Draft Regulations laid before Parliament under paragraphs 2(2) and 2A of Schedule 2 to the European Communities Act 1972 for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2017 No. 0000

ROAD TRAFFIC

The Community Drivers' Hours Offences (Enforcement) Regulations 2017

Made - - - - 2017

Coming into force in accordance with regulation 1

The Secretary of State makes these Regulations in exercise of the powers conferred by section 2(2) of, and paragraph 1A of Schedule 2 to, the European Communities Act 1972(**1**) and section 90A(2)(b) of the Road Traffic Offenders Act 1988(**2**).

The Secretary of State has been designated(**3**) for the purposes of section 2(2) of the European Communities Act 1972 in relation to the regulation and supervision of qualifications and working conditions of persons engaged in road transport.

These Regulations make provision for a purpose mentioned in section 2(2) of the European Communities Act 1972 and it appears to the Secretary of State that it is expedient for the reference to Regulation (EC) No 561/2006 of the European Parliament and of the Council 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(**4**) to be construed as a reference to that instrument as amended from time to time.

The Secretary of State has consulted such representative organisations as appear appropriate in accordance with section 90E(2)(**5**) of the Road Traffic Offenders Act 1988.

A draft of these Regulations has been laid before, and approved by resolution of, each House of Parliament in accordance with paragraph 2(2)(**6**) of Schedule 2 to the European Communities Act 1972.

(**1**) 1972 c. 68. Section 2(2) was amended by section 27(1) of the Legislative and Regulatory Reform Act 2006 (c. 51) and by Part 1 of the Schedule to the European Union (Amendment) Act 2008 (c. 7). Paragraph 1A of Schedule 2 was inserted by section 28 of the Legislative and Regulatory Reform Act 2006 and amended by Part 1 of the Schedule to the European Union (Amendment) Act 2008 and S.I. 2007/1388.
(**2**) 1988 c. 53. Section 90A was inserted by section 11(1) of the Road Safety Act 2006 (c. 49).
(**3**) S.I. 1975/1707.
(**4**) OJ No L 102, 11.4.2006, p.1. Regulation (EC) No 561/2006 is referred to in regulation 5.
(**5**) Section 90E(2) was inserted by section 11(1) of the Road Safety Act 2006.
(**6**) Paragraph 2(2) of Schedule 2 was amended by section 27(2)(a) of the Legislative and Regulatory Reform Act 2006.

Citation, extent and commencement

1.—(1) These Regulations may be cited as the Community Drivers' Hours Offences (Enforcement) Regulations 2017.

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

(3) These Regulations come into force on the twenty-first day after the day on which they are made.

Amendment of the Transport Act 1968

2.—(1) The Transport Act 1968(**7**) is amended as follows.

(2) In section 96(11A)(**8**) (permitted driving time and periods of duty: offence), after "contravention", insert ", whether occurring in the United Kingdom, another member State, or a contracting third country,".

(3) In section 98(4)(**9**) (written records: offence), for the words from "Any person who" to "summary conviction", substitute—

"(4) Any person who—

(a) contravenes any regulations made under this section, or

(b) contravenes, whether in the United Kingdom, another member State or a contracting third country, any requirement as to books, records or documents of the applicable Community rules,

shall be liable on summary conviction".

(4) In section 103(1) (interpretation for Part 6), after the definition of "the Community Drivers' Hours Regulation", insert—

""contracting third country" means a country other than a member State which is a contracting party to—

(a) the European Agreement concerning the Work of Crews of Vehicles engaged in International Road Transport of 1st July 1970, as amended(**10**); or

(b) the EEA agreement;".

Amendment of section 54 of the Road Traffic Offenders Act 1988

3.—(1) Section 54(**11**) of the Road Traffic Offenders Act 1988 (notices on-the-spot etc.) is amended as follows.

(2) In subsection (1), for the words from "is committing" to the end, substitute—

"(a) is committing or has on that occasion committed a fixed penalty offence; or

(b) has, within the period of 28 days before the day of that occasion, committed a Community drivers' hours offence.".

(3) Before subsection (9), insert—

(**7**) 1968 c. 73.
(**8**) Section 96(11A) was inserted by paragraph 9(2)(a) of Schedule 4 to the European Communities Act 1972 and amended by section 2(1)(c) of the Road Traffic (Drivers' Ages and Hours of Work) Act 1976 (c. 3) and by S.I. 1986/1457 and 2007/1819.
(**9**) Section 98(4) was amended by section 4 of, and paragraph 9(2) of Schedule 4 to, the European Communities Act 1972 and by section 2(1) of the Road Traffic (Drivers' Ages and Hours of Work) Act 1976.
(**10**) Cmnd 7401. Details of the amendments to the Agreement are available from https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=XI-B-21&chapter=11&clang=_en.
(**11**) Section 54(1) was amended by paragraph 103(2) of Schedule 4 to the Road Traffic Act 1991 (c. 40) and by paragraph 3(1) and (2) of Schedule 1 to the Road Safety Act 2006.

"(8A) In a case where this section applies by virtue of subsection (1)(b), a constable or vehicle examiner may not give a person a fixed penalty notice for the Community drivers' hours offence if the constable or vehicle examiner has reason to believe that—

(a) a fixed penalty notice has already been given under this section to the person in relation to the offence;

(b) a conditional offer has already been issued to the person under section 75 of this Act in relation to the offence;

(c) proceedings have already been initiated against the person for the offence; or

(d) any other penalty has already been imposed on, or other proceedings have already been initiated against, the person in respect of the relevant breach in Northern Ireland, another member State or a contracting third country.

(8B) In subsection (8A)(d) "relevant breach" means the breach of the applicable Community rules which constitutes the Community drivers' hours offence concerned.".

Amendment of section 75 of the Road Traffic Offenders Act 1988

4.—(1) Section 75(**12**) of the Road Traffic Offenders Act 1988 (issue of conditional offer) is amended as follows.

(2) After subsection (3)(a), insert—

"(aa) on any occasion has reason to believe that a person he finds has, within the period of 28 days before the day of that occasion, committed a Community drivers' hours offence, he may hand to that person,".

(3) After subsection (3B)(a), insert—

"(aa) on any occasion has reason to believe that a person he finds has, within the period of 28 days before the day of that occasion, committed a Community drivers' hours offence, he may hand to that person,".

(4) After subsection (3B), insert—

"(3C) A constable or vehicle examiner may not hand a person a conditional offer under subsection (3) or (3B) for a Community drivers' hours offence where the constable or vehicle examiner has reason to believe that—

(a) a fixed penalty notice has already been given to the person under section 54 of this Act in relation to the offence;

(b) a conditional offer has already been issued to the person under this section in relation to the offence;

(c) proceedings have already been initiated against the person for the offence; or

(d) any other penalty has already been imposed on, or other proceedings have already been initiated against, the person in respect of the relevant breach in Northern Ireland, another member State or a contracting third country.

(3D) In subsection (3C)(d) "relevant breach" means the breach of the applicable Community rules which constitutes the Community drivers' hours offence concerned.".

Amendment of section 89 of the Road Traffic Offenders Act 1988

5.—(1) Section 89 of the Road Traffic Offenders Act 1988 (interpretation of Part 3) is amended as follows.

(**12**) Section 75 was substituted by section 34 of the Road Traffic Act 1991 and subsection (3B) was subsequently inserted by paragraph 15(3) of Schedule 1 to the Road Safety Act 2006.