STATUTORY INSTRUMENTS

2016 No. 248

ROAD TRAFFIC

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

Made - - - -	*29th February 2016*
Coming into force - -	*2nd March 2016*

The Secretary of State makes the following Regulations in exercise of the powers conferred by section 95(1) of the Transport Act 1968(**1**) and section 2(2) of the European Communities Act 1972(**2**).

The Secretary of State is a Minister designated(**3**) for the purposes of section 2(2) in relation to the regulation of the type, description, construction or equipment of vehicles, the regulation and supervision of working conditions of persons engaged in road transport and measures relating to the organisation of working time.

In accordance with section 101(6) of the Transport Act 1968, the Secretary of State has consulted with such representative organisations as he thinks fit.

A draft of this instrument has been laid before, and approved by a resolution of, each House of Parliament in accordance with section 101(3A) of the Transport Act 1968(**4**) and paragraph 2(2) of Schedule 2 to the European Communities Act 1972(**5**).

PART 1

General

Citation and commencement

1.—(1) These Regulations may be cited as the Passenger and Goods Vehicles (Tachographs) (Amendment) Regulations 2016.

(2) These Regulations come into force on 2nd March 2016.

(**1**) 1968 c.73. Section 95(1) is amended by section 2 of the Road Traffic (Drivers' Ages and Hours of Work) Act 1976 (c.3) and S.I. 2011/1043.
(**2**) 1972 c.68. Section 2(2) is amended by section 27 of the Legislative and Regulatory Reform Act 2006 (c.51) and paragraph 1 of Schedule 1 to the European Union (Amendment) Act 2008 (c.7).
(**3**) S.I. 1972/1811, S.I. 1975/1707 and S.I. 1997/1174.
(**4**) Section 101(3A) is inserted by section 2(1) of Road Traffic (Drivers' Ages and Hours of Work) Act 1976 (c.3).
(**5**) Paragraph 2(2) is amended by section 27 of the Legislative and Regulatory Reform Act 2006.

PART 2

Amendments to primary legislation

Transport Act 1968

2. The Transport Act 1968 is amended as follows.

3. After section 96 insert—

"**Authorisation of field tests**

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

(a) recording equipment that has not been type-approved under Article 13 of the EU Tachographs Regulation (granting of type-approval), or

(b) modifications or additions to recording equipment that has been so approved.

(2) An authorisation is to be in writing.

(3) The Secretary of State may withdraw an authorisation by giving written notice.

(4) An authorisation may contain conditions which may in particular relate to—

(a) the places where and equipment by means of which a field test is, or is to be, carried out;

(b) the procedure to be adopted in carrying out a field test;

(c) the records to be kept and the evidence to be furnished of the carrying out of a field test;

(d) the training of persons for carrying out field tests;

(e) the inspection by or on behalf of the Secretary of State of places where and equipment by means of which field tests are, or are to be, carried out;

(f) the display, at the places where field tests are carried out, of signs indicating that field tests are carried out there by persons approved by the Secretary of State.

(5) The Secretary of State must from time to time publish lists of the persons currently authorised under this section.".

4.—(1) Section 97 (installation and use of recording equipment)(**6**) is amended as follows.

(2) In subsection (1)—

(a) in paragraph (a)(i) for "Community Recording Equipment Regulation" substitute "EU Tachographs Regulation";

(b) in paragraph (a)(iii) for "13 to 15" substitute "27 to 29 and 32 to 37";

(c) in paragraph (b) for "Community Recording Equipment Regulation" substitute "EU Tachographs Regulation".

(3) In subsections (1A) and (2) for "Community Recording Equipment Regulation" substitute "EU Tachographs Regulation".

(4) In subsection (3)(b) for "Article 16(2) of the Community Recording Equipment Regulation" substitute "Article 37(2) of the EU Tachographs Regulation".

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

(5) In subsection (4)(c) for "Article 13 to 15 of the Community Recording Equipment Regulation" substitute "Articles 27 to 29 and 32 to 37 of the EU Tachographs Regulation".

(6) In subsection (4A)—

(a) in paragraph (b) for "Article 16(2) and, apart from the last paragraph thereof, Article 16(3) of the Community Recording Equipment Regulation" substitute "Articles 29(2) to (5), 35 and 37(2)" of the EU Tachographs Regulation".

(b) in paragraph (c) for "Articles 13 to 15" substitute "Articles 27 to 29 and 32 to 37".

(7) After subsection (4A) insert—

"(4B) A person shall not be liable to be convicted under subsection (1) of this section by reason of using recording equipment which does not bear a type-approval mark issued under Article 14 of the EU Tachographs Regulation if he proves to the court that the use of the recording equipment was in the course of a field test authorised under section 96A.

(4C) Where a person ("the driver")—

(a) in the course of the driver's employment, uses a vehicle in contravention of subsection (1), and

(b) is liable to be convicted under that subsection in respect of that use,

the employer also commits an offence and shall be liable on summary conviction to a fine.

(4D) A person shall not be liable to be convicted under subsection (4C) in respect of the use of a vehicle if the requirements of Article 10(1) and (2) of the Community Drivers' Hours Regulation (liability of transport undertakings) and Article 33(1) of the EU Tachographs Regulation (responsibility of transport undertakings) were complied with in relation to that use.".

(8) In subsection (5) for "Article 13 to 15 of the Community Recording Equipment Regulation" substitute "Articles 27 to 29 and 32 to 37 of the EU Tachographs Regulation".

(9) In subsection (6) for "Community Recording Equipment Regulation" substitute "EU Tachographs Regulation".

(10) In subsection (7) for the definition of "the Community Recording Equipment Regulation" substitute—

""the EU Tachographs Regulation" means Regulation (EU) No. 165/2014 of the European Parliament and of the Council on tachographs in road transport as read with the Community Drivers' Hours and Recording Equipment Regulations 2007 (S.I. 2007/1819);".

5. In section 97B(2) (records etc. produced by equipment may be used in evidence)(**7**) for "Article 15(2) or (5) or 16(2) of the Community Recording Equipment Regulation" substitute "Article 34(1), (3), (4) or (6) or 37(2) of the EU Tachographs Regulation".

6. In section 97C(1)(b) (delivery of record sheets and other documents)(**8**) for "Community Recording Equipment Regulation" substitute "EU Tachographs Regulation".

7. In section 97D(8) (vehicle units: downloading data)(**9**) and section 97F(3) (downloading data: requirement imposed by an officer)(**10**) for "Annex 1B to the Community Recording Equipment Regulation" substitute "Article 2(2)(n) of the EU Tachographs Regulation".

8. In section 99ZA (inspection of records and other documents and data relating to recording equipment)(**11**)—

(**7**) Section 97B is inserted by S.I. 1979/1746 and amended by S.I. 1986/1457 and S.I. 2005/1904.
(**8**) Section 97C is inserted by S.I. 2008/198.
(**9**) Section 97D is inserted by S.I. 2008/198 and amended by S.I. 2015/502.
(**10**) Section 97F is inserted by S.I. 2008/198.
(**11**) Section 99ZA is inserted by S.I. 2005/1904.

(a) in subsection (1)(b) for "Community Recording Equipment Regulation" substitute "EU Tachographs Regulation";

(b) in subsection (2)(a) for "Article 15(7) of the Community Recording Equipment Regulation" substitute "Article 36 of the EU Tachographs Regulation";

(c) in subsection (6) for "Community Recording Equipment Regulation" substitute "EU Tachographs regulation".

9. In section 99ZB (power of entry)(**12**), in subsections (7) and (9) for "Community Recording Equipment Regulation" substitute "EU Tachographs Regulation".

10. In section 99ZE (offences: false records and data etc.)(**13**)—

(a) in subsection (2) for "Community Recording Equipment Regulation" substitute "EU Tachographs Regulation";

(b) in subsection (6) for "produces, supplies or installs" substitute "produces, distributes, installs, advertises or sells".

11.—(1) Section 103 (interpretation, supplementary provisions)(**14**) is amended as follows.

(2) In subsection (1)—

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

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

(b) at the appropriate place insert—

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

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

(3) After subsection (9) insert—

> "(10) A reference in this Part of this Act to Annex IB to the EU Tachographs Regulation has effect, until the coming into force of that Annex, as a reference to Annex IB to Council Regulation (EEC) No. 3821/85 on recording equipment in road transport as read with the Community Drivers' Hours and Recording Equipment Regulations 2007.".

Road Traffic Act 1988

12.—(1) The Road Traffic Act 1988(**15**) is amended as follows.

(2) In section 45(8) (tests of satisfactory condition of vehicles)(**16**) and section 49(5) (tests of satisfactory condition of goods vehicles and determination of plated weights, etc.)(**17**) for "Community Recording Equipment Regulation" substitute "EU Tachographs Regulation".

(3) In section 85(1) (interpretation)(**18**) omit the definition of "the Community Recording Equipment Regulation" and at the appropriate place insert—

(**12**) Section 99ZB is inserted by S.I. 2005/1904.
(**13**) Section 99ZE is inserted by S.I. 2005/1904.
(**14**) Relevant amending instruments are S.I. 1979/1746 and S.I. 1986/1457.
(**15**) 1988 c.52.
(**16**) There are no relevant amendments to this section.
(**17**) There are no relevant amendments to this section.
(**18**) Relevant amending instrument is S.I. 2010/892.

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

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

"EU Tachographs Regulation	section 85"

Road Traffic Offenders Act 1988

13. In the Road Traffic Offenders Act 1988(**19**), in Schedule 3, in the table, in the entry for Section 97(1) of that Act for "Community Recording Equipment Regulation" substitute "EU Tachographs Regulation".

PART 3

Amendments to secondary legislation

Passenger and Goods Vehicles (Recording Equipment) Regulations 1979

14.—(1) The Passenger and Goods Vehicles (Recording Equipment) Regulations 1979(**20**) are amended as follows.

(2) In regulation 1(3) (commencement, citation, revocation and interpretation)(**21**) for the definition of "the Community Recording Equipment Regulation" substitute—

""the EU Tachographs Regulation means Regulation (EU) No. 165/2014 of the European Parliament and of the Council on tachographs in road transport as read with the Community Drivers' Hours and Recording Equipment Regulations 2007".

(3) In regulation 4 (installation or repair of recording equipment, checks and inspections)(**22**)—

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

(b) in paragraph (1)(b) after "Chapter VI of Annex I" insert ", or Chapter VI of Annex IB,";

(c) after paragraph (5) insert—

"(6) A reference in this Regulation to Annex IB to the EU Tachographs Regulation has effect, until the coming into force of that Annex, as a reference to Annex IB to Council Regulation (EEC) No. 3821/85 on recording equipment in road transport as read with the Community Drivers' Hours and Recording Equipment Regulations 2007.".

Road Vehicles (Construction and Use) Regulations 1986

15.—(1) The Road Vehicles (Construction and Use) Regulations 1986(**23**) are amended as follows.

(**19**) 1988 c.53. Relevant amending instrument is S.I. 2009/483.
(**20**) S.I. 1979/1746.
(**21**) Regulation 1(3) is amended by S.I. 2010/892.
(**22**) Regulation 4 is substituted by S.I. 1984/144 and amended by S.I. 1986/1457.
(**23**) S.I. 1986/1078.