a) section 19 of the Vehicles (Excise) Act 1971(a) or section 19 of the Vehicles (Excise) Act (Northern Ireland) 1972(b), or the corresponding provision of any earlier enactment; or
- (b) the corresponding legislation of any member State other than the United Kingdom.

(3) Subsection (1)(b) of the said section 97 and section 97A of the Act of 1968 (as substituted by paragraph (1) above) shall come into force—

- (a) in relation to vehicles which are being used on international journeys, on 14th January 1980; and

(a) 1971 c.10.

(b) 1972 c.10 (N.I.).

(b) in relation to vehicles which are not being so used, on 31st December 1981.

(4) In this Regulation—

“operating centre”, in relation to a vehicle, means the base or centre at which the vehicle is normally kept;

“road” means a road within the meaning of the Road Traffic Act 1972(a) which is suitable for the passage of vehicles to which the said section 97 applies;

“U.K. island” means any part of the United Kingdom which does not form part of, and is not connected by a road to, the mainland of Great Britain or Northern Ireland.

Consequential adaptation of enactments

3.—(1) In section 98 (written records) of the Act of 1968 there shall be inserted after subsection (2) the following subsection—

“(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 in relation to which subsection (1) (b) of that section has come into force.”.

(2) After subsection (4) of that section there shall be inserted the following subsection—

“(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.”.

(3) In subsection (1) of section 99 of the Act of 1968 (inspection of records and other documents)—

(a) in paragraph (b) the word “record” and the words “97 or” shall be omitted;

(b) after that paragraph there shall be inserted the following paragraph—

“(bb) any record sheet which that person is required by Article 16(2) of the Community Recording Equipment Regulation to retain or by Article 17(5) of that Regulation to be able to produce;” and

(c) after the word “record”, in the second place where that word occurs, there shall be inserted the word “sheet”.

(4) In subsection (2) of the said section 99—

(a) for paragraph (a) there shall be substituted the following paragraph—

“(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;” and

(b) in paragraph (b) for the word “record” there shall be substituted the words “record sheets” and after the word “record” there shall be inserted the word “sheet”.

(5) After subsection (4) of the said section 99 there shall be inserted the following subsection—

“(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.”.

(6) In subsection (5) of the said section 99 for the words “any such record as is mentioned in” there shall be substituted the words “any record or entry on a record sheet kept or carried for the purposes of the Community Recording Equipment Regulation or”.

(7) In subsection (1) of section 103 of the Act of 1968 (interpretation of Part VI)—

(a) after the definition of “agriculture” there shall be inserted the following definition—

“‘the Community Recording Equipment Regulation’ has the meaning given by section 97(7) of this Act;” and

(b) after the definition of “prescribed” there shall be inserted the following definitions—

“‘recording equipment’ has the meaning given by section 97(7) of this Act;

‘record sheet’ includes a temporary sheet attached to a record sheet in accordance with Article 18(2) of the Community Recording Equipment Regulation;”.

(8) In subsection (6) of the said section 103 for the words “sections 97(2)(a) and” there shall be substituted the word “section”.

(9) In Schedule 1 to the Road Traffic (Foreign Vehicles) Act 1972(a) (enactments conferring functions on examiners) for the entry relating to section 99 of the Act of 1968 there shall be substituted the following entry—

“Section 99 of the Transport Act 1968.

To inspect and copy record sheets, books, registers and other documents required to be carried on goods vehicles and public service vehicles, to inspect recording equipment and to inspect and copy record sheets on which records have been produced by such equipment or entries have been made.”.

Approval of fitters and workshops

4.—(1) The Minister of Transport (“the Minister”) shall be the competent authority in Great Britain for approving fitters and workshops for recording equipment in accordance with Article 14 of the Community Recording Equip-

ment Regulation (which requires recording equipment to be installed and repaired by approved fitters or approved workshops).

(2) Any approval of a fitter or workshop shall be in writing, shall specify the scope of the approval, shall provide for its withdrawal by the Minister on notice given by him and, if the Minister thinks fit, may contain conditions.

(3) Such conditions may in particular relate to—

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

(4) The Minister shall publish from time to time a list of fitters and workshops for the time being approved by him under this Regulation and any such list shall specify the mark to be placed by each approved fitter or workshop on any seals which he or they affix to any recording equipment.

Period of retention of records by crew members

5.—(1) The period for which Article 17 of the Community Recording Equipment Regulation requires the crew members of a vehicle registered in Great Britain to be able to produce record sheets relating to national transport operations shall be two days.

(2) In this Regulation “registered” means registered under section 19 of the Vehicles (Excise) Act 1971, or the corresponding provision of any earlier enactment.

21st December 1979.

Norman Fowler,
Minister of Transport.

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

These Regulations apply to passenger and goods vehicles to which Part VI (Drivers' Hours) of the Transport Act 1968 applies. They amend that part of that Act by substituting for section 97 (Installation and operation of recording equipment in vehicles) new sections 97 to 97B. The principal effects of the amendments to Part VI of the Transport Act 1968 are as follows:—

- (a) In exercise of powers conferred by section 2(2) of the European Communities Act 1972, they implement Council Regulation (EEC) 1463/70 of 20th July 1970 on the introduction of recording equipment (tachographs) in road transport (O.J. No. L.164/1 of 27.7.70) as amended by Council Regulations (EEC) Nos. 1787/73 (O.J. No. L.181/1 of 4.7.73) and 2828/77 (O.J. No. L.334/8 of 24.12.77) and as read with the Community Road Transport Rules (Exemptions) Regulations 1978 (No.1158) (hereinafter called "the Council Regulation").

The new section 97 (Regulation 2(1)) makes it an offence punishable on summary conviction with a fine of up to £200 to use a vehicle within the scope of the Council Regulation (subsection (4) and Article 3 of the Council Regulation) without a tachograph as required by that Regulation being installed (subsection (1) (a)) or where a tachograph has been so installed to fail to use it as provided by Articles 15 to 17 of the Council Regulation (subsection (1) (b)).

The new section provides defences for:—

- (i) vehicles going to have tachographs installed in accordance with the Council Regulation (subsection (2));
 - (ii) subject to specified conditions, for vehicles with tachographs that are not in working order (subsection (3));
 - (iii) subject to specified conditions, for vehicles with tachographs on which any seal has been broken (subsection (4)).
- (b) The new section 97A imposes requirements upon crew members of vehicles to which section 97 applies and their employers, which are supplementary to section 97 and to the requirements of Articles 15 to 17 of the Council Regulation. These requirements cover—
- (i) the period within which tachograph record sheets must be returned to the employer; and
 - (ii) notification to employers by crew members of the names and addresses of other employers.

Failure to comply with these requirements is an offence punishable on summary conviction by a fine of up to £200.

Paragraph (2) of Regulation 2 specifies a timetable for the coming into force of the requirement for the installation of tachographs in section 97(1) (a). This is—

- (i) 14th January 1980 for vehicles being used on international journeys;

- (ii) 31st December 1981 for vehicles with an operating centre (as defined in the Regulation) on a UK island (as so defined) other than the Isle of Wight;
- (iii) in other cases a series of dates between 1st April 1980 and 31st December 1981 for different groups of vehicles according to the date of first registration of the vehicles starting with the most recently registered vehicles.

Paragraph (3) of Regulation 2 specifies a timetable for the coming into force of the requirement for the tachograph to be used in accordance with Articles 15 to 17 of the Council Regulation (section 97(1)(b)) and of the supplementary requirements of section 97A. In relation to vehicles being used on international journeys this is again 14th January 1980 and in any other case, 31st December 1981.

- (c) A new section 97B makes provision for the use of tachograph record sheets (and any entries made thereon for the purposes of Articles 17(2) or (3) or 18(2) of the Council Regulation) in evidence in proceedings under Part VI of the Transport Act 1968.
- (d) Regulation 3 makes consequential adaptations to various enactments:—
 - (i) New subsections are inserted in section 98 (Written records) of the Act of 1968 to disapply the requirements for the keeping of manual records in the case of a vehicle to which section 97 applies and is in force, and also in the case of a vehicle to which that section does not apply or is not in force but which has a tachograph installed and used in accordance with the Council Regulation and section 97A.
 - (ii) A corresponding amendment is made to section 99 (Inspection of records and other documents) of the 1968 Act, and that section is extended to apply to tachograph record sheets and to the inspection of any tachograph installed in a vehicle to which Part VI of the 1968 Act applies.
 - (iii) Schedule 1 of the Road Traffic (Foreign Vehicles) Act 1972 (Enactments conferring functions on examiners) is similarly extended.

Regulation 4 provides for the approval by the Minister of Transport of fitters and workshops for the installation and repair of tachographs in Great Britain.

Regulation 5 reduces from seven days to two days the period for which crew members of vehicles registered in Great Britain are required by Article 17 of the Council Regulation to retain record sheets relating to national transport operations.

The Regulations revoke the Passenger and Goods Vehicles (Recording Equipment) Regulations 1977 (No. 777) which introduced a voluntary scheme for the installation and use of tachographs for the purposes of the Council Regulation in passenger and goods vehicles registered in any Member State.

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