
STATUTORY INSTRUMENTS

2009 No. 1914

**The Heavy Goods Vehicles (Charging for the
Use of Certain Infrastructure on the Trans-
European Road Network) Regulations 2009**

PART 3

**REQUIREMENTS RELATING TO THE LEVYING
AND COLLECTION OF A TOLL OR USER CHARGE**

Levying a toll or user charge in relation to all HGVs

10.—(1) Subject to paragraph (2), if an operator is authorised under an enactment to levy a toll or user charge in respect of an HGV having a maximum permissible laden weight of at least 12 tonnes, then on and after 1 January 2012 the operator must levy the toll or user charge in respect of all HGVs.

(2) Paragraph (1) does not apply where—

- (a) the operator is an appropriate national authority, and the operator is satisfied that the levying of the toll or user charge in respect of HGVs of less than 12 tonnes would create the effects referred to in paragraph (3) or involve the costs referred to in paragraph (4), or
- (b) the operator is not an appropriate national authority, and the operator satisfies the appropriate national authority that the levying of the toll or user charge in respect of HGVs of less than 12 tonnes would create the effects referred to in paragraph (3) or involve the costs referred to in paragraph (4).

(3) The effects referred to are significant adverse effects on the free flow of traffic, the environment, noise levels, congestion or health.

(4) The costs referred to are administrative costs which would be more than 30% of the additional revenue generated.

Tolls and user charges not to be levied simultaneously

11.—(1) Subject to paragraph (2), an operator may not levy both a toll and a user charge at the same time in respect of a category of HGV for the use of a section of the infrastructure referred to in regulation 3(1).

(2) An operator may levy a toll for the use of a section of that infrastructure where user charges are authorised under an enactment to be levied for the use of a bridge, tunnel or mountain pass.

Requirement not to discriminate

12.—(1) Subject to paragraph (2), in the levying of a toll or user charge, an operator must not discriminate, directly or indirectly, on the grounds of nationality of the haulier, the country or place of establishment of the haulier or of registration of the HGV, or the origin or destination of the transport operation.

(2) Paragraph (1) does not apply in relation to discrimination which is rendered unlawful by section 20 (which concerns discrimination in the provision of goods, facilities or services) of the Race Relations Act 1976⁽¹⁾.

Reductions and exemptions

13.—(1) Subject to paragraphs (3) and (4), if an operator is authorised under an enactment to make a reduction in a toll or user charge to be levied in respect of an HGV, or to make an exemption from the obligation to pay a toll or user charge in respect of an HGV, the operator may only make a reduction or grant an exemption if the HGV is within paragraph (2).

(2) An HGV is within this paragraph if it—

- (a) is exempt from the requirement to install and use recording equipment under Council Regulation (EEC) No 3821/85 of 20th December 1985 on recording equipment in road transport⁽²⁾,
- (b) is used for national or civil defence purposes, by fire or other emergency services or the police, or is used for road maintenance, or
- (c) travels only occasionally on public roads in the Member State where it is registered and is used by persons whose main occupation is not the carriage of goods.

(3) In respect of an HGV within paragraph (2)(c), a reduction may only be made or an exemption granted where—

- (a) the transport operations carried out by the HGV do not cause distortions of competition, and
- (b) the European Commission's agreement to the reduction or exemption has been obtained.

(4) This regulation does not apply in relation to a reduction in a toll to be levied in respect of an HGV used by a frequent user.

Discounts and reductions for frequent users

14.—(1) If an operator is authorised under an enactment to give a discount or to make a reduction in a toll to be levied in respect of an HGV used by a frequent user, the operator may only give the discount or make the reduction if the conditions referred to in paragraph (2) are satisfied.

(2) The conditions referred to are that—

- (a) the discount or reduction—
 - (i) satisfies the requirements referred to in regulation 5⁽³⁾,
 - (ii) complies with the Treaty establishing the European Community, in particular Articles 12, 49, 86 and 87,
 - (iii) does not distort competition in the internal market, and
 - (iv) does not in any case exceed 13% of the toll paid in respect of equivalent HGVs not eligible for the discount or reduction, and
- (b) the resulting charging structure is linear, proportionate, available to all users on equal terms and does not lead to additional costs being passed on to other users in the form of higher tolls.

(1) 1976 c.74; section 20 was amended by S.I. 2003/1626.

(2) O.J. L 370, 31.12.1985, p. 8; as amended by Commission Regulation (EC) No 432/2004 (O.J. L 71, 10.3.2004, p. 3)

Arrangements for the collection of tolls and user charges

15.—(1) The operator in relation to a toll or user charge must ensure that such tolls or user charges are collected in such a way as to cause as little hindrance as possible to the free flow of traffic and avoid any mandatory controls or checks at the European Union's internal borders.

(2) The appropriate national authority in relation to each user charge to which these Regulations apply must co-operate with the authorities in other EEA States to establish methods for enabling hauliers to pay those user charges 24 hours a day, at least at the major sales outlets, using all common means of payment.

(3) Where an operator has facilities at the point of payment for a toll or user charge, the operator must ensure that those facilities are adequate to maintain normal road safety standards.

(4) An operator must ensure that its arrangements for collecting tolls or user charges do not, financially or otherwise, place non-regular users of the section of infrastructure, in relation to which the toll or user charge is levied, at an unjustified disadvantage.

(5) Without prejudice to the generality of paragraph (4), where an operator collects tolls or user charges exclusively by means of a vehicle on-board unit, it must make such units available to those who require them under reasonable administrative and economic arrangements.

Levying tolls where vehicle documents unavailable

16. Where the rate of a toll to be levied in respect of an HGV varies according to its category as referred to in regulation 5(5)(a), and the driver of the HGV is unable to produce the vehicle documents necessary to ascertain that category and the type of HGV in the event of a check, the operator may levy a toll at the highest rate that the operator has authority to levy.