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STATUTORY RULES OF NORTHERN IRELAND

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**2016 No. 343**

**EUROPEAN COMMUNITIES  
ROAD TRAFFIC AND VEHICLES**

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

*Made - - - - 20th September 2016*

*Coming into operation 31st October 2016*

The Department for Infrastructure<sup>(1)</sup> makes the following Regulations in exercise of the powers conferred by section 2(2) of, and paragraph 1A of Schedule 2 to, the European Communities Act 1972<sup>(2)</sup> and Article 83(1) of the Road Traffic (Northern Ireland) Order 1981<sup>(3)</sup> and now vested in it<sup>(4)</sup>.

The Department for Infrastructure is designated<sup>(5)</sup> for the purposes of section 2(2) of the European Communities Act 1972 in relation to the regulation of the type, description, construction or equipment of vehicles, the regulation and supervision of working conditions of persons engaged in road transport and measures relating to the organisation of working time.

It appears to the Department that it is expedient for the reference mentioned in regulation 5(2), to Regulation (EU) No. 165/2014 of the European Parliament and of the Council<sup>(6)</sup>, to be construed as a reference to that instrument as amended from time to time.

**Citation, commencement and interpretation**

1.—(1) These Regulations may be cited as the Passenger and Goods Vehicles (Tachographs) (Amendment) Regulations (Northern Ireland) 2016 and shall come into operation on 31<sup>st</sup> October 2016.

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- (1) Formerly the Department for Regional Development; *see* section 1(6) and (11) of, and Schedule 1 to, the Departments Act (Northern Ireland) 2016 (2016 c. (N.I.) 5). Pursuant to section 1(9) of that Act, the Department of the Environment is dissolved
- (2) 1972 c. 68; section 2(2) is amended by section 27(1)(a) of the Legislative and Regulatory Reform Act 2006 (c. 51) and by section 3(3) of, and Part 1 of the Schedule to, the European Union (Amendment) Act 2008 (c. 7); paragraph 1A of Schedule 2 was inserted by section 28 of the Legislative and Regulatory Reform Act 2006 and amended by section 3(3) of, and Part 1 of the Schedule to, the European Union (Amendment) Act 2008
- (3) S.I. 1981/154 (N.I. 1); to which there are amendments not relevant to these Regulations
- (4) *See* Article 8(1)(b) of, and Part 2 of Schedule 5 to, the Departments (Transfer of Functions) Order (Northern Ireland) 2016 (S.R. 2016 No. 76)
- (5) S.I. 1972/1811, S.I. 1975/1707 and S.I. 1997/1174
- (6) O.J. L 60, 28.2.2014, p. 1; Regulation (EU) No. 165/2014 repeals Council Regulation (EEC) No. 3821/85 on recording equipment in road transport and amends Regulation (EC) No. 561/2006 of the European Parliament and of the Council on the harmonisation of certain social legislation relating to road transport

(2) The Interpretation Act (Northern Ireland) 1954<sup>(7)</sup> shall apply to these Regulations as it applies to an Act of the Assembly.

### **Amendment of the Road Traffic (Northern Ireland) Order 1995**

2.—(1) The Road Traffic (Northern Ireland) Order 1995<sup>(8)</sup> is amended in accordance with paragraphs (2) to (4).

(2) In Article 53 (interpretation of Part 3), for the definition of “the Community Recording Equipment Regulation”<sup>(9)</sup> substitute—

““the EU Tachographs Regulation” means Regulation (EU) No. 165/2014 of the European Parliament and of the Council of 4 February 2014 on tachographs in road transport, as read with the Community Drivers’ Hours and Recording Equipment (Exemptions and Supplementary Provisions) Regulations (Northern Ireland) 2009<sup>(10)</sup>;”.

(3) In each of the provisions specified in paragraph (4), for “the Community Recording Equipment Regulation” substitute “the EU Tachographs Regulation”.

(4) The provisions referred to in paragraph (3) are—

- (a) Article 61(7) (tests of satisfactory conditions of vehicles);
- (b) Article 65(5) (tests of satisfactory conditions of goods vehicles and determination of plated weights, etc.); and
- (c) Article 75(12) (testing of condition of vehicles on roads)<sup>(11)</sup>.

### **Amendment of the Passenger and Goods Vehicles (Recording Equipment) Regulations (Northern Ireland) 1996**

3.—(1) The Passenger and Goods Vehicles (Recording Equipment) Regulations (Northern Ireland) 1996<sup>(12)</sup> are amended in accordance with paragraphs (2) to (17).

(2) In regulation 2(1) (interpretation)—

(a) for the definition of “the Community Recording Equipment Regulation”<sup>(13)</sup> substitute—

““the EU Tachographs Regulation” means Regulation (EU) No. 165/2014 of the European Parliament and of the Council of 4 February 2014 on tachographs in road transport, as read with the Community Drivers’ Hours and Recording Equipment (Exemptions and Supplementary Provisions) Regulations (Northern Ireland) 2009;”;

(b) in the following definitions, for “Community Recording Equipment Regulation” substitute “EU Tachographs Regulation”—

- (i) “analogue recording equipment”<sup>(14)</sup>;
- (ii) “competent authority”<sup>(15)</sup>;

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<sup>(7)</sup> 1954 c. 33 (N.I.)

<sup>(8)</sup> S.I. 1995/2994 (N.I. 18); relevant amendments are S.R. 1998 No. 270, regulation 3(1) and S.I. 2007 No. 916 (N.I. 10), Article 43(4)

<sup>(9)</sup> The definition of “the Community Recording Equipment Regulation” was substituted by regulation 3(1) of S.R. 1998 No. 270

<sup>(10)</sup> S.R. 2009 No. 91

<sup>(11)</sup> Paragraph (12) was inserted by Article 43(4) of S.I. 2007 No. 916 (N.I. 10)

<sup>(12)</sup> S.R. 1996 No. 145; relevant amending Regulations are S.R. 1998 No. 270, regulation 3(1); S.R. 2002 No. 50, regulation 2; S.R. 2005 No. 325, regulations 3 and 4; S.R. 2005 No. 441, regulations 4, 5 and 6; S.R. 2006 No. 274, regulations 3, 4, 5, 6 and 7; S.R. 2010 No. 23, regulations 4 and 6; S.R. 2011 No. 235, regulation 2 and S.R. 2016 No. 2, regulation 2

<sup>(13)</sup> The definition of “the Community Recording Equipment Regulation” was amended by regulation 3(1) of S.R. 1998 No. 270, substituted by regulation 4(1)(b) of S.R. 2005 No. 441 and amended by regulation 3(3) of S.R. 2006 No. 274 and regulation 2(1) of S.R. 2011 No. 235

<sup>(14)</sup> The definition of “analogue recording equipment” was inserted by regulation 3(2) of S.R. 2006 No. 274

<sup>(15)</sup> The definition of “competent authority” was inserted by regulation 4(2) of S.R. 2005 No. 441

- (iii) “digital recording equipment”(16); and
- (iv) “the relevant Annexes(17)”;
- (c) in the following definitions, for “Annex IB to the Community Recording Equipment Regulation” substitute “Article 2 of the EU Tachographs Regulation”—
  - (i) “company card”;
  - (ii) “control card”;
  - (iii) “driver card”(18); and
  - (iv) “workshop card”(19);
- (d) after the definition of “electronic copy”(20) insert—
  - ““field test” has the meaning given in regulation 2A(1) of these Regulations;”;
- (e) 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 regulation 2(3)(21) insert—
  - “(4) A reference in these Regulations to Annex IB to the EU Tachographs Regulation has effect, until the coming into force of that Annex, as a reference to Annex IB to [Council Regulation \(EEC\) No. 3821/85](#) on recording equipment in road transport, as read with the Community Drivers’ Hours and Recording Equipment (Exemptions and Supplementary Provisions) Regulations (Northern Ireland) 2009.”.
- (4) After regulation 2 insert—

**“Authorisation of field tests**

- 2A.—**(1) The Department 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 under paragraph (1) shall be in writing.
- (3) The Department may withdraw an authorisation under paragraph (1) by giving written notice to the authorised person.
- (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 Department of places where and equipment by means of which field tests are, or are to be, carried out; and

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(16) The definition of “digital recording equipment” was inserted by regulation 3(2) of [S.R. 2006 No. 274](#)

(17) The definition of “the relevant Annexes” was inserted by regulation 3(2) of [S.R. 2006 No. 274](#)

(18) The definitions of “company card”, “control card” and “driving card” were inserted by regulation 4(2) of [S.R. 2005 no. 441](#)

(19) The definition of “workshop card” was inserted by regulation 3 of [S.R. 2005 No. 325](#)

(20) The definition of “electronic copy” was inserted by regulation 3(2) of [S.R. 2006 No. 274](#)

(21) Paragraph (3) was inserted by regulation 4(3) of [S.R. 2005 No. 441](#)

- (f) the display, at the places where field tests are carried out, of signs indicating that field tests are carried out there by persons authorised by the Department.
- (5) The Department shall from time to time publish lists of the persons currently authorised under this regulation.”.
- (5) In regulation 3 (installation and use of recording equipment)—
- (a) in paragraph (1)(**22**)—
- (i) in sub-paragraphs (a)(i) and (b) for “the Community Recording Equipment Regulation” substitute “the EU Tachographs Regulation”; and
- (ii) in sub-paragraph (a)(iii) for “Articles 13 to 15” substitute “Articles 27 to 29 and 32 to 37”;
- (b) in paragraphs (2) and (3) for “Community Recording Equipment Regulation” substitute “EU Tachographs Regulation”;
- (c) in paragraph 4(b) for “Article 16(2) of the Community Recording Equipment Regulation” substitute “Article 37(2) of the EU Tachographs Regulation”;
- (d) in paragraph (4A)(**23**)—
- (i) in sub-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”; and
- (ii) in sub-paragraph (c) for “Articles 13 to 15” substitute “Articles 27 to 29 and 32 to 37”;
- (e) after paragraph (4A) insert—
- “(4B) A person shall not be liable to be convicted under paragraph (1) 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 regulation 2A.
- (4C) Where a person (“the driver”)—
- (a) in the course of the driver’s employment, uses a vehicle in contravention of paragraph (1); and
- (b) is liable to be convicted under that paragraph in respect of that use,
- the employer also commits an offence and shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.
- (4D) A person shall not be liable to be convicted under paragraph (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.”;
- (f) in paragraphs (5)(c) and (6) for “Articles 13 to 15 of the Community Recording Equipment Regulation” substitute “Articles 27 to 29 and 32 to 37 of the EU Tachographs Regulation”; and
- (g) in paragraph (7)(**24**) for “the Community Recording Equipment Regulation” substitute “the EU Tachographs Regulation”.

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(22) Paragraph (1) was amended by regulation 4(2) of [S.R. 2006 No. 274](#)

(23) Paragraph (4A) was inserted by regulation 4(4) of [S.R. 2006 No. 274](#)

(24) Paragraph (7) was amended by regulation 4 of [S.R. 2010 No. 23](#)

(6) In regulation 6(2) (records, etc. produced by equipment may be used in evidence)(**25**) 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”.

(7) In regulation 6A(1)(b) (delivery of record sheets and other documents)(**26**) for “Community Recording Equipment Regulation” substitute “EU Tachographs Regulation”.

(8) In regulation 6B(8) (vehicle units: downloading data)(**27**) for “Annex 1B to the Community Recording Equipment Regulation” substitute “Article 2(2)(n) of the EU Tachographs Regulation”.

(9) In regulation 6D(3)(a) (downloading data: requirement imposed by a vehicle examiner)(**28**) for “Annex 1B to the Community Recording Equipment Regulation” substitute “Article 2(2)(n) of the EU Tachographs Regulation”.

(10) In regulation 7(4) (inspection of recording equipment and record sheets)(**29**) for “Community Recording Equipment Regulation” substitute “EU Tachographs Regulation”.

(11) In regulation 7A (inspection of records and other documents and data relating to recording equipment)(**30**)—

(a) in paragraph (1)(b) for “Community Recording Equipment Regulation” substitute “EU Tachographs Regulation”; and

(b) in paragraph (2)(a) for “Article 15(7) of the Community Recording Equipment Regulation” substitute “Article 36 of the EU Tachographs Regulation”.

(12) In regulation 7B(7)(b) (power of entry)(**31**) for “Community Recording Equipment Regulation” substitute “EU Tachographs Regulation”.

(13) In regulation 7E (offences: false records and data etc.)(**32**)—

(a) in paragraph (2)(a) for “Community Recording Equipment Regulation” substitute “EU Tachographs Regulation”;

(b) in paragraph (6) for “produces, supplies or installs” substitute “produces, distributes, installs, advertises or sells”; and

(c) in paragraph (8) for “produced, supplied or installed” substitute “produced, distributed, installed, advertised or sold”.

(14) In regulation 8 (installation and repair of recording equipment, checks and inspections)—

(a) in paragraph (1)(a) for “Article 12 of the Community Recording Equipment Regulation” substitute “Article 22 of the EU Tachographs Regulation”; and

(b) in paragraph (1)(b)(**33**) for “Chapter VII of Annex IB” substitute “Chapter VI of Annex IB”.

(15) In regulation 9(1)(a) (fee for approval or renewal of approval of fitters and workshops and for tachograph cards)(**34**) for “Article 12 of the Community Recording Equipment Regulation” substitute “Article 22 of the EU Tachographs Regulation”.

(16) In regulation 10A(2)(a)(ii) (driver card requirements)(**35**) for “Community Recording Equipment Regulation” substitute “EU Tachographs Regulation”.

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(25) Paragraph (2) was amended by regulation 5 of [S.R. 2006 No. 274](#)

(26) Regulation 6A was inserted by regulation 6 of [S.R. 2010 No. 23](#)

(27) Regulation 6B was inserted by regulation 6 of [S.R. 2010 No. 23](#) and amended by regulation 2(2) of [S.R. 2016 No. 2](#)

(28) Regulation 6D was inserted by regulation 6 of [S.R. 2010 No. 23](#)

(29) Regulation 7 was substituted by regulation 6 of [S.R. 2006 No. 274](#)

(30) Regulation 7A was inserted by regulation 7 of [S.R. 2006 No. 274](#)

(31) Regulation 7B was inserted by regulation 7 of [S.R. 2006 No. 274](#)

(32) Regulation 7E was inserted by regulation 7 of [S.R. 2006 No. 274](#)

(33) Sub-paragraph (b) was amended by regulation 4 of [S.R. 2005 No. 325](#)

(34) Regulation 9 was amended by regulation 2 of [S.R. 2002 No. 50](#) and substituted by regulation 5 of [S.R. 2005 No. 441](#)

(35) Regulation 10A was inserted by regulation 6 of [S.R. 2005 No. 441](#)