
STATUTORY INSTRUMENTS

2016 No. 248

**The Passenger and Goods Vehicles
(Tachographs) (Amendment) Regulations 2016**

PART 2

Amendments to primary legislation

Transport Act 1968

2. The Transport Act 1968 is amended as follows.
3. After section 96 insert—

“Authorisation of field tests

96A.—(1) The Secretary of State may authorise a person to carry out tests (“field tests”) of—

- (a) recording equipment that has not been type-approved under Article 13 of the EU Tachographs Regulation (granting of type-approval), or
 - (b) modifications or additions to recording equipment that has been so approved.
- (2) An authorisation is to be in writing.
- (3) The Secretary of State may withdraw an authorisation by giving written notice.
- (4) An authorisation may contain conditions which may in particular relate to—
- (a) the places where and equipment by means of which a field test is, or is to be, carried out;
 - (b) the procedure to be adopted in carrying out a field test;
 - (c) the records to be kept and the evidence to be furnished of the carrying out of a field test;
 - (d) the training of persons for carrying out field tests;
 - (e) the inspection by or on behalf of the Secretary of State of places where and equipment by means of which field tests are, or are to be, carried out;
 - (f) the display, at the places where field tests are carried out, of signs indicating that field tests are carried out there by persons approved by the Secretary of State.
- (5) The Secretary of State must from time to time publish lists of the persons currently authorised under this section.”.

- 4.—(1) Section 97 (installation and use of recording equipment)(1) is amended as follows.
- (2) In subsection (1)—

(1) Section 97 is substituted by S.I. 1979/1746 and amended by S.I. 1986/1457, S.I. 1989/2121, S.I. 1994/1838, S.I. 2005/1904, S.I. 2006/1117, S.I. 2008/198 and S.I. 2010/892.

- (a) in paragraph (a)(i) for “Community Recording Equipment Regulation” substitute “EU Tachographs Regulation”;
 - (b) in paragraph (a)(iii) for “13 to 15” substitute “27 to 29 and 32 to 37”;
 - (c) in paragraph (b) for “Community Recording Equipment Regulation” substitute “EU Tachographs Regulation”.
- (3) In subsections (1A) and (2) for “Community Recording Equipment Regulation” substitute “EU Tachographs Regulation”.
- (4) In subsection (3)(b) for “Article 16(2) of the Community Recording Equipment Regulation” substitute “Article 37(2) of the EU Tachographs Regulation”.
- (5) In subsection (4)(c) for “Article 13 to 15 of the Community Recording Equipment Regulation” substitute “Articles 27 to 29 and 32 to 37 of the EU Tachographs Regulation”.
- (6) In subsection (4A)—
- (a) in paragraph (b) for “Article 16(2) and, apart from the last paragraph thereof, Article 16(3) of the Community Recording Equipment Regulation” substitute “Articles 29(2) to (5), 35 and 37(2)” of the EU Tachographs Regulation”.
 - (b) in paragraph (c) for “Articles 13 to 15” substitute “Articles 27 to 29 and 32 to 37”.
- (7) After subsection (4A) insert—
- “(4B) A person shall not be liable to be convicted under subsection (1) of this section by reason of using recording equipment which does not bear a type-approval mark issued under Article 14 of the EU Tachographs Regulation if he proves to the court that the use of the recording equipment was in the course of a field test authorised under section 96A.
- (4C) Where a person (“the driver”)—
- (a) in the course of the driver’s employment, uses a vehicle in contravention of subsection (1), and
 - (b) is liable to be convicted under that subsection in respect of that use,
- the employer also commits an offence and shall be liable on summary conviction to a fine.
- (4D) A person shall not be liable to be convicted under subsection (4C) in respect of the use of a vehicle if the requirements of Article 10(1) and (2) of the Community Drivers’ Hours Regulation (liability of transport undertakings) and Article 33(1) of the EU Tachographs Regulation (responsibility of transport undertakings) were complied with in relation to that use.”.
- (8) In subsection (5) for “Article 13 to 15 of the Community Recording Equipment Regulation” substitute “Articles 27 to 29 and 32 to 37 of the EU Tachographs Regulation”.
- (9) In subsection (6) for “Community Recording Equipment Regulation” substitute “EU Tachographs Regulation”.
- (10) In subsection (7) for the definition of “the Community Recording Equipment Regulation” substitute—
- ““the EU Tachographs Regulation” means Regulation (EU) No. 165/2014 of the European Parliament and of the Council on tachographs in road transport as read with the Community Drivers’ Hours and Recording Equipment Regulations 2007 (S.I. 2007/1819);”.
- 5.** In section 97B(2) (records etc. produced by equipment may be used in evidence)(2) for “Article 15(2) or (5) or 16(2) of the Community Recording Equipment Regulation” substitute “Article 34(1), (3), (4) or (6) or 37(2) of the EU Tachographs Regulation”.

6. In section 97C(1)(b) (delivery of record sheets and other documents)(3) for “Community Recording Equipment Regulation” substitute “EU Tachographs Regulation”.

7. In section 97D(8) (vehicle units: downloading data)(4) and section 97F(3) (downloading data: requirement imposed by an officer)(5) for “Annex 1B to the Community Recording Equipment Regulation” substitute “Article 2(2)(n) of the EU Tachographs Regulation”.

8. In section 99ZA (inspection of records and other documents and data relating to recording equipment)(6)—

- (a) in subsection (1)(b) for “Community Recording Equipment Regulation” substitute “EU Tachographs Regulation”;
- (b) in subsection (2)(a) for “Article 15(7) of the Community Recording Equipment Regulation” substitute “Article 36 of the EU Tachographs Regulation”;
- (c) in subsection (6) for “Community Recording Equipment Regulation” substitute “EU Tachographs regulation”.

9. In section 99ZB (power of entry)(7), in subsections (7) and (9) for “Community Recording Equipment Regulation” substitute “EU Tachographs Regulation”.

10. In section 99ZE (offences: false records and data etc.)(8)—

- (a) in subsection (2) for “Community Recording Equipment Regulation” substitute “EU Tachographs Regulation”;
- (b) in subsection (6) for “produces, supplies or installs” substitute “produces, distributes, installs, advertises or sells”.

11.—(1) Section 103 (interpretation, supplementary provisions)(9) is amended as follows.

(2) In subsection (1)—

- (a) omit the definition of “the Community Recording Equipment Regulation” and at the appropriate place insert—

““the EU Tachographs Regulation” has the meaning given by section 97(7) of this Act;”;

- (b) at the appropriate place insert—

““field test” has the meaning given by section 96A(1) of this Act;”;

- (c) in the definition of “record sheet” for “Article 16(2) of the Community Recording Equipment Regulation” substitute “Article 37(2) of the EU Tachographs Regulation”.

(3) After subsection (9) insert—

“(10) A reference in this Part of this Act to Annex 1B to the EU Tachographs Regulation has effect, until the coming into force of that Annex, as a reference to Annex 1B to [Council Regulation \(EEC\) No. 3821/85](#) on recording equipment in road transport as read with the Community Drivers’ Hours and Recording Equipment Regulations 2007.”.

(3) Section 97C is inserted by [S.I. 2008/198](#).

(4) Section 97D is inserted by [S.I. 2008/198](#) and amended by [S.I. 2015/502](#).

(5) Section 97F is inserted by [S.I. 2008/198](#).

(6) Section 99ZA is inserted by [S.I. 2005/1904](#).

(7) Section 99ZB is inserted by [S.I. 2005/1904](#).

(8) Section 99ZE is inserted by [S.I. 2005/1904](#).

(9) Relevant amending instruments are [S.I. 1979/1746](#) and [S.I. 1986/1457](#).

Road Traffic Act 1988

12.—(1) The Road Traffic Act 1988(10) is amended as follows.

(2) In section 45(8) (tests of satisfactory condition of vehicles)(11) and section 49(5) (tests of satisfactory condition of goods vehicles and determination of plated weights, etc.)(12) for “Community Recording Equipment Regulation” substitute “EU Tachographs Regulation”.

(3) In section 85(1) (interpretation)(13) omit the definition of “the Community Recording Equipment Regulation” and at the appropriate place insert—

““the EU Tachographs Regulation” means Regulation (EU) No. 165/2914 of the European Parliament and of the Council on tachographs in road transport as read with the Community Drivers’ Hours and Recording Equipment Regulations 2007;”.

(4) In section 86 (index to part II), in the table omit the entry for the Community Recording Equipment Regulation and at the appropriate place insert—

“EU Tachographs Regulation		section 85”
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Road Traffic Offenders Act 1988

13. In the Road Traffic Offenders Act 1988(14), in Schedule 3, in the table, in the entry for Section 97(1) of that Act for “Community Recording Equipment Regulation” substitute “EU Tachographs Regulation”.

(10) 1988 c.52.

(11) There are no relevant amendments to this section.

(12) There are no relevant amendments to this section.

(13) Relevant amending instrument is S.I. 2010/892.

(14) 1988 c.53. Relevant amending instrument is S.I. 2009/483.