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STATUTORY INSTRUMENTS

2023 No. 739

ROAD TRAFFIC

**The Drivers' Hours and Tachographs (Amendment) Regulations
2023**

<i>Made</i>	- - - -	<i>5th July 2023</i>
<i>Laid before Parliament</i>		<i>6th July 2023</i>
<i>Coming into force</i>	- -	<i>21st August 2023</i>

The Secretary of State makes these Regulations in exercise of the powers conferred by Articles 11 and 41A(1) of Regulation (EU) No 165/2014 of the European Parliament and of the Council of 4 February 2014 on tachographs in road transport(a).

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Drivers' Hours and Tachographs (Amendment) Regulations 2023 and come into force on 21st August 2023.

(2) These Regulations extend to England and Wales, Scotland and Northern Ireland.

Amendment of Regulation (EU) No 165/2014

2.—(1) Regulation (EU) No 165/2014 of the European Parliament and of the Council of 4 February 2014 on tachographs in road transport is amended as follows.

(2) In Article 2(2) (definitions), in point (z4), for point (iv) substitute—

“(iv) the standards in Annex IC to Commission Implementing Regulation (EU) 2016/799 of 18 March 2016 implementing Regulation (EU) No 165/2014 of the European Parliament and of the Council laying down the requirements for the construction, testing, installation, operation and repair of smart tachographs and their components(b), as it has effect in EU law, as modified by the Schedule to the Drivers' Hours and Tachographs (Amendment) Regulations 2023(c).”.

(3) In Article 3 (scope)—

(a) after paragraph (1), insert—

(a) EUR 2014/165, amended by S.I. 2019/453, 2021/135, 2022/1260.
(b) OJ L 139, 26.05.2016, p. 1; relevant amending instruments are OJ L 85, 28.03.2018, p. 1, OJ L 34, 06.02.2020, p. 20, OJ L 273, 30.07.2021, p. 1 and OJ L 134, 22.5.2023, p. 28–35.
(c) S.I. 2023/739.

“1za Other than in the case of vehicles equipped with a smart tachograph 2, a smart tachograph 1 must be installed and used in vehicles registered for the first time on or before 20th February 2024.”;

(b) in paragraph (1a), for “21st August 2023” substitute “21st February 2024”;

(c) in paragraph (1b)—

(i) in the words before point (a), omit “other”;

(ii) before point (a) insert—

“(za) on or after 21st August 2023, in the case of vehicles registered for the first time on or after that date;”.

(4) In Article 8 (recording of the position of the vehicle at certain points during the daily working period), in paragraph (1)—

(a) in the third subparagraph, for “31st December 2024” substitute “21st August 2023”;

(b) in the last subparagraph, for the words from “apply to vehicles” to the end substitute—
“apply—

(a) to vehicles registered for the first time on or after 21st August 2023, but only when operating on the territory of a party to the Trade and Cooperation Agreement between the United Kingdom of Great Britain and Northern Ireland, of the one part, and the European Union and the European Atomic Energy Community, of the other part entered into on 30th December 2020(a), other than the territory where they are registered;

(b) to vehicles registered for the first time on or after 21st February 2024, without limiting the obligation to retrofit certain vehicles later in accordance with Article 3(1b)”.

(5) In Article 9 (remote early detection of possible manipulation or misuse), in paragraph (1), for “31st December 2024” substitute “21st August 2023”.

(6) In Article 10 (interface with Intelligent Transport Systems)—

(a) in the words before point (a), for “31st December 2024” substitute “21st August 2023”;

(b) for point (b) substitute—

“(b) the interface complies with the standards referred to in Article 2(2)(z4)(iv);”;

(c) omit the last sentence.

Modifications to Annex IC to Commission Implementing Regulation (EU) 2016/799

3. The Schedule makes modifications to Annex IC to Commission Implementing Regulation (EU) 2016/799 for the purpose of Article 2(2)(z4) of Regulation (EU) No 165/2014.

Review

4.—(1) The Secretary of State must from time to time—

(a) carry out a review of the regulatory provision contained in these Regulations, and

(a) CP 426. The Trade and Cooperation Agreement between the United Kingdom of Great Britain and Northern Ireland, of the one part, and the European Union and the European Atomic Energy Community, of the other part, done at Brussels and London on 30 December 2020, published on 30 April 2021, TS No.8/2021, ISBN 978-1-5286-2546-3, available at (<https://www.gov.uk/government/publications/ukeu-and-eaec-trade-and-cooperation-agreement-ts-no82021>). A copy of this document can be inspected (on reasonable notice) free of charge by contacting the Treaty Enquiries Service: 44 (0)20 7008 1109.

- (b) publish a report setting out the conclusions of the review.
- (2) The first report must be published before 21st August 2026.
- (3) Subsequent reports must be published at intervals not exceeding 5 years.
- (4) Section 30(3) of the Small Business, Enterprise and Employment Act 2015^(a) requires that a review carried out under this regulation must, so far as is reasonable, have regard to how the obligations included in Section 2 of Part C of Annex 31 to the Trade and Cooperation Agreement between the United Kingdom of Great Britain and Northern Ireland, of the one part, and the European Union and the European Atomic Energy Community, of the other part entered into on 30th December 2020, are implemented by the other party to such agreement.
- (5) Section 30(4) of the Small Business, Enterprise and Employment Act 2015 requires that a report published under this regulation must, in particular—
 - (a) set out the objectives intended to be achieved by the regulatory provision referred to in paragraph (1)(a),
 - (b) assess the extent to which those objectives are achieved,
 - (c) assess whether those objectives remain appropriate, and
 - (d) if those objectives remain appropriate, assess the extent to which they could be achieved in another way which involves less onerous regulatory provision.
- (6) In this regulation, “regulatory provision” has the same meaning as in sections 28 to 32 of the Small Business, Enterprise and Employment Act 2015 (see section 32 of that Act).

Signed by authority of the Secretary of State for Transport

5th July 2023

Richard Holden
Parliamentary Under Secretary of State
Department for Transport

(a) 2015 c. 26; section 30(3) was amended by the Enterprise Act 2016 (c. 12), section 19 and the European Union (Withdrawal) Act 2018 (c. 16), Schedule 8, paragraph 36.

SCHEDULE

Regulation 3

Modifications to Annex IC to Commission Implementing Regulation (EU) 2016/799

1. Annex IC to Commission Implementing Regulation (EU) 2016/799 of 18 March 2016 implementing Regulation (EU) No 165/2014 of the European Parliament and of the Council laying down the requirements for the construction, testing, installation, operation and repair of smart tachographs and their components, as it has effect in EU law, is to be read as modified as follows.

2. Other than in subsection 4.1, in point (229) and in section 7, in point (424), for “Member State” or “Member States”, in each place those words occur, substitute “party”.

3. Other than in section 1, in point (n), for “Regulation (EC) No 561/2006”(a), in each place those words occur, substitute “Section 2 of Part B of Annex 31 to the Trade and Cooperation Agreement between the European Union and the European Atomic Energy Community, of one part, and the United Kingdom of Great Britain and Northern Ireland, of the other part”.

4. Other than—

- (a) in subsection 3.28, in point (226d),
- (b) in subsection 4.1, in point (237),
- (c) in subsection 5.3, in point (402),
- (d) in section 7, in point (424),
- (e) in Appendix 13, in requirement ITS_01,
- (f) in Appendix 14, in the first paragraph of section 1, in the second paragraph of section 2, in section 3 and in point DSC_26 of subsection 5.2.2, and
- (g) in Appendix 15, in section 5, in requirement MIG_025,

for “Regulation (EU) 165/2014”, in each place those words occur, substitute “Section 4 of Part B and Section 2 of Part C of Annex 31 to the Trade and Cooperation Agreement between the European Union and the European Atomic Energy Community, of the one part, and the United Kingdom of Great Britain and Northern Ireland, of the other part”.

5. After “Annex IB to Regulation (EEC) No 3821/85”(b), in each place those words occur, insert “as adapted by Appendix 31-B-4-2 of Annex 31 to the Trade and Cooperation Agreement between the European Union and the European Atomic Energy Community, of one part, and the United Kingdom of Great Britain and Northern Ireland, of the other part”.

6. In section 1 (definitions)—

- (a) in point (n), for “Regulation (EC) No 561/2006 of the European Parliament and of the Council” substitute “Section 2 of Part B of Annex 31 to the Trade and Cooperation Agreement between the European Union and the European Atomic Energy Community,

(a) OJ L 102, 11.4.2006, p. 1; relevant amending instruments are OJ L 300, 14.11.2009, p. 88-105, OJ L 60, 28.2.2014, p. 1-33, OJ L 249, 31.7.2020, p. 1-16.

(b) OJ L 370, 31.12.1985, p. 8; relevant amending instruments are OJ L 318, 17.11.1990, p. 20, OJ L 353, 17.12.1990, p. 12, OJ L 374, 22.12.1992, p. 12, OJ L 256, 26.10.1995, p. 8, OJ L 154, 12.6.1997, p. 21, OJ L 274, 9.10.1998, p. 1, OJ L 207, 5.8.2002, p. 1, OJ L 284, 31.10.2003, p. 1, OJ L 71, 10.3.2004, p. 3, OJ L 102, 11.4.2006, p. 1, OJ L 363, 20.12.2006, p. 1, OJ L 21, 24.1.2009, p. 3, OJ L 87, 31.3.2009, p. 109, OJ L 339, 22.12.2009, p. 3, OJ L 158, 10.6.2013, p. 1. This instrument was repealed by OJ L 60, 28.2.2014, p. 1.

of one part, and the United Kingdom of Great Britain and Northern Ireland, of the other part”;

(b) for point (u) substitute—

“(u) ‘effective circumference of the wheels’ means: the average of the distances travelled by each of the wheels moving the vehicle (driving wheels) in the course of one complete rotation. The measurement of those distances must be made under standard test conditions as defined under requirement 414 and is expressed in the form ‘l = ... mm’. Vehicle manufacturers may replace the measurement of those distances by a theoretical calculation which takes into account the distribution of the weight on the axles, vehicle unladen in normal running order, namely with coolant fluid, lubricants, fuel, tools, spare-wheel and driver. The methods for such theoretical calculation are subject to approval by the competent authority in a party and can take place only before tachograph activation;”;

(c) in point (hh), for “Council Directive 92/6/EEC, as last amended”(a) substitute “the applicable law of each party”;

(d) in point (uu), for “Council Directive 92/23/EEC, as last amended”(b) substitute “UNECE Regulation No 54(c)”;

(e) for point (vv) substitute—

“(vv) ‘vehicle identification’ means: numbers identifying the vehicle: vehicle registration number (VRN) with indication of the registering Member State and vehicle identification number (VIN);”;

(f) after point (vv) insert—

“(vva) ‘vehicle identification number’ means a fixed combination of characters assigned to each vehicle by the manufacturer, which consists of two sections: the first, composed of not more than six characters (letters or figures), identifying the general characteristics of the vehicle, in particular the type and model; the second, composed of eight characters of which the first four may be letters or figures and the other four figures only, providing, in conjunction with the first section, clear identification of a particular vehicle;”;

(g) in point (yy), for the first indent substitute—

“— installed and used only in M1 and N1 type vehicles as defined in the Consolidated Resolution on the Construction of Vehicles (R.E.3)(d);”;

(h) omit point (aaa);

(i) in point (ccc), for the words “the date set out” to the end substitute “21st February 2024”.

7. In section 2 (general characteristics and functions of the recording equipment), in subsection 2.1, for the last sentence substitute “This is done in accordance with Article 4 of Section 2 of Part C of Annex 31 to the Trade and Cooperation Agreement between the European Union and

(a) OJ L 57, 2.3.1992, p. 27; relevant amending instruments are OJ L 327, 4.12.2002, p. 8-9.

(b) Directive 92/23/EEC: OJ L 129 14.5.1992, p. 95; relevant amending instruments are OJ L 211, 4.8.2001, p. 25, OJ L 46, 17.2.2005, p. 42. This instrument was repealed by OJ L 200, 31.7.2009, p. 1-24.

(c) OJ L 183, 11.7.2009, p. 41; relevant amending instruments are OJ L 307, 23.11.2011, p. 2.

(d) United Nations Economic Commission for Europe Consolidated Resolution on the Construction of Vehicles (R.E.3) published on 23 January 2014, ECE/TRANS/WP.29/78/Rev.3, available at (<https://unece.org/fileadmin/DAM/trans/main/wp29/wp29resolutions/ECE-TRANS-WP29-78-r3e.pdf>).

the European Atomic Energy Community, of the one part, and the United Kingdom of Great Britain and Northern Ireland, of the other part.”.

8. In section 3 (construction and functional requirements for recording equipment)—

(a) in subsection 3.20, for point (201) substitute—

“(201) The vehicle unit may also be able to output the following data using an appropriate dedicated serial link independent from an optional CAN bus connection (ISO 11898 Road vehicles — Interchange of digital information — Controller Area Network (CAN) for high speed communication), to allow their processing by other electronic units installed in the vehicle:

- current UTC date and time,
- speed of the vehicle,
- total distance travelled by the vehicle (odometer),
- currently selected driver and co-driver activity,
- information if any tachograph card is currently inserted in the driver slot and in the co-driver slot and (if applicable) information about the corresponding cards identification (card number and issuing country).

Other data may also be output in addition to that minimum list.

When the ignition of the vehicle is ON, those data must be permanently broadcast. When the ignition of the vehicle is OFF, at least any change of driver or co-driver activity and any insertion or withdrawal of a tachograph card must generate a corresponding data output. In the event that data output has been withheld whilst the ignition of the vehicle is OFF, that data must be made available once the ignition of the vehicle is ON again.

The driver consent must be required in case personal data are transmitted.”;

(b) in subsection 3.28, in point (226d), omit “, in accordance with Article 12(5) of Regulation (EU) No 165/2014”.

9. In section 4 (construction and functional requirements for tachograph cards)—

(a) in subsection 4.1—

- (i) in point (229), in the table, omit “UK” and “The United Kingdom”;
- (ii) after point (229), insert—

“(229a) where the United Kingdom is issuing the card, the distinguishing sign for the United Kingdom, which must be “UK”.”;

- (iii) in point (237), for “Article 26.4 of Regulation (EU) No. 165/2014” substitute “Article 9(2) of Section 2 of Part C of Annex 31 to the Trade and Cooperation Agreement between the European Union and the European Atomic Energy Community, of the one part, and the United Kingdom of Great Britain and Northern Ireland, of the other part”;

(b) in subsection 4.4, in point (241), for “Community territory” substitute “the territory of the Union and of the United Kingdom”.

10. In section 5 (installation of recording equipment)—

(a) in subsection 5.2, in point (397), for the first paragraph substitute—

“(397) For M1 and N1 vehicles only, and which are fitted with an adaptor in conformity with Appendix 16 of this Annex and where it is not possible to

include all the information necessary, as described in Requirement 396, a second, additional, plaque may be used. In such cases, this additional plaque must contain at least the last four indents described in Requirement 396.”;

- (b) in subsection 5.3, in point (402), for “Article 22(3) of Regulation (EU) No 165/2014” substitute “Article 5(3) of Section 2 of Part C of Annex 31 to the Trade and Cooperation Agreement between the European Union and the European Atomic Energy Community, of the one part, and the United Kingdom of Great Britain and Northern Ireland, of the other part”.

11. In section 6 (checks, inspections and repairs), for the words before subsection 6.1 substitute “Requirements on the circumstances in which seals may be removed are defined in Chapter 5.3 of this Annex.”.

12. In section 7 (card issuing), in point (424)—

- (a) after “Member States” insert “and the United Kingdom”;
- (b) for “Article 31 of Regulation (EU) No 165/2014” substitute “Article 13 of Section 2 of Part C of Annex 31 to the Trade and Cooperation Agreement between the European Union and the European Atomic Energy Community, of the one part, and the United Kingdom of Great Britain and Northern Ireland, of the other part”.

13. In Appendix 1 (data dictionary), in point 2.163, for “Directive 92/23 (EEC) 31/03/92 O.J. L129 p.95” substitute “UNECE Regulation No 54”.

14. In Appendix 11 (common security mechanisms), for “Regulation (EU) No 581/2010”(a), in both places those words occur, substitute “Article 7(5) of Section 2 of Part B Annex 31 to the Trade and Cooperation Agreement between the European Union and the European Atomic Energy Community, of the one part, and the United Kingdom of Great Britain and Northern Ireland, of the other part”.

15. In Appendix 12 (positioning based on Global Navigation Satellite System (GNSS)), in section 2, in the first paragraph, for “compatibility with the services provided by the Galileo and European Geostationary Navigation Overlay Service (EGNOS) programmes as set out in Regulation (EU) No 1285/2013 of the European Parliament and of the Council”(b) substitute “compatibility with Satellite Based Augmentation Systems (SBAS)”.

16. In Appendix 13 (ITS interface), in requirement ITS_01, omit “, requested in Articles 10 and 11 of Regulation (EU) No 165/2014”.

17. In Appendix 14 (remote communication function)—

- (a) in section 1, in the words before point DSC_1, omit “as required in Article 9 of Regulation (EU) No 165/2014 (the Regulation)”;
- (b) in section 2—
 - (i) in the second paragraph, omit “, as defined in Article 9 of Regulation (EU) No 165/2014”;
 - (ii) in the third paragraph, for “Directive (EU) 2015/719”(c) substitute “Section 1 of Part C of Annex 31 to the Trade and Cooperation Agreement between the European Union and the European Atomic Energy Community, of the one part, and the United Kingdom of Great Britain and Northern Ireland, of the other part”;

(a) OJ L 168, 2.7.2010, p. 16.

(b) OJ L 347, 20.12.2013, p. 1–24. This instrument was repealed by OJ L 170, 12.5.2021, p. 69–148.

(c) OJ L 115, 6.5.2015, p. 1–10.

- (c) in subsection 5.2.2, in point DSC_26, omit “in accordance with Article 9 of Regulation (EU) No 165/2014”.

18. In Appendix 15 (migration: managing the co-existence of equipment generations and versions)—

- (a) in subsection 2.2, in the words before requirement MIG_001, for “Annex IC of this Regulation” substitute “Annex IC of this Regulation as adapted by Appendix 31-B-4-3 of Annex 31 to the Trade and Cooperation Agreement between the European Union and the European Atomic Energy Community, of one part, and the United Kingdom of Great Britain and Northern Ireland, of the other part”;
- (b) in section 5, in requirement MIG_025, for “Article 34(7) of Regulation (EU) No 165/2014” substitute “Article 6(7) of Section 4 of Part B of Annex 31 to the Trade and Cooperation Agreement between the European Union and the European Atomic Energy Community, of one part, and the United Kingdom of Great Britain and Northern Ireland, of the other part”.

19. In Appendix 16 (adaptor for M1 and N1 category vehicles), in subsection 7.2, in the table after point ADA_040, at point 5.1, for “Directive 2006/28/EC”(a) substitute “UNECE Regulation No 10”.

(a) OJ L 65, 7.3.2006, p. 27–29. This instrument was repealed by OJ L 200, 31.7.2009, p. 1–24.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend definitions of certain tachographs by reference to recently updated standards, and make modifications for these purposes to Annex IC of Commission Implementing Regulation (EU) 2016/799, to facilitate compliant domestic and cross-border operations.

In addition, these Regulations alter implementation dates for a smart tachograph 1 or smart tachograph 2 in certain circumstances.

Regulation 2 amends Regulation (EU) No 2014/165 to—

- (a) amend Article 2 to update the definition of “smart tachograph 2” to provide for a ‘transitional’ smart tachograph 2;
- (b) amend Article 3 to—
 - (i) allow a smart tachograph 1 to be fitted and used in certain vehicles first registered on or before 20th February 2024 when operating domestically; and
 - (ii) delay the requirement for a smart tachograph 2 to be fitted and used in certain vehicles operating domestically to only those vehicles first registered on or after 21st February 2024.
- (c) amend Article 8 to—
 - (i) update the date from which certain tachographs must be connected to a positioning service based on a satellite navigation system; and
 - (ii) ensure the date from which a smart tachograph 2 is required, as it applies to vehicles operating domestically, is consistently presented;
- (d) amend Article 9 to update the date from which certain tachographs must be able to remotely communicate with the competent control authorities;
- (e) amend Article 10 to update the conditions for the use of standardised interfaces.

Regulation 3 introduces the Schedule of modifications.

Regulation 4 provides for the Secretary of State to undertake a review of the regulatory provisions contained in these Regulations firstly after three years, and then on a five yearly basis after that.

The Schedule makes modifications to Annex IC to Commission Implementing Regulation (EU) 2016/799 necessary for the interpretation of the standards referred to in the definition of “smart tachograph 2”.

A full impact assessment has not been produced for this instrument as no, or no significant, impact on the private, public or voluntary sectors is foreseen.

An Explanatory Memorandum for this instrument has been published alongside these Regulations at www.legislation.gov.uk.

£6.90

<http://www.legislation.gov.uk/id/uksi/2023/739>

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