



STATUTORY INSTRUMENTS

S.I. No. 62 of 2008

EUROPEAN COMMUNITIES (ROAD TRANSPORT) (WORKING
CONDITIONS AND ROAD SAFETY) REGULATIONS 2008

(Prn. A8/0341)

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EUROPEAN COMMUNITIES (ROAD TRANSPORT) (WORKING
CONDITIONS AND ROAD SAFETY) REGULATIONS 2008

I, NOEL DEMPSEY, Minister for Transport, in exercise of the powers conferred on me by section 3 of the European Communities Act 1972 (No. 27 of 1972), and for the purpose of giving full effect to Council Regulation 3821/85/EEC of 20 December 1985 (as amended by Council Regulation 2135/98/EC of 24 September 1998, Commission Regulation (EC) 1360/2002 of 13 June 2002 and Council Regulation 561/2006 of 15 March 2006), Council Regulation 561/2006 of 15 March 2006 and having regard to the Road Safety Authority (Conferral of Functions) Order 2006 (S.I. 477 of 2006) hereby make the following Regulations:

PART 1

PRELIMINARY PROVISIONS

Citation and commencement

1. (1) These Regulations may be cited as the European Communities (Road Transport) (Working Conditions and Road Safety) Regulations 2008.

(2) These Regulations come into operation on the day after the date on which the making of these Regulations is published in the *Iris Oifigiúil*.

Interpretation

2. (1) In these Regulations—

“amend”, in relation to a condition, includes substitute a condition for an existing condition;

“another Member State” means a Member State of the European Communities, other than the State;

“approved workshop” means a workshop approved by NSAI under Regulation 11 of these Regulations;

“approved workshop card” means an approved workshop card issued by the Road Safety Authority under Regulation 11 of these Regulations;

“contravene”, in relation to a provision of the Council Regulations or these Regulations, includes fail to comply with the provision;

“Council Regulations” means the First Council Regulation and the Second Council Regulation;

“details”—

*Notice of the making of this Statutory Instrument was published in
“Iris Oifigiúil” of 11th March, 2008.*

- (a) in relation to a driver, includes the driver's name, the driver's driver card or driving licence number and the driver's signature, and
- (b) in relation to a vehicle, means details (such as the vehicle registration number) sufficient to identify the vehicle;

“digital tachograph card” means a smart card that, being intended for use with recording equipment conforming to Annex 1B of the First Council Regulation, allows for identification by the recording equipment of the identity (or identity group) of the cardholder and for the transfer and storage of data, and, when issued by the appropriate authority of a Member State, includes any of the following kinds of tachograph cards:

- (a) a driver card;
- (b) a control card;
- (c) a company card;
- (d) a workshop card;

“enforcement officer” means—

- (a) a transport officer, or
- (b) an officer of Customs and Excise, or
- (c) a member of the Garda Síochána;

“European Agreement” means the European Agreement concerning the work of crews of vehicles engaged in International Road Transport (AETR)¹ done at Geneva on 1 July 1970, as amended;

“European Commission” means the Commission of the European Communities;

“exempt vehicle” means a vehicle exempted by Regulation 5 of these Regulations from the operation of Articles 5, 6, 7, 8 and 9 of the Second Council Regulation;

“First Council Regulation” means Council Regulation 3821/85 EEC of 20 December 1985 on recording equipment in road transport² (as amended by Council Regulation (EC) 2135/98 of 24 September 1998³ and Commission Regulation (EC) 1360/2002 of 13 June 2002⁴ and Council Regulation 561/2006 of 15 March 2006⁵);

“Minister” means the Minister for Transport;

¹OJ No. L95, 08.04.1978, p.1.

²OJ No. L 370 of 31 December 1985, page 8.

³OJ No. L 274 of 9 October 1998, page 1.

⁴OJ No. L 207 of 5 August 2002, page 1.

⁵OJ No. L 102 of 11 April 2006, page 1.

“notify” means notify in writing;

“NSAI” means the National Standards Authority of Ireland established under section 6 of the National Standards Authority of Ireland Act 1996 (No. 28 of 1996);

“officer of Customs and Excise” has the same meaning as in the Customs Act 1956 (No. 7 of 1956);

“premises” includes a part of premises;

“publication” includes publication on an Internet website;

“record” means any document, record, book, printout, digital data, driver card (including driver activity data stored on a driver card) company card, workshop card and control card;

“recording equipment” means the total equipment installed or intended for installation in a road vehicle in order to show, record and store, either automatically or semi-automatically, details of the movement of the vehicle and the working periods of its drivers;

“recording medium” means any device or medium used for recording or storing data;

“Road Safety Authority” means the Authority established under the Road Safety Authority Act 2006 (No. 14 of 2006);

“roadside check form” means a form that accords with Schedule 1, or a form having similar effect;

“roadside check report”, in relation to a vehicle, means a roadside check form that has been completed by an enforcement officer after having carried out a roadside check;

“Road Traffic Acts” means the Road Traffic Acts 1961 to 2007;

“Second Council Regulation” means Council Regulation 561/2006 of the European Parliament and of the Council dated 15 March 2006 on the harmonisation of certain social legislation relating to road transport, and amending Council Regulations (EEC) 3821/85 and (EC) 2135/98 and repealing Council Regulation (EEC) 3820/85;

“serve”, in relation to the service of a document on a person, means serve on the person personally or by post;

“third country” means a country that is not a Member State and includes a dependent territory of such a country;

“transport officer” means a person appointed under section 15 of the Road Transport Act 1986;

“universal service provider” means a universal service provider as defined in Article 2(13) of Directive 97/67/EC of the European Parliament and of the Council of 15 December 1997 on common rules for the development of the internal market of European Community postal services and the improvement of quality of service⁶ to deliver items as part of the universal service.

(2) For the purposes of these Regulations, the expression “for the purpose of carriage by road” includes a purpose relating to carriage by road.

(3) A word or expression that is used in these Regulations and also in either of the Council Regulations has, unless the contrary intention appears, the same meaning as it has in the Council Regulation concerned.

Application of European Agreement

3. The European Agreement applies, instead of the Second Council Regulation, to international road transport operations undertaken partly outside the areas mentioned in Article 2.2 of that Regulation, but only if the vehicle concerned—

- (a) is, for the whole of the journey concerned, one that is registered in a Member State or in a country that is a contracting party to the Agreement, or
- (b) is, for the part of a journey on the territory of a Member State or of a country that is a contracting party to the Agreement, one that is registered in a third country that is not a contracting party to the Agreement.

Permissible maximum weights for certain vehicles registered in the State

4. For the purposes of the Council Regulations and these Regulations—

- (a) a vehicle registered in the State (including a trailer or semi-trailer) that has, for the purposes of the Road Traffic Acts, an unladen mass not exceeding 1,524 kilograms is taken to have a permissible maximum mass of 3.5 tonnes, and
- (b) a vehicle registered in the State (including a trailer or semi-trailer) that has, for the purposes of the Road Traffic Acts, an unladen mass not exceeding 3,048 kilograms is taken to have a permissible maximum mass of 7.5 tonnes.

Exemption of certain categories of vehicles from operation of certain Articles of Second Council Regulation

5. (1) The following categories of vehicles are exempted from Articles 5, 6, 7, 8 and 9 of the Second Council Regulation when used for carriage by road solely within the State:

⁶O.J. No. L. 15, 21 Jan. 1998, p. 14. Directive as last amended by Regulation (EC) 1882/2003 (O.J. No. L. 284, 31 October 2003, p. 1).

- (a) a vehicle that is owned, or is hired without a driver, by a public authority to undertake carriage by road, but only if the vehicle does not compete with private transport undertakings;
- (b) a vehicle that is used, or hired without a driver, by an agricultural, horticultural, forestry, farming or fishery undertaking for carrying goods as a part of its own entrepreneurial activity within a radius of up to 100 kilometres from the undertaking's base;
- (c) an agricultural tractor or forestry tractor that is owned, hired or leased by an undertaking and is used only for agricultural or forestry activities within a radius of up to 100 kilometres from the base of the undertaking;
- (d) subject to paragraph (2), a vehicle that has, or a combination of vehicles each of which has a maximum permissible mass not exceeding 7.5 tonnes, but only if the vehicle is used—
 - (i) by a universal service provider to deliver items as part of the universal service, or
 - (ii) for carrying materials, equipment or machinery for the driver's use in the course of the driver's work;
- (e) a vehicle that operates exclusively on islands that do not exceed 2,300 square kilometres in total area and are not linked to the rest of the State by a bridge, ford or tunnel that is open for use by motor vehicles;
- (f) a vehicle that is owned, hired or leased by a transport undertaking and is propelled by means of natural or liquefied gas or electricity, but only if—
 - (i) the vehicle is used for the carriage of goods within a radius of 50 kilometres from the undertaking's base, and
 - (ii) the maximum permissible mass of the vehicle (including its trailer or semi-trailer (if any)) does not exceed 7.5 tonnes;
- (g) a vehicle that is used for driving instruction and examination leading to the issue of a driving licence or a certificate of professional competence, but only if it is not also being used for the commercial carriage of goods or passengers;
- (h) a vehicle that is used in connection with—
 - (i) sewerage services, flood protection, water, gas or electricity maintenance services, or
 - (ii) road maintenance and control, or
 - (iii) door-to-door household refuse collection and disposal, or

- (iv) telegraph or telephone services, or
- (v) radio or television broadcasting or the detection of radio or television transmitters or receivers;
- (i) a vehicle that is used exclusively for the non-commercial carriage of passengers but only if the vehicle contains no more than 17 seats (including the driver's seat);
- (j) a specialised vehicle that is used for transporting circus or funfair equipment;
- (k) a specially fitted mobile-project vehicle, the primary purpose of which is use as an educational facility while stationary;
- (l) a vehicle that is used for milk collection from farms and the return to farms of milk containers or milk products intended for animal feed;
- (m) a vehicle that is specially designed for mobile banking, exchange or saving transactions;
- (n) a vehicle that is used for carrying animal waste, or for carrying carcasses that are not intended for human consumption;
- (o) a vehicle that is used exclusively on roads inside a port, airport or railway terminal;
- (p) a vehicle that is used for the carriage of live animals, but only if used from—
 - (i) a farm to a local market, or
 - (ii) a local market to a farm, or
 - (iii) a market to a local slaughterhouse,
 that is not more than 50 kilometres from the farm, or the local market or market.

(2) A vehicle of the kind referred to in paragraph (1)(d) is an exempt vehicle only if—

- (a) it is only used within a radius of 50 kilometres from the base of the service provider or driver concerned, and
- (b) driving is not the main activity of the driver of the vehicle.

Competent authority for purposes of the Council Regulations

6. For the purposes of the Council Regulations and these Regulations, the competent authority for the State is—

- (a) for issuing digital tachograph cards, the Road Safety Authority, and

- (b) for the purposes of approving types of recording equipment as provided for in Articles 4 to 11 of the First Council Regulation and the approval of workshops as provided for in Article 12 of that Regulation, NSAI, and
- (c) for the purposes of Article 21 of the Second Council Regulation, the Garda Síochána, but only in relation to the power to immobilise a vehicle until such time as the cause of an infringement involving the use of the vehicle has been rectified.

PART 2

RESPONSIBILITY OF ROAD SAFETY AUTHORITY

Responsibility of Road Safety Authority to supply information to European Commission

7. (1) The Road Safety Authority shall—

- (a) supply to the European Commission information required by Articles 13, 17, 19 and 22 of the Second Council Regulation, and
- (b) in the case of a vehicle registered, or owned by a person established, in another Member State, supply to the competent authorities of other Member States information on any penalties imposed by a judicial or administrative authority of the State in respect of contraventions of the Council Regulations committed by the owner or driver of that vehicle while that vehicle was being operated in Ireland, and
- (c) in the case of a vehicle registered, or owned by a person established, in the State, on being requested to do so by the competent authority of another Member State, supply to that authority information on any penalties imposed by a judicial or administrative authority of the State, or of another Member State, in respect of contraventions of the Council Regulations committed by the owner or driver of that vehicle while that vehicle was being operated in other Member States.

(2) Neither the Road Safety Authority nor an enforcement officer is liable for any loss, damage, expense, costs, delays, or other liability that a transport undertaking may incur because of the performance or exercise of functions imposed or conferred on that Authority, or on an enforcement officer, under these Regulations.

PART 3

APPROVED WORKSHOPS

Responsibility of NSAI with respect to approval of workshops

8. NSAI is responsible for—

- (a) approving workshops for the installation, calibration and repair of recording equipment in accordance with Article 12 of the First

Council Regulation and for carrying out checks and inspections in accordance with Parts V and VI of Annex I, and Parts V and VI of Annex IB, to that Regulation, and

- (b) laying down procedures and conditions to be adopted by workshops approved of by them for the purposes of that Regulation, and
- (c) monitoring approved digital tachograph workshops.

Offence to install, repair or carry out inspections to recording equipment without approval

9. A person who installs, repairs or carries out inspections of recording equipment that is required to be fitted under Article 3 of the First Council Regulation commits an offence, unless—

- (a) the person, and the premises where the equipment is installed, repaired or inspected, are approved by NSAI under this Part, and
- (b) an approved workshop card is in force in respect of both the person and the workshop.

Applications for approval by NSAI

10. (1) Any person who wishes to install, repair or carry out inspections to recording equipment that is required to be fitted under Article 3 of the First Council Regulation may apply to NSAI for the premises where the installation, repair or inspection is to be carried out to be approved as a workshop.

(2) An application must—

- (a) be in a form approved by NSAI, and
- (b) contain such information, and be accompanied by such documents, as may be requested by that Authority.

(3) NSAI may, by written notice given to an applicant, require the applicant to provide additional information and documents as is reasonably necessary to enable it to determine the application. If such a requirement is not complied with within a period specified in the notice, not exceeding 60 days, that Authority may reject the application.

Grant and rejection of applications for approval

11. (1) NSAI may approve premises as a workshop only if it is satisfied that the operator of the workshop is or will be able to carry out, in a proper manner, the responsibilities of the operator of an approved workshop, as required by the First Council Regulation and these Regulations.

(2) In granting an approval, the Authority may impose such conditions on the applicant as it considers necessary to secure compliance with the First Council Regulation and these Regulations.

(3) On approving premises as a workshop, NSAI shall—

- (a) record the appropriate particulars of the premises in the register of approved workshops, and
 - (b) notify the applicant and the Road Safety Authority of the approval and of any conditions imposed with respect to the approval under paragraph (2).
- (4) As soon as practicable after—
- (a) being notified that the operator of a workshop has been approved by NSAI, and
 - (b) receiving an application in writing from the operator,

the Road Safety Authority shall issue an approved workshop card to the operator.

(5) NSAI may not reject an application under this Regulation without giving the applicant an opportunity to make representations (either orally or in writing or both) as to why the application should not be rejected and, if any such representations are made, without having considered those representations.

(6) If NSAI rejects an application, it shall immediately give to the applicant written notice of the rejection, which must include a statement setting out the reasons for the rejection.

Effect and term of approval

12. (1) Approval of premises as a workshop authorises the use of the premises as a workshop in accordance with the First Council Regulation.

(2) The operator of an approved workshop shall comply with the conditions (if any) to which the approval is subject.

(3) The fact that NSAI has approved premises as a workshop does not of itself make that Authority liable for any financial loss incurred by a person because the fitter, or the operator of the workshop, or an agent or employee of the fitter or operator, has contravened a provision of the Council Regulations or these Regulations, or any condition of the approval of the premises.

(4) The approval of premises as a workshop remains in force until the approval is revoked under this Part.

NSAI may amend or revoke condition of approval or impose new condition

13. (1) NSAI may from time to time amend a condition of approval for a workshop, or impose a new condition of approval, but only after giving to the operator of the workshop concerned notice in writing of its intention to do so and giving the operator an opportunity to make written representations to that Authority in relation to the proposed variation or proposed new condition.

(2) In amending a condition, or imposing a new condition, NSAI shall take into consideration any representations made by the operator of the workshop concerned.

(3) NSAI may from time to time revoke a condition of approval for a workshop by notifying the revocation to the operator of the workshop concerned.

Replacement of workshop card that is lost, damaged or destroyed

14. (1) If the Road Safety Authority is satisfied that an approved workshop card has been lost or destroyed, the Authority may, on payment of a fee of €50, issue a replacement card.

(2) If the Road Safety Authority is satisfied that an approved workshop card has been damaged, the Authority may, on payment of a fee of €50 and the surrender of the damaged card, issue a replacement card.

Register of approved workshops to be kept

15. (1) NSAI shall establish and keep a register of approved workshops.

(2) The register of approved workshops must contain the address of each approved workshop and the name and business address of the operator of the workshop and such other information as NSAI determines.

(3) The register may be kept in book form, electronic form or such other form as NSAI determines from time to time. If a register is kept in an electronic form that is not visually readable, the register must be capable of being reproduced in a visually readable form.

(4) The register is to be kept at the head office of NSAI.

(5) Members of the public are entitled, without charge, to inspect the register during the ordinary business hours of NSAI. However, that Authority may impose a reasonable charge for providing a copy of a register or of an entry in a register.

(6) NSAI shall, not less frequently than once during every period of 12 months beginning with the commencement of these Regulations, publish in a publication decided by that Authority a list of approved workshops.

Revocation of approval on application of an operator of workshop

16. NSAI may revoke the approval of a workshop, on the application of the operator of the workshop.

Revocation of approval otherwise than on application of operator of workshop

17. (1) Before revoking the approval of a workshop, NSAI shall, by notice in writing given to the operator of the workshop, inform the operator of its intention to revoke the approval. The notice must specify—

(a) the grounds on which it is proposed to revoke the approval, and

(b) that the operator may, within 21 days after the giving of the notice, make written representations to that Authority showing why the approval should not be revoked.

(2) Not later than 21 days after being given a notice under paragraph (1), the operator of the workshop may make written representations to NSAI showing why the approval should not be revoked.

(3) NSAI may revoke the approval of a workshop only after having considered any representations made by the operator of the workshop in accordance with paragraph (2).

(4) If NSAI revokes the approval of a workshop under this Regulation, it shall give written notice of the revocation to the operator of the workshop concerned. The notice must include a statement of the reasons for revoking the approval.

(5) Unless the High Court otherwise orders, revocation of the approval of a workshop under this Regulation takes effect on and from the date of the notice or, if a later date is specified in the notice, on and from that date, irrespective of whether or not that operator appeals against the revocation under Regulation 18 of these Regulations.

Right to appeal against certain decisions of NSAI

18. (1) If NSAI—

(a) rejects an application for approval of a workshop, or

(b) grants the application but imposes conditions with which the applicant is dissatisfied,

the applicant may appeal to the High Court against the decision of NSAI rejecting the application or imposing the conditions.

(2) If an operator of an approved workshop is dissatisfied with a decision of NSAI amending a condition of approval, or imposing a new condition, the operator may appeal to the High Court against the decision.

(3) If NSAI revokes the approval of a workshop under Regulation 17 of these Regulations, the operator of the workshop may appeal to the High Court against the decision of NSAI revoking the approval.

(4) An appeal under this Regulation may be heard and determined only if it is lodged within 42 days after the relevant decision of NSAI has been notified to the applicant concerned.

(5) The High Court may hear an appeal made under this section only if it is satisfied that a copy of the notice of appeal has been served on NSAI.

(6) NSAI is entitled to appear as respondent at the hearing of an appeal made under this section.

(7) An appeal made under this section is to be dealt with by way of rehearing.

(8) On the hearing of an appeal, the High Court may make one of the following orders:

- (a) an order confirming the decision appealed against;
- (b) an order quashing that decision;
- (c) an order substituting for that decision any decision that the Authority could have made in respect of the appellant.

(9) The High Court may also make such ancillary orders as it thinks appropriate.

Offences relating to the use of approved workshop cards

19. (1) A person who—

- (a) falsifies an approved workshop card, or
- (b) makes use, or attempts to make use, of an approved workshop card, or a personal identification number, of which the person is not the holder, or
- (c) makes use, or attempts to make use, of an approved workshop card, or a personal identification number, in circumstances unconnected with the workshop for which that card or number was issued, or
- (d) obtains an approved workshop card by means of fraudulent or deceptive conduct, or
- (e) permits another person to use the personal identification number associated with an approved workshop card of which the person is the holder,

commits an offence.

(2) For the purposes of this Regulation, “personal identification number” means a personal identification number issued by the Road Safety Authority for use with an approved workshop card.

PART 4

INSTALLATION AND USE OF RECORDING EQUIPMENT

Definitions: Part 4

20. In this Part—

“availability” and “other work” have the same meanings as in Article 15 of the First Council Regulation;

“inspection” means inspection by enforcement officers.

Recording equipment to be installed in certain kinds of vehicles

21. (1) This Regulation applies to a vehicle referred to in Article 3 of the First Council Regulation, other than—

- (a) a vehicle exempted from the application of that Regulation by Regulation 5 of these Regulations, or
- (b) a vehicle described in Article 3 of the Second Council Regulation, or
- (c) a vehicle referred to in Regulation 59 of these Regulations that is not fitted with complying recording equipment.

(2) Subject to this Regulation, the owner of a vehicle to which this Regulation applies shall ensure that there is installed in the vehicle recording equipment that complies with the requirements of the First Council Regulation.

(3) A person (other than the owner) who, in the course of a business, uses a vehicle to which this paragraph applies shall ensure that—

- (a) recording equipment that complies with the requirements of the First Council Regulation is installed in the vehicle, and
- (b) the equipment is operated in accordance with that Regulation and these Regulations.

(4) Paragraph (3)—

- (a) does not apply to an exempt vehicle or a vehicle referred to in Article 3 of the Second Council Regulation, and
- (b) does not require a person who is employed as a driver or is engaged under a contract for services as a driver to install (or have installed) or keep installed complying recording equipment.

(5) The owner and, if different from the owner, the driver of a vehicle that is subject to the First Council Regulation are each responsible for ensuring that, when the vehicle is about to be or is being used, the recording equipment—

- (a) is in proper working order, and
- (b) functions as required by that Regulation.

(6) If either the owner or the driver of the vehicle has complied with paragraph (5), the other of them is also taken to have complied with that paragraph.

(7) For the purposes of the First Council Regulation, the owner of a vehicle that is put into service for the first time on or after 1 May 2006 shall ensure that, after the commencement of these Regulations, it is fitted with recording equipment in accordance with that Regulation.

(8) A person who fails to comply with paragraph (2), (3), (5) or (7) commits an offence.

(9) An offence under this Regulation is triable either summarily or on indictment.

(10) If tried summarily, an offence under paragraph (2), (3), (5) or (7) is one of strict liability, but if the offence is tried on indictment, it is a defence to establish that all reasonable steps were taken to comply with the paragraph concerned.

(11) A person found guilty of an offence under this Regulation is liable on conviction—

(a) if the offence is tried summarily, to a fine not exceeding €5,000, or

(b) if the offence is tried on indictment, to a fine not exceeding €10,000.

(12) In proceedings for an offence under this Regulation involving a failure to ensure that recording equipment is in proper working order, or is functioning as required by the First Council Regulation, it is a defence to establish—

(a) that the equipment was faulty at the relevant time, and

(b) that all reasonable steps were taken to have the equipment repaired at an approved workshop as soon as practicable after the failure was discovered, or ought to have been discovered, by the defendant.

Issue of digital tachograph cards

22. The Road Safety Authority may issue a digital tachograph card only on payment of a fee of €50.

Damage to, malfunctioning of, and loss, destruction and theft of digital tachograph cards

23. (1) If a digital tachograph card is damaged or malfunctions, the person to whom the card was issued shall return it to the Road Safety Authority, together with an explanation as to how the damage or malfunction occurred and, if that Authority so requires, provide such further information relating to the damage or malfunction as it specifies to that person in writing.

(2) If a digital tachograph card is lost, destroyed or stolen, the person to whom the card was issued shall notify the loss, destruction or theft to the Road Safety Authority, together with an explanation as to how the loss, destruction or theft occurred and, if that Authority so requires, provide such further information relating to the loss, destruction or theft as it specifies to that person in writing.

(3) If, after the Road Safety Authority has been notified of the loss or theft of a digital tachograph card, the person to whom the card was issued finds the card, or the card is returned to that person, that person shall return it to that Authority by such means and at such address as may be specified by the Authority.

(4) A person who, without reasonable excuse, fails to comply with paragraph (1), (2) or (3) commits an offence.

(5) Without limiting the powers conferred by Regulation 32 of these Regulations, an enforcement officer who finds in the possession of a person a digital tachograph card that has been notified to the Road Safety Authority—

(a) as having been damaged or as malfunctioning, or

(b) as having been lost, destroyed or stolen,

may seize and retain the card.

(6) If—

(a) a damaged or malfunctioning digital tachograph card is returned to the Road Safety Authority in accordance with paragraph (1), or

(b) that Authority is satisfied that a digital tachograph card has been lost, destroyed or stolen,

that Authority may, on payment of a fee of €50, issue a replacement card.

Driver's record keeping obligations with respect to Annex I vehicles

24. (1) If a driver of a vehicle to which Annex I to the First Council Regulation applies is employed by a transport undertaking, the driver shall, within 21 days after completing a driver record sheet relating to the driver, return the record sheet to the undertaking for retention and inspection.

(2) If because of exceptional circumstances it is not practicable to comply with paragraph (1), the driver shall ensure that, within 28 days after completing a driver record sheet, the record sheet is returned to the undertaking for retention and inspection.

(3) If a driver of a vehicle to which Annex I to the First Council Regulation applies is self employed, the driver shall retain the record sheet for inspection.

(4) If the recording equipment fitted to the vehicle is faulty or breaks down, the driver shall, in addition to complying with the requirements of Article 16 of the First Council Regulation that relate to the end of a journey, comply with the following requirements:

(a) at the start of the driver's journey, enter on the driver record sheet, or on a temporary sheet to be attached to the record sheet—

(i) sufficient details to enable the vehicle to be identified, and

(ii) the driver's signature and details that will enable the driver to be identified, and

(iii) the periods of time during which the vehicle is driven by the driver, and

- (iv) all periods during which the driver is working, and
 - (v) all periods of availability for work as referred to in paragraph (5), and
 - (vi) all daily rest periods and other breaks taken by the driver;
- (b) at the end of the journey—
- (i) record all periods of driving and other work undertaken by the driver, all periods of availability of the driver and all rest periods and breaks taken by the driver, since the making of the record at the start of the journey, and
 - (ii) mark on that record details of the driver that will enable the driver to be identified.

(5) The periods of availability referred to in paragraph (4)(a)(v) must include the following:

- (a) any period during which the driver is obliged to remain at the driver's post to answer any calls to start or resume driving or carry out other work;
- (b) any period that the driver spends in the vehicle while it is being driven by another person;
- (c) any period that the driver spends on a bunk while the vehicle is moving.

(6) If, as a result of being away from a vehicle that is fitted with recording equipment in conformity with Annex I to the First Council Regulation, a driver of the vehicle is unable to use the recording equipment fitted to the vehicle, the driver shall enter the periods referred to in paragraph (4)(a) on the record sheet (either manually, by automatic recording or other means) legibly and so as not to deface the sheet.

(7) A driver who, without reasonable excuse, fails to comply with paragraph (1), (2), (3), (4) or (6) commits an offence. In relation to a charge for an offence involving non-compliance with paragraph (1), the existence of exceptional circumstances is a reasonable excuse.

Driver's record keeping obligations with respect to Annex IB vehicles

25. (1) If a driver of a vehicle to which Annex IB to the First Council Regulation applies is employed by a transport undertaking, the driver shall either—

- (a) download data from the driver's card every 21 days and then return the data to the undertaking for retention and inspection, or
- (b) return the data to the undertaking for downloading, retention and inspection.

(2) The driver shall then, within 21 days from the date of printing, return to the undertaking for retention any printout made by the driver from the recording equipment.

(3) If in exceptional circumstances it is not practicable to comply with paragraph (2), the driver shall ensure that the printout is returned to the undertaking within 28 days from the date of printing.

(4) If a driver of a vehicle to which Annex IB to the First Council Regulation is self employed, the driver shall download data from the driver's card every 21 days and then retain the data for inspection for not less than 12 months.

(5) If, because of exceptional circumstances, it is not practicable to comply with paragraph (4), the driver shall ensure that the data is downloaded no later than 28 days from the date of printing and then retain the data for inspection for not less than 12 months.

(6) If a driver card relating to a vehicle to which Annex IB to the First Council Regulation applies is damaged or malfunctions, or is not in the possession of the driver, the driver shall, in addition to complying with the requirements of Article 16 of the First Council Regulation that relate to the end of a journey, do the following:

- (a) at the start of the driver's journey, print out the details of the vehicle that the driver is driving and enter onto that printout—
 - (i) the driver's signature and details that will enable the driver to be identified, and
 - (ii) all periods of work other than actual driving time, and
 - (iii) all periods of availability for work as referred to in paragraph (7), and
 - (iv) all daily rest periods and other breaks;
- (b) at the end of the journey—
 - (i) print out the information relating to periods of time recorded by the recording equipment, and
 - (ii) record all periods of driving and other work undertaken by the driver, all periods of availability of the driver and all rest periods and breaks taken by the driver, since the making of the record at the start of the journey, if those periods are not recorded by the vehicle's recording equipment, and
 - (iii) mark on that record details of the driver that will enable the driver to be identified.

(7) The periods of availability referred to in paragraph (6)(a)(iii) must include the following:

- (a) any period during which the driver is obliged to remain at the driver's post to answer any calls to start or resume driving or carry out other work;
- (b) any period that the driver spends in the vehicle while it is being driven by another person;
- (c) any period that the driver spends on a bunk while the vehicle is moving.

(8) If, as a result of being away from a vehicle that is fitted with recording equipment in conformity with Annex IB to the First Council Regulation, a driver is unable to use the equipment, the driver shall enter the periods referred to in paragraph (6)(a) onto the driver's driver card, using the manual entry facility provided in the recording equipment.

(9) If more than one driver is on board a vehicle that is fitted with recording equipment in accordance with Annex IB to the First Council Regulation, each driver shall ensure that the driver's card is inserted into the correct slot in the vehicle's recording equipment.

(10) A driver who, without reasonable excuse, fails to comply with paragraph (1), (2), (3), (4), (5), (6), (8) or (9) commits an offence. In relation to a charge for an offence involving non-compliance with paragraph (2), the existence of exceptional circumstances is a reasonable excuse.

Evidentiary effect of driver records printouts made by drivers of Annex I and Annex IB vehicles

26. If, in any legal proceedings relating to a driver of a vehicle to which Annex I or Annex IB to the First Council Regulation applies, the activities of the driver during a particular period are in issue, a record sheet or printout from the recording equipment made by the driver and purporting to represent the driver's activities during that period is, until the contrary is proved, admissible as evidence of that driver's activities during that period.

Obligations of transport undertakings with respect to drivers of Annex I and Annex IB vehicles

27. (1) Every transport undertaking that employs a driver of a vehicle to which Annex I or Annex IB to the First Council Regulations shall comply with the following requirements:

- (a) issue to the driver a sufficient amount of printer paper suitable for use in recording equipment fitted to the vehicle that is adequate to enable the driver to comply with any request or other requirement lawfully made by an enforcement officer;

- (b) keep in chronological order and in legible form for at least 12 months after receipt all record sheets, printouts and downloaded data returned by the driver;
 - (c) if the driver requests the undertaking to do so, give to the driver copies of record sheets, printouts or data downloaded from the driver's card.
- (2) A transport undertaking that employs drivers of vehicles to which Annex I and Annex IB apply shall also comply with the following requirements:
- (a) on being requested to do so by an enforcement officer, produce for inspection all record sheets, printouts or data downloaded from the drivers' cards of drivers employed by the undertaking;
 - (b) ensure that the record sheets, printouts and data referred to in subparagraph (a) are available for inspection either at the operating business address, or the address of the registered office, of the undertaking or at some other address located in the State specified by the undertaking.
- (3) A transport undertaking that owns, hires or leases vehicles with recording equipment that complies with Annex IB of the First Council Regulation shall also comply with the following requirements:
- (a) at least once in every 3 months, download data from each of the vehicles and retain the data for inspection for not less than 12 months;
 - (b) if any of the vehicles is no longer in use and data has been downloaded from the vehicle by the operator of an approved workshop, retrieve and retain that data for future inspection.
- (4) A transport undertaking that purchases, uses or leases a vehicle to which Annex IB to the First Council Regulation applies shall ensure that all data stored in the vehicle unit are locked and secured with the company card.
- (5) A transport undertaking that, without reasonable excuse, fails to comply with paragraph (1), (2), (3) or (4) commits an offence.

Further obligations of self employed drivers of Annex I and Annex IB vehicles

28. (1) Every self employed driver of a vehicle to which Annex I or Annex IB to the First Council Regulation applies shall, in addition to the requirements of Regulation 24 or 25 of these Regulations, comply with the following requirements:

- (a) keep in chronological order and in legible form for at least 12 months after receipt all record sheets, printouts and downloaded data produced by the driver;
- (b) on being requested to do so by an enforcement officer, produce for inspection all record sheets, printouts or data downloaded from the driver's driver card and the vehicle unit;

- (c) keep available for inspection for not less than 12 months the record sheets, printouts and data referred to in subparagraph (b) at either the operating business address, or the address of the registered office, of the driver or at some other specified address located in the State;

(2) Every self employed driver of a vehicle to which Annex IB to the First Council Regulation applies shall also comply with the following requirements:

- (a) download data at least once in every 3 months from the vehicle and retain the data for inspection for not less than 12 months;
- (b) if the vehicle is no longer in use and data has been downloaded from the vehicle by the operator of an approved workshop, retrieve the data from that operator and retain it for future inspection.

(3) A self employed driver who purchases, uses or leases a vehicle to which Annex IB to the First Council Regulation applies shall ensure that all data stored in the vehicle unit are locked and secured with the company card.

(4) A self employed driver who, without reasonable excuse, fails to comply with paragraph (1), (2) or (3) commits an offence.

Driver to produce certain documents for inspection on request of enforcement officer

29. (1) A driver of a vehicle that is fitted with recording equipment in conformity with Annex I to the First Council Regulation shall, on being requested to do so by an enforcement officer, produce for inspection—

- (a) the driver's driver card (if the driver holds one), and
- (b) during the period beginning with the commencement of this Regulation and ending with 31 December 2007—
 - (i) the record sheets for the current week and those used by the driver for the 15 days immediately preceding that week, and
 - (ii) any manual record and printout made during that week and the preceding 15 days, and
- (c) during any period from 1 January 2008—
 - (i) the record sheets for the current day and those used by the driver for the 28 days immediately preceding that day, and
 - (ii) any manual record and printout made during that day and those 28 days.

(2) On being requested to do so by an enforcement officer, the driver of a vehicle fitted with recording equipment that complies with Annex 1B to the First Council Regulation shall produce for inspection—

- (a) the driver's driver card, and

- (b) during the period beginning with the commencement of this Regulation and ending with 31 December 2007—
 - (i) the record sheets for the current week and those used by the driver for the 15 days immediately preceding that week during which the driver drove a vehicle fitted with recording equipment that complies with Annex I to the First Council Regulation, and
 - (ii) any manual record and printout made during that week and the preceding 15 days, and
- (c) during any period after 1 January 2008, any manual record and printout made during that day and those used by the driver for the 28 days immediately preceding that day.

(3) A driver who, without reasonable excuse, fails to comply with a requirement of this Regulation commits an offence.

Periodic checks and inspections of recording equipment

30. (1) The owner of a vehicle that is subject to the First Council Regulation shall ensure that periodic checks or inspections as specified in Part VI of Annex I, and Part VI of Annex 1B, to that Regulation are carried out in respect of the recording equipment installed in the vehicle. However, if the vehicle is used in the course of a business operated by a person other than the owner, the user shall ensure that the required checks and inspections are carried out in respect of the recording equipment installed in the vehicle.

(2) Paragraph (1) does not—

- (a) apply to an exempt vehicle or a vehicle described in Article 3 of the Second Council Regulation, or
- (b) require a person who is employed as a driver, or is engaged under a contract for services as a driver, to ensure that checks and inspections are carried out in accordance with the First Council Regulation in respect of recording equipment installed in a vehicle.

(3) An owner or user who fails to comply with paragraph (1) commits an offence.

Procedure for dealing with data that cannot be downloaded

31. (1) Every operator of an approved workshop shall establish and keep a register for the purposes of this Regulation.

(2) If, for any reason, data cannot be downloaded from a vehicle unit located at an approved workshop, the operator of the workshop shall, without delay, record the occurrence in the register kept as required by paragraph (1) and issue a certificate to the effect that the data could not be downloaded. The certificate must identify the vehicle concerned and the date and time of the occurrence.

(3) The operator of an approved workshop shall keep all certificates issued in accordance with paragraph (2) for not less than 12 months from the date of issue.

(4) An enforcement officer may, at any reasonable time, enter an approved workshop and request the operator of the workshop to produce for inspection the register and all certificates required to be kept under this Regulation.

(5) The operator of an approved workshop shall not issue a certificate under paragraph (2) in circumstances in which it would be inappropriate to do so.

(6) An operator of an approved workshop commits an offence if the operator, without reasonable excuse—

- (a) fails to comply with paragraph (2) or (3), or
- (b) fails to comply with a request made under paragraph (4), or
- (c) contravenes paragraph (5).

PART 5

ENFORCEMENT POWERS

Powers of enforcement officers

32. (1) An enforcement officer is an authorised inspecting officer for the purposes of the Council Regulations.

(2) On being requested to do so, an enforcement officer shall produce the officer's warrant of appointment as such.

(3) Failure of an enforcement officer to comply with paragraph (2) invalidates any subsequent action taken by the officer in purported exercise of a power conferred by these Regulations.

(4) For the purposes of the Council Regulation and these Regulations, an enforcement officer who believes on reasonable grounds that premises are used, or have been used, for a purpose relating to carriage by road, or that a vehicle used for the purpose of carriage by road is on the premises, may at any time—

- (a) enter the premises or vehicle, and
- (b) do either or both of the following:
 - (i) inspect the vehicle (including goods, if any, located on or in the vehicle) or the premises;
 - (ii) inspect any record or recording medium kept or used in or on that vehicle or those premises.

(5) An enforcement officer who believes on reasonable grounds that a vehicle is being used or has been used for the purpose of carriage by road may at any

time inspect the vehicle while it is stationary. The inspection may include inspecting any goods on the vehicle and any record that is being carried in or on the vehicle or kept by the crew, or is being used for the purpose of carriage by road.

(6) If an enforcement officer who is a member of the Garda Síochána, or an officer of Customs and Excise, believes on reasonable grounds that a moving vehicle is being used or has been used for the purpose of carriage by road, the officer may at any time direct the driver to stop the vehicle for the purposes of inspection, but only if the officer is in uniform. Such an inspection may be carried out either by that officer or by another enforcement officer.

(7) When exercising a power conferred by this Regulation, an enforcement officer may do all or any of the following:

- (a) require a vehicle that is stationary to be moved to a specified location within its immediate vicinity;
- (b) detain a vehicle during such time as is required for the exercise of the power;
- (c) detain a vehicle for such time as is necessary—
 - (i) to enable the driver of the vehicle to take a daily rest or a break period in compliance with the Second Council Regulation, or
 - (ii) to replace the driver of the vehicle with another person who has, to the satisfaction of the officer, fulfilled the daily rest or break requirements of that Regulation.

(8) For the purposes of paragraph (7), a driver shall, if an enforcement officer so requires, do all or any of the following:

- (a) drive the vehicle or combination of vehicles for a reasonable time and distance;
- (b) drive the vehicle or combination of vehicles, or cause the vehicle or combination of vehicles to be driven, for a reasonable distance in such direction and manner and at such speed as the officer directs;
- (c) carry the officer in the vehicle while it is being so driven;
- (d) carry out, or arrange to be carried out, such tests as the officer considers necessary and reasonable.

(9) For the purposes of Article 21 of the Second Council Regulation, a member of the Garda Síochána may immobilise a vehicle for such period as is necessary to rectify a contravention of the Council Regulations or these Regulations, or to comply with a requirement, of that Regulation or these Regulations.

(10) In exercising the power conferred by paragraph (9), the member of the Garda Síochána may—

- (a) drive the vehicle or combination of vehicles for a reasonable time and distance, or
- (b) carry out, or arrange to be carried out, such tests for the purposes of the Second Council Regulation as the member considers necessary and reasonable.

(11) For the purposes of these Regulations and the Council Regulations, an enforcement officer may, in relation to a record located on premises used for a purpose related to carriage by road, or kept in respect of a vehicle used for such a purpose, do all or any of the following:

- (a) require any person who is on the premises or vehicle concerned to produce the record to the officer if the person has custody of or control over it;
- (b) inspect the record and to take copies of it or any part of it, or to take it away in order to inspect or copy it or any part of it;
- (c) if the record is in a non-legible form and the person who has custody of it, or who would in the ordinary course of events have custody of it, could produce it in a legible form, require that person to facilitate its production in that form;
- (d) require the person who has custody of or produces the record to certify a copy of it as an accurate copy of the information contained in it;
- (e) take possession or retain possession of the record if it could be of relevance to proceedings for an offence under these Regulations.

(12) An enforcement officer who, in the exercise of a power conferred by these Regulations, has required the production of a record may require—

- (a) a person by or on whose behalf data equipment is or has been used at premises where the owner of the relevant vehicle carries on business, or
- (b) a person who has charge of, or is otherwise concerned with the operation of, the equipment or any associated apparatus or material,

to give the officer all reasonable assistance in relation to the production of the record.

(13) An enforcement officer may carry out such examinations, inspections and tests at the premises of the owner of a vehicle, and on any vehicle located on the premises, as the officer considers reasonably necessary for the purpose of giving effect to these Regulations or the Council Regulations.

(14) On retaining or taking possession of a record in accordance with these Regulations, an enforcement officer shall issue a receipt to the owner or person in charge of the record.

(15) An enforcement officer who, having entered a vehicle under a power conferred by these Regulations, believes on reasonable grounds that—

- (a) any recording equipment in or on the vehicle has been interfered with so as to affect its proper operation, or
- (b) there is in or on the vehicle a device that is capable of interfering with the proper operation of any recording equipment on the vehicle, or
- (c) on or in the vehicle there is a device designed to enable the falsification or destruction of any data stored on recording equipment on the vehicle,

may require the driver or operator of the vehicle to take it to an approved workshop at an address specified by the officer, or to an alternative approved workshop acceptable to the driver or operator of the vehicle, to enable the recording equipment, the vehicle or any device in or on it to be inspected.

(16) For the purposes of this Regulation, premises that are used, or have been used, for repairing, installing or inspecting recording equipment are taken to be used, or to have been used, for a purpose relating to carriage by road.

Transport officer to apply to District Court for a search warrant in certain circumstances

33. (1) A transport officer may enter premises used as a private dwelling only with the consent of the occupier or in accordance with a warrant issued by a judge of the District Court under this Regulation.

(2) A transport officer may apply to a judge of the District Court for a warrant for the purpose of gaining entry to premises used as a private dwelling.

(3) If a judge of the District Court is satisfied on sworn information of a transport officer that there are reasonable grounds for believing that—

- (a) premises are used for a purpose related to carriage by road, or
- (b) a vehicle used for that purpose is on the premises or other place, or
- (c) information or material relating to the application of the Council Regulations required by the officer is held in any premises, or
- (d) a contravention of the Council Regulations or these Regulations has been or is being committed on the premises,

the judge may issue a warrant authorising a transport officer at any time or times within 1 month from the date of issue of the warrant, on production if so required of the warrant, to enter, if necessary by reasonable force, the premises

and exercise all or any of the powers conferred on an enforcement officer by these Regulations.

(4) A transport officer may exercise the powers conferred by the warrant either alone or in the company of other enforcement officers.

Enforcement officer to serve roadside check report on driver in certain cases

34. (1) An enforcement officer who has carried out a roadside check and who believes on reasonable grounds that a contravention of the Council Regulations or these Regulations may have been committed shall serve, or cause to be served, on the driver, owner or operator of the vehicle a roadside check report in respect of the check.

(2) In proceedings for a failure to comply with a requirement of the Council Regulations or these Regulations detected at a roadside check, the defendant is presumed to have received a roadside check report in respect of the check.

(3) If—

- (a) a vehicle is stopped at a roadside check by an enforcement officer and the driver of the vehicle produces to the officer a roadside check report, and
- (b) a reading of the report shows that the driver or owner of the vehicle has been found guilty in the State or another Member State, or proceedings have been initiated in the State or another Member State for a contravention of the Council Regulations, and
- (c) the contravention was committed on a day other than the day on which the vehicle was stopped by the officer,

the officer may initiate proceedings against the driver or owner for the contravention.

(4) Paragraph (3) does not prevent an enforcement officer from initiating legal proceedings in respect of a contravention of the Council Regulations or these Regulations that is not listed on a roadside check report.

(5) A person who, without lawful authority, alters or interferes with a roadside check report commits an offence.

(6) A person who gives to an enforcement officer information concerning a prosecution for an offence in another country—

- (a) knowing the information to be false or misleading in a material respect, or
- (b) being reckless as to whether the information is so false or misleading,

commits an offence.

Power to order driver to take rest or break

35. (1) If, as a result of a roadside check, an enforcement officer is satisfied on reasonable grounds that the driver of the vehicle concerned has failed, or is failing, to take a break as required by Article 7, or a daily or weekly rest period as required by Article 8, of the Second Council Regulation, the officer may direct the driver to take the appropriate break or rest period.

(2) In giving a direction under paragraph (1), an enforcement officer may permit or require the driver concerned to move the vehicle to a place where it is not a traffic hazard.

(3) An enforcement officer who has given permission or imposed a requirement under paragraph (2) may board the vehicle concerned and accompany the driver to the place where the vehicle is not a traffic hazard.

Power to order vehicle not to be driven

36. (1) If, as a result of a roadside check—

- (a) an enforcement officer suspects that the driver of the vehicle concerned is contravening or has contravened the Council Regulations, and
- (b) the contravention would, if the driver were allowed to proceed, present a serious risk to the driver, the other occupants (if any) of the vehicle or other road users,

the officer shall direct the driver to take all necessary steps to ensure that the vehicle is not driven in a public place until the contravention has been rectified.

(2) In giving a direction under paragraph (1), an enforcement officer may permit or require the driver concerned to move the vehicle to a place where it is not a traffic hazard.

(3) For the purposes of this Regulation, “public place” has the same meaning as in the Road Traffic Act 1961.

(4) For the purpose of paragraph (1), a member of the Garda Síochána may do such of the following as appear to be appropriate in the circumstances:

- (a) fix an immobilisation device to the vehicle at the place where the vehicle was stopped or at another place that is contiguous with that place;
- (b) fix an immobilisation device to the vehicle at any other place to which it has been moved;
- (c) fix a notice indicating that an immobilisation device has been fixed to the vehicle, together with a warning that an attempt must not be made to drive or move the vehicle until the device is lawfully removed;

(d) on being satisfied that the contravention has been rectified by the driver or the transport undertaking that employs the driver and that the requirements of the Council Regulations have been complied with, the Garda Síochána shall, without delay, remove or arrange for the removal of any immobilisation device that has been fitted to the vehicle.

(5) If a vehicle that is fitted with an immobilisation device is moved without lawful authority, the driver of the vehicle and the transport undertaking that employs the driver each commit an offence.

(6) An offence under paragraph (5) is triable either summarily or on indictment.

(7) A person found guilty of an offence under this Regulation is liable on conviction—

(a) if the offence is tried summarily, to a fine not exceeding €5,000, or

(b) if the offence is tried on indictment, to a fine not exceeding €25,000.

Power of enforcement officer to require production of certain records

37. (1) An enforcement officer may, by notice in writing, require a person to produce at a place specified in the notice within such time (not being less than 10 days from the service of the notice) as may be specified in the notice—

(a) any record or recording medium (whether by reference to that record or medium or by reference to the type of information required or by reference to both), or

(b) any other information that may be specified in the notice.

(2) An enforcement officer may, by notice in writing, require the person to designate a place within a period specified in the notice (not being less than 10 days) at which—

(a) a record or recording medium, whether by reference to that record or by reference to the type of information required or by reference to both, or

(b) any other information that is specified in the notice,

must be made available for inspection by the officer or by another enforcement officer.

(3) A notice under this Regulation may be served—

(a) by giving it to the person personally, or

(b) by sending it to the person by pre-paid registered post.

(4) A person on whom a notice under paragraph (3) is served shall ensure that information to which the notice relates is not used or dealt with in a way that could result in the information being lost, destroyed or defaced.

(5) A person who, without reasonable excuse—

(a) fails to comply with a notice served under this Regulation, or

(b) fails to comply with paragraph (4),

commits an offence.

Power of enforcement officer to confiscate a driver card in certain cases

38. (1) An enforcement officer who suspects on reasonable grounds that a person who does not ordinarily reside in the State—

(a) is holding a driver card that has been falsified or has been fraudulently obtained, or

(b) is making use, or has made use, of another person's driver card,

may confiscate the card.

(2) An enforcement officer shall, as soon as practicable after confiscating a driver card in accordance with paragraph (2), return the card to the authority of the Member State that issued the card, together with a statement in writing setting out the circumstances in which the card was confiscated.

PART 6

ENFORCEMENT OF COUNCIL REGULATIONS AND THESE REGULATIONS

Compliance with European Agreement concerning work of vehicle crews

39. (1) A person to whom the European Agreement applies commits an offence if the person fails to comply with a provision of that Agreement.

(2) A person to whom the European Agreement applies commits an offence if the person causes, or purports to authorise, a person who is employed by the person, or is under the person's control, not to comply with a provision of that Agreement.

(3) In proceedings for an offence under paragraph (2), evidence that—

(a) another person failed to comply with a specified provision of the European Agreement, and

(b) that other person was at the relevant time employed by, or under the control of, the defendant,

is, until the contrary is proved, evidence that the defendant caused or purported to authorise that other person to fail to comply with that provision.

Offence committed by driver, owner or operator of vehicle in another Member State

40. (1) If—

- (a) an act or omission by a driver, owner or operator of a vehicle that is subject to the Council Regulations is done or omitted in another Member State or a third country, and
- (b) the act or omission would, if it occurred in the State, be an offence against either of those Regulations,

the act or omission is taken to be an offence committed in the State and, unless a penalty has been imposed in another country for the same act or omission, may be prosecuted and punished in the State.

(2) Proceedings for an offence referred to in paragraph (1) may be brought in any place in the State.

(3) In proceedings for an offence under this Regulation, it is a defence to establish that the offence was prosecuted in another Member State or a third country.

Offences with respect to the contravention of certain provisions of Council Regulations

41. (1) A person who contravenes—

- (a) Article 1, 3, 12, 13, 14, 15 or 16 of the First Council Regulation, or
- (b) Article 2(1), 3, 5, 6, 7, 8, 9, 10, 12, 16 or 20 of the Second Council Regulation,

commits an offence.

(2) A person commits an offence if the person causes, or purports to authorise, another person who is employed by the person, or is under the person's control, to contravene—

- (a) Article 1, 3, 12, 13, 14, 15 or 16 of the First Council Regulation or
- (b) Article 2(1), 3, 5, 6, 7, 8, 9, 10, 12, 16 or 20 of the Second Council Regulation.

(3) In proceedings for an offence under paragraph (2), evidence that—

- (a) another person contravened the Article to which the proceedings relate, and
- (b) that other person was at the relevant time employed by, or under the control of, the defendant,

is, until the contrary is proved, evidence that the defendant caused or purported to authorise that other person to contravene that Article.

Offence to fail to ensure that transport time schedules comply with Second Council Regulation

42. (1) A person to whom this Regulation applies commits an offence if the person fails to ensure that transport time schedules, agreed in respect of any contract to which the person is a party, comply with the requirements of the Second Council Regulation.

(2) A person to whom this Regulation applies commits an offence if the person causes, or purports to authorise, another person to fail to comply with paragraph (1).

(3) This Regulation applies to an undertaking, consignor, freight forwarder, tour operator, principal contractor, sub-contractor, or driver employment agency.

(4) An offence under this Regulation is one of strict liability.

Offence to make false records, etc.

43. (1) A person commits an offence if the person—

- (a) makes, or causes to be made, a record, or an entry in a record, that is required to be kept for the purposes of the Council Regulations or these Regulations knowing the record or entry to be false or misleading, or
- (b) with intent to deceive, alters or causes to be altered any such record or entry.

(2) An offence under paragraph (1) is triable either summarily or on indictment.

(3) A person found guilty of an offence under paragraph (1) is liable on conviction—

- (a) if the offence is tried summarily, to a fine not exceeding €5,000, or
- (b) if the offence is tried on indictment, to a fine not exceeding €10,000.

Offence to interfere with vehicle's recording equipment

44. A person who, without lawful authority—

- (a) interferes with recording equipment installed in a vehicle in purported compliance with the Council Regulations or these Regulations, or
- (b) uses, or is in possession of, a device that is—
 - (i) capable of interfering with the proper operation of any such equipment, or
 - (ii) capable of falsifying or destroying data stored in any such equipment,

commits an offence.

Offence for operators of approved workshops to provide false or misleading information

45. If the operator of an approved workshop is required under these Regulations to provide information concerning the operation of recording equipment that is under the control of the operator, the operator commits an offence if the operator—

- (a) without reasonable excuse, fails to provide the information, or
- (b) provides the information—
 - (i) knowing it to be false or misleading, or
 - (ii) being reckless as to whether it is false or misleading.

Operator of approved workshop to notify enforcement officer or Road Safety Authority of certain irregularities

46. (1) If, in the course of carrying out its responsibilities in respect of a vehicle under the Council Regulations and these Regulations, the operator of an approved workshop becomes aware of—

- (a) the existence of a device that could interfere with the operation of recording equipment, or
- (b) the falsification of any data stored on recording equipment on the vehicle,

the operator shall, in writing, immediately notify the existence of the device or falsification to either the Road Safety Authority or an enforcement officer.

(2) An operator of an approved workshop who, without reasonable excuse, fails to comply with subsection (1) commits an offence.

Offence to use vehicle that does not have recording equipment

47. (1) A person who uses, causes to be used, or purports to authorise the use of a vehicle to which the First Council Regulation applies (other than an exempt vehicle) commits an offence, unless—

- (a) recording equipment is installed in the vehicle in accordance with the First Council Regulation, and
- (b) the equipment is functioning correctly.

(2) In proceedings for an offence under this Regulation, it is a defence to establish that—

- (a) recording equipment installed in the relevant vehicle was not functioning properly because of a breakdown of the vehicle or a malfunction in the equipment, and

- (b) all reasonable steps were taken to have the equipment repaired by an approved workshop within 7 days after the breakdown or malfunction occurred.

Offences in respect of driver cards

48. (1) A person who—

- (a) falsifies a driver card, or
- (b) makes use of another person's driver card, or
- (c) obtains a driver card by means of a fraudulent or deceptive statement or by the production of a forged document,

commits an offence.

(2) On finding a person guilty of an offence under this Regulation, the court may make either or both of the following orders:

- (a) if the court is satisfied that the person is in possession of the driver card to which the offence relates, an order directing the person to surrender the card to the court or to such other person as is named in the order;
- (b) an order forfeiting the card or suspending its operation for such period as is specified in the order.

(3) An offence under paragraph (1) is triable either summarily or on indictment.

(4) A person found guilty of an offence under paragraph (1) is liable on conviction—

- (a) if the offence is tried summarily, to a fine not exceeding €5,000, or
- (b) if the offence is tried on indictment, to a fine not exceeding €10,000.

Offence to obstruct, or fail to comply with requirement of, an enforcement officer

49. A person who—

- (a) intentionally obstructs an enforcement officer acting in the exercise of any power conferred on the officer by these Regulations, or
- (b) without reasonable excuse, fails to comply with a request or requirement made, or a direction given, by the officer under these Regulations, or
- (c) fails to stop a vehicle when requested or required by a member of the Garda Síochána in uniform or by an officer of Customs and Excise to do so,

commits an offence.

Offence not to assist an enforcement officer

50. An operator of a workshop commits an offence if, after being requested to do so by an enforcement officer, the operator fails to provide the officer with—

- (a) all reasonable assistance, or
- (b) all relevant information in the possession, or under the control, of the fitter or operator.

Offences by bodies corporate

51. (1) If—

- (a) an offence under these Regulations is committed by a body corporate, and
- (b) the offence is proved to have been committed by the body with the consent or connivance of, or to be attributable to any neglect on the part of, a person who is a director, manager, secretary or other officer of the body, or a person who was purporting to act in such capacity,

that person as well as the body corporate is guilty of an offence and is liable to be proceeded against and punished as if the person was guilty of the first-mentioned offence.

(2) If the affairs of a body corporate are managed by its members, paragraph (1) applies in relation to the acts and omissions of a member of that body in connection with the member's functions of management as if the member were a director or manager of it.

(3) A person may be proceeded against for an offence under paragraph (1) whether or not the body corporate has been proceeded against or been convicted of the offence committed by the body.

Penalties for offences under these Regulations

52. Except as provided by Regulations 21, 36, 43 and 48 of these Regulations, a person convicted of an offence under these Regulations is liable on summary conviction to a fine not exceeding €5,000 or to imprisonment for a term not exceeding 6 months, or both.

Power to prosecute offence under these Regulations

53. (1) An offence under these Regulations that is to be tried summarily may be prosecuted by the Road Safety Authority or a member of the Garda Síochána.

(2) Nothing in paragraph (1) limits any other power conferred by law to prosecute an offence under these Regulations.

Certain presumptions applicable to proceedings for offences under these Regulations

54. (1) If, in proceedings for an offence under these Regulations, the mass of a vehicle is in issue, the mass of the vehicle at the time of the alleged offence

is presumed to have exceeded the maximum mass permitted by the Council Regulations until the contrary is proved.

(2) If, in proceedings for an offence under these Regulations, the age of a driver of a vehicle or a driver's mate, or a conductor of a vehicle, is in issue, the age of the driver, driver's mate or conductor is presumed to be less than the minimum age required by the Second Council Regulation until the contrary is proved.

(3) In proceedings for an offence under these Regulations, it is to be presumed, until the contrary is proved—

- (a) that none of the exceptions to the application of the Second Council Regulation contained in Article 3 of that Regulation apply to the proceedings, and
- (b) that none of the exemptions contained in Regulation 5 of these Regulations apply to the proceedings.

(4) In proceedings for an offence under Part 3, it is to be presumed in the absence of evidence to the contrary that a workshop has not been approved under that Part.

Admissibility of certain documents etc, in proceedings for offences under these Regulations

55. (1) If, in proceedings for an offence under the Council Regulations or these Regulations, direct oral evidence of a fact would be admissible, any statement contained in a record or in a recording medium that was obtained by an enforcement officer in exercise of a power conferred by these Regulations and tending to establish that fact is, on production of the record or recording medium by the officer, admissible as evidence of that fact.

(2) Every document—

- (a) purporting to be a copy of a record or part of a record, or to have been extracted from a recording medium, and
- (b) certified by an enforcement officer to be a true copy of the record or a part of the record, or to have been extracted from the recording medium,

is, without proof of the signature of the officer, admissible in evidence in any legal proceedings, and is, unless the contrary is shown, taken to be a true copy of the record or part of a record, or to have been properly extracted from the recording medium.

(3) In proceedings for an offence under these Regulations, a recording made by recording equipment installed and used in accordance with the First Council Regulation is admissible as evidence of the facts that the equipment purports to record.

(4) In proceedings for an offence under these Regulations, a matter disclosed by a record or other recording medium is admissible as evidence of any other matter disclosed by the record or medium.

(5) Every record or other recording medium purporting—

(a) to be a copy of, or to have been extracted from, a record or other recording medium, and

(b) to be certified by a person who is authorised to keep or to have control over it as being a true copy of, or to have been extracted from, the record or medium,

is, without proof of the person's signature, admissible in evidence and is, unless the contrary is shown, taken to be a true copy of, or to have been properly extracted from, the record or medium.

(6) In legal proceedings arising out of the Council Regulations or these Regulations, the production of a copy of the Official Journal of the European Communities purporting to contain a copy of the European Agreement is admissible as evidence of that Agreement.

(7) In proceedings for an offence under these Regulations in which the qualification of a driver of a vehicle is in issue, the driver is presumed not to possess the relevant qualifications prescribed by the Council Regulations.

PART 7

MISCELLANEOUS PROVISIONS

Power of Road Safety Authority to enter into agreement with authority of other Member State

56. The Road Safety Authority may enter an agreement with an authority of another Member State for the purposes of Article 13(1) of the Second Council Regulation.

Application of fees paid under these Regulations

57. (1) Fees received by the Road Safety Authority under these Regulations may be used by the Authority for its own purposes.

(2) The Road Safety Authority may waive the fee payable in respect of applications received for digital tachograph cards from enforcement officers who need such cards for the exercise of their powers under these Regulations.

Revocation of certain Regulations

58. The following Regulations are revoked:

(a) the European Communities (Road Transport) Regulations 2006 (S.I. No. 88 of 2006);

- (b) the European Communities (Road Transport) (Recording Equipment) Regulations 2006 (S.I. No. 89 of 2006).

Saving and transitional provisions

59. (1) Legal proceedings brought under the European Communities (Road Transport) Regulations 2006 (S.I. No. 88 of 2006) and the European Communities (Road Transport) (Recording Equipment) Regulations 2006 (S.I. No. 89 of 2006) and pending when these Regulations come into operation may be continued as if they had been brought under these Regulations.

(2) Subject to paragraph (3), a vehicle that is no longer exempt from the First Council Regulation because of these Regulations is not required to have recording equipment installed in it before 31 December 2007 if the vehicle—

- (a) was, in accordance with the European Communities (Road Transport) (Recording Equipment) Regulations 2006 (S.I. No. 89 of 2006), exempted from the requirements of that Regulation before 11 April 2007, and
- (b) was not fitted with recording equipment before that date, and
- (c) is not subsequently fitted with such equipment after that date and before 31 December 2007.

(3) The driver of a vehicle to which paragraph (2) applies and the transport undertaking (if any) that employs the driver shall each ensure that, for the relevant period, a record of the prescribed matters is made and kept in relation to the use of the vehicle and the work periods of the drivers who drive the vehicle during that period.

(4) If paragraph (3) is not complied with, the driver of the vehicle and the transport undertaking concerned each commit an offence.

(5) If either a driver of a vehicle or the transport undertaking (if any) that employs the driver has complied with paragraph (3), the other of them is taken to have complied with that paragraph.

(6) In paragraph (3)—

“prescribed matters”, in relation to the use of a vehicle, means—

- (a) the periods during which the vehicle was driven by the driver, and
- (b) other periods of work and availability of the driver, and
- (c) rest periods and other breaks from work taken by the driver;

“relevant period” means—

- (a) the period beginning with the commencement of these Regulations and ending with 31 December 2007, or

- (b) if recording equipment is fitted to the vehicle during that period, the period beginning with that commencement and ending with the date on which the equipment is fitted.

(7) Without limiting the powers of an enforcement officer conferred by these Regulations, such an officer may require a driver of a vehicle to which paragraph (2) applies or the transport undertaking (if any) that employs the driver to produce for inspection any record required to be kept in respect of the vehicle under that paragraph.

Consequential amendment of certain enactments

60. (1) Section 114 of the Road Traffic Act 1961 (No. 24 of 1961) (Limitations on periods of continuous driving) is amended by substituting the following subsection for subsection (8):

“(8) This section does not apply to or in respect of—

- (a) vehicles owned by the State and used for military or police purposes, or
- (b) persons in the public service of the State driving vehicles so owned and used, or
- (c) carriage by road to which Council Regulation (EC) 561/2006 applies.”.

(2) Article 15 of the Road Traffic (Public Service Vehicles) Regulation 1963 (S.I. No. 191 of 1963) (Weekly period of rest) is amended by inserting the following paragraph after paragraph (2):

“(3) This Article does not apply to carriage by road to which Council Regulation (EC) 561/2006 applies.”.

SCHEDULE 1

FORM

Roadside Check Form

Offence Codes

Roadside Check Form
Driving and Resting Time EU Regulations 561/2006-3821/85

- Further Enquiries
- Report/Fine
- Warning
- Prohibition
- No Infringement

| Place of Control | | | | | | | |
|---|---|---|--|---|--|---|---|
| 13. Area code of enforcement authority | 13. Enforcement officer identity | 1. Place of control-Location and road number | | | 2. Date / / | 3. Time : | |
| Road Type <input type="checkbox"/> Motorway | | <input type="checkbox"/> National (trunk) road | | | <input type="checkbox"/> Other road types | | |
| Vehicle | | | | | | | |
| 4. Registration number Vehicle | 6. Type/group of Vehicle | Max weight | 8. Nationality | 5. Registration Number trailer | 6. Type/group of vehicle | Maximum total weight | Nationality |
| Driver and Operator | | | | | | | |
| 7. Operator name: | | Nationality | Address: | | | | |
| | | | | | | | |
| | | | Telephone number | | | | |
| 9. Driver name: | Date of birth | Nationality | Address: | | | | |
| | | | | | | | |
| | | | Telephone number | | | | |
| Driver card number: | | | | | Telephone number | | |
| Employer- if different from section 7 | | Nationality | Address, telephone number | | | | |
| Transport type | | | | | | | |
| <input type="checkbox"/> National carriage | | <input type="checkbox"/> Carriage of goods | | <input type="checkbox"/> Digital tachograph | | <input type="checkbox"/> EU Journey | |
| <input type="checkbox"/> International carriage | | <input type="checkbox"/> Carriage of passengers | | <input type="checkbox"/> Analogue tachograph | | <input type="checkbox"/> AETR | |
| | | | | | | <input type="checkbox"/> National/Other | |
| Period for which data has been analysed | | | | | | | |
| From | Date | Time | To | Date | Time | No of days checked | Odometer reading |
| / | / | : | / | / | : | | |
| Offences – For offence codes see reverse of form | | | | | | | |
| EU Code | Time(s) and date(s) | | | EU Code | Time(s) and date(s) | | |
| | | | | | | | |
| | | | | | | | |
| | | | | | | | |
| | | | | | | | |
| Prohibition is applied and valid until | | Time | : | Date | / | / | OR |
| | | | | | | | <input type="checkbox"/> No prohibition applied |
| 12. Comments | | | | | | | |
| May be continued on page 2 | | | | | | | |
| Data downloaded or charts taken from driver and/or vehicle | | | | | | | |
| Receipt given for: | <input type="checkbox"/> Tachograph Charts (Number) | <input type="checkbox"/> Printout number | <input type="checkbox"/> Digital data Vehicle Unit | <input type="checkbox"/> Digital date Driver Card | <input type="checkbox"/> Other (Specify above) | | |
| 13. Controller signature: | | | | Drivers signature: | | | |

Offence Codes

| EU Code | National Code | Council Regulation 561/06 Drivers' Hours | EU Code | National Code | Council Regulation 3821/85 561/06 Records |
|---------------|--|--|---------------|----------------------|---|
| 561-5 | | <input type="checkbox"/> ART. 5 Ages of Driver & Crew | 3821-15-2 | | <input type="checkbox"/> ART. 15 Tachograph chart not used |
| 561-6-1 | | <input type="checkbox"/> ART. 6 Daily driving Time — 9 hours | 3821-14-2 | | <input type="checkbox"/> ART. 14 Failure to preserve sheets/ printouts in good order |
| 561-6-1 | | <input type="checkbox"/> ART. 6 Daily Driving Time — 10 hours | 561-16-3 | | <input type="checkbox"/> ART. 14 Failure to produce roster extract and timetable |
| 561-6-2 | | <input type="checkbox"/> ART. 6 Excess driving in 1 week — 56 hours | 3821-15-7 | | <input type="checkbox"/> ART. 15 Failure to produce tachograph sheets or printouts |
| 561-6-3 | | <input type="checkbox"/> ART. 6 Excess driving in 2 weeks — 90 hours | 3821-15-2 | | <input type="checkbox"/> ART. 15 Tachograph sheet used longer than 24 hours |
| 561-7 | | <input type="checkbox"/> ART. 7 Breaks | 3821-15-1 | | <input type="checkbox"/> ART. 15 Used, dirty or damaged sheets |
| 561-8-2 | | <input type="checkbox"/> ART. 8 Daily rest period — Single crewed | 3821-15-2 | | <input type="checkbox"/> ART. 15 Unauthorised withdrawal of card/sheet |
| 561-8-5 | | <input type="checkbox"/> ART. 8 Daily rest period — Multi-manning | 561-6-5 | | <input type="checkbox"/> ART. 6 Incorrect manual entries on sheet of digital record |
| 561-8-6 | | <input type="checkbox"/> ART. 8 Weekly rest period | 561-12 | | <input type="checkbox"/> ART. 12 Incorrect manual entries — printout (Emergency) |
| | | <input type="checkbox"/> Others-specify | 3821-15-5 | | <input type="checkbox"/> ART. 15 Incorrect centre field entries on sheet |
| | | | 561-20 | | <input type="checkbox"/> ART. 20 Fail to produce infringement notice |
| | | | 3821-15-3 | | <input type="checkbox"/> ART. 15 Fail to correctly operate mode switch |
| | | | 3821-15-8 | | <input type="checkbox"/> ART. 15 Destroys or suppresses stored or recorded data |
| | | | 3821-16-2 | | <input type="checkbox"/> ART. 15&16 Fail to make and sign required printouts |
| | | | | | <input type="checkbox"/> Others — specify |
| EU Code | National Code | AETR — International Carriage outside EU | EU Code | National Code | Council Regulation 3821/85 561/06 Driver Cards |
| AETR-5 | | <input type="checkbox"/> ART. 5 Ages of Driver | 3821-15-2 | | <input type="checkbox"/> ART. 15 Driving without correctly inserting driver card |
| AETR-6-1 | | <input type="checkbox"/> ART. 6.1 Excess daily driving period | 3821-15-2 | | <input type="checkbox"/> ART. 15 Second driver — Fail to correctly insert driver card |
| AETR-6-2 | | <input type="checkbox"/> ART. 6.2 Excess driving on 2 weeks | 3821-13 | | <input type="checkbox"/> ART. 13 Driver fail to ensure correct functioning and use |
| AETR-7 | | <input type="checkbox"/> ART. 7.1 Insufficient break after 4.5 hours driving | 3821-15-5a | | <input type="checkbox"/> ART. 15 No country symbols where work starts or ends |
| AETR-8-1 | | <input type="checkbox"/> ART. 8.1 Insufficient daily rest period | 3821-15-1 | | <input type="checkbox"/> ART. 15 Used, dirty or damaged card |
| AETR-8-3 | | <input type="checkbox"/> ART. 8.3 Insufficient Weekly rest period | 3821-14-4a | | <input type="checkbox"/> ART. 14 Driver holding more than one driver card |
| AETR-10-1 | | <input type="checkbox"/> ART. 10.1 Tachograph not type approved | 3821-14-4b | | <input type="checkbox"/> ART. 14 Use card for which driver is not authorised |
| | | Appendix 2 — Drivers record book | 3821-14-4c | | <input type="checkbox"/> ART. 14 Used defective or expired card |
| | | | 3821-15-7 | | <input type="checkbox"/> ART. 15 Fail to produce driver card |
| | | | 3821-15-1 | | <input type="checkbox"/> ART. 15 Fail to apply for replacement card within 7 days |
| AETR-12-1 | | <input type="checkbox"/> ART. 12.1 Record book not used when appropriate | 3821-16-3 | | <input type="checkbox"/> ART. 16 Fail to report loss or theft of driver card |
| AETR-12-7 | | <input type="checkbox"/> ART. 12.7 Insufficient records | 3821-16-3 | | <input type="checkbox"/> ART. 15 Fail to return damaged/malfunctioning card |
| | | | | | <input type="checkbox"/> Others — specify |
| EU Code | National Code | Council Regulation 3821/85 Analogue Tachograph | EU CODE | National Code | Council Regulation 3821/85 Digital Tachograph |
| 3821-3-a | | <input type="checkbox"/> ART. 3 EU-approved tachograph not installed | 3821-3-d | | <input type="checkbox"/> ART. 3 EU-approved tachograph not installed/activated |
| 3821-3-a | | <input type="checkbox"/> ART. 3 Tachograph not in use | 3821-3-d | | <input type="checkbox"/> Annex 1b Tachograph incorrectly calibrated |
| 3821-12-4 | | <input type="checkbox"/> ART. 12 Missing installation plaque | 3821-12-4 | | <input type="checkbox"/> ART. 12 Missing installation plaque |
| 3821-12-a | | <input type="checkbox"/> ART. 12 Missing seals | 3821-3-d | | <input type="checkbox"/> ART. 1b Missing seals |
| 3821-3-a-a | | <input type="checkbox"/> Annex 1 Tachography incorrectly calibrated | 3821-3-d | | <input type="checkbox"/> ART. 1b 2 yearly check not carried out |
| 3821-3-a-b | | <input type="checkbox"/> Annex 1 2 yearly check not carried out | 3821-12-1 | | <input type="checkbox"/> ART. 12 Annex 1b Tachograph incorrectly repaired |
| 3821-3-a-c | | <input type="checkbox"/> ART. 3 Incorrect installation | 3821-14-1 | | <input type="checkbox"/> ART. 14 Printing cannot be carried out on request |
| 3821-3-a-d | | <input type="checkbox"/> ART. 12 Annex 1 Tachograph incorrectly repaired | 3821-16-1 | | <input type="checkbox"/> ART. 16 Tachograph defective for longer than permitted |
| 3821-15-3 | | <input type="checkbox"/> ART. 15 Incorrect time set into tachograph | 3821-15-8 | | <input type="checkbox"/> ART. 15 Unauthorised wire/switch present on vehicle |
| 3821-15-2 | | <input type="checkbox"/> ART. 15 Incompatible tachograph chart used | | | <input type="checkbox"/> Others — specify |
| 3821-15-8 | | <input type="checkbox"/> ART. 15 Unauthorised wire/switch present on vehicle | | | |
| | | <input type="checkbox"/> Others — specify | | | |
| National Code | National Legislation — Exempt and derogated vehicles | | National Code | ADR — Roadworthiness | |

Comments continued from page 1

IMPORTANT EXPLANATORY NOTE TO DRIVER

This form has been provided to you in accordance with Article 20(1) of EU regulation 561/06

It will assist you in any future enforcement check in which you may be involved.

Article 20(2) of EU regulation 561/06 requires you to produce this form to an enforcement officer, upon demand



GIVEN under my Official Seal,
6 March 2008

NOEL DEMPSEY.
Minister for Transport.

EXPLANATORY NOTE

(This note is not part of the Instrument and does not purport to be a legal interpretation)

1. The purpose of these Regulations is to facilitate the implementation and enforcement of the following:

- (a) Council Regulation No. 3821/85/EEC on recording equipment in road transport as amended by Council Regulation No. 2135/98/EC and Commission Regulation (EC) No. 1360/2002 and Council Regulation (EC) No. 561/2006; and
- (b) Council Regulation (EC) No. 561/2006 on the harmonisation of certain social legislation relating to road transport and amending Council Regulations (EEC) No. 3821/85 and (EC) No. 2135/98 and repealing Council Regulation (EEC) No. 3820/85

2. The Regulations

- provide for the powers of enforcement officers necessary for the purposes of enforcing the Council Regulations;
- prescribe penalties for offences created by these Regulations;
- specify those operations that will be exempt from the Regulations when they occur within the State;
- prescribe the National Standards Authority of Ireland as the competent authority for the approval of workshops for the installation, calibration and repair of recording equipment;
- designate the Road Safety Authority as the competent authority for the purposes of issuing digital tachograph cards;
- prescribe An Garda Síochána as the competent authority to immobilise a vehicle within the State for the purposes of Article 21 of EU Regulation No. 561/2006;
- provide for the installation and use of recording equipment in certain vehicles registered in Member States that are used for the carriage of passengers and goods by road;
- provide for the downloading of data from both a digital tachograph and a driver card and for other matters pertaining to the installation, inspection and use of recording equipment, tachograph cards, printouts and record sheets;
- prescribe the responsibilities of undertakings, employers and drivers regarding the use of recording equipment;

- specify the records, printouts and downloaded data that are to be maintained, produced and handed over to an enforcement officer and the procedure that is to be followed in circumstances where a driver card is damaged, malfunctions or is not in the possession of the driver;
 - provide that undertakings may be liable for infringements committed by their drivers;
 - provide for approving and controlling of workshops where the installation, repair and calibration of recording equipment is undertaken;
 - impose an obligation on the operators of workshops to immediately notify the Garda Síochána or the Road Safety Authority of devices found on vehicles that could interfere with the operation of recording equipment;
 - specify at Annex I and Annex IB of Council Regulation No. 3821/85/EEC as amended the requirements regarding the construction, testing, installation and inspection of recording equipment;
 - provide for the prosecution of certain offences on indictment;
 - provide for prosecution of driver's hours offences that, although detected in the State, were committed in another Member State, provided the offender has not already been penalised for the relevant offences;
 - make undertakings, consignors, freight forwarders, tour operators, principal contractors, sub contractors and driver employment agencies responsible for ensuring that contractually agreed time schedules respect the requirements of Regulation (EC) No. 561/2006;
 - prescribe transitional provisions in respect of vehicles that were exempted from the requirements of tachograph rules before 11 April 2007, but which were brought into scope of the rules on that date.
3. The Council Regulations do not apply to vehicles involved in certain specified operations (Article 3 of 3821/85/EEC as amended refers). The Regulations also provides that Member States may exempt vehicles that are engaged in certain national operations (Regulation 5 of these Regulations refer).
4. The European Communities (Road Transport) Regulations 2006 (S.I. No. 88 of 2006) and the European Communities (Road Transport) (Recording Equipment) Regulations 2006 (S.I. No. 89 of 2006) are revoked.

BAILE ÁTHA CLIATH
ARNA FHOILSIÚ AG OIFIG AN tSOLÁTHAIR
Le ceannach díreach ón
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TEACH SUN ALLIANCE, SRÁID THEACH LAIGHEAN, BAILE ÁTHA CLIATH 2
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