Draft Regulations laid before Parliament under section 101 of the Transport Act 1968 and paragraph 2(2) of Schedule 2 to the European Communities Act 1972 for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2007 No. 0000

ROAD TRAFFIC

The Community Drivers' Hours and Recording Equipment Regulations 2007

Made - - - -	*2007*
Coming into force - -	*2007*

These Regulations are made in exercise of the powers conferred by sections 95(1) and (1A), 101(2) and (5) and 157 of the Transport Act 1968(**1**) and section 2(2) of, and paragraph 1A of Schedule 2 to, the European Communities Act 1972(**2**).

The Secretary of State for Transport is a Minister designated(**3**) for the purpose of section 2(2) of the European Communities Act 1972 in relation to the regulation of the type, description, construction or equipment of vehicles and the regulation and supervision of working conditions of persons engaged in road transport.

It appears to the Secretary of State for Transport that it is necessary or expedient that references to Community instruments in these Regulations be construed as references to those instruments as amended from time to time.

The Secretary of State has consulted with such representative organisations as he saw fit in accordance with section 101(6) of the Transport Act 1968.

In accordance with section 101(3A) of the Transport Act 1968 and paragraph 2(2) of Schedule 2 to the European Communities Act 1972, a draft of these Regulations has been laid before Parliament and has been approved by a resolution of each House of Parliament.

Accordingly, the Secretary of State for Transport makes the following Regulations.

(**1**) 1968 c.73. Section 95(1) was amended by, and section 95(1A) was inserted by, section 2(1) of the Road Traffic (Drivers' Ages and Hours of Work) Act 1976 (c.3) (in these footnotes, the "1976 Act") and section 95(2)(c) was inserted by the Community Drivers' Hours and Recording Equipment (Amendment) Regulations 1998 (S.I. 1998/2006); Section 96(11A) was inserted by the European Communities Act 1972 (c.68), section 4 and Schedule 4, paragraph 9 and subsequently amended by the Community Drivers' Hours and Recording Equipment Regulations 1986 (S.I. 1986/1457), regulation 2, by the 1976 Act, section 2(1) and by the Criminal Justice Act 1982 (c.48) sections 37, 38 and 46; section 96(11B) was inserted by the Transport Act 1978 (c.55) section 10; section 101(3) was amended by, and section 101(3A) was inserted by, section 2(1) of the 1976 Act; and relevant amendments were made to section 103(1) by the Passenger and Goods Vehicles (Recording Equipment) Regulations 2005 (S.I. 2005/1904), regulation 8 and the 1976 Act, section 2(1).

(**2**) 1972 c.68. Section 2(2) was amended by section 27(1) of the Legislative and Regulatory Reform Act 2006 (c.51) (in these footnotes the "2006 Act"); paragraph 1A of Schedule 2 was inserted by section 28 of the 2006 Act and paragraph 2(2) was amended by section 27(2) of the 2006 Act.

(**3**) S.I.1972/1811 and S.I. 1975/1707.

Citation, commencement, interpretation and revocation

1.—(1) These Regulations may be cited as the Community Drivers' Hours and Recording Equipment Regulations 2007 and shall come into force on the seventh day after the day on which they are made.

(2) In these Regulations—

"the Community Drivers' Hours Regulation" means Regulation (EC) No 561/2006 of the European Parliament and of the Council(**4**) as amended from time to time;

"the Community Recording Equipment Regulation" means Council Regulation (EEC) No 3821/85(**5**) as amended from time to time; and

"the 1968 Act" means the Transport Act 1968.

(3) Any expression used in these Regulations which is used in the Community Drivers' Hours Regulation has the same meaning as in that Regulation.

(4) The following provisions are revoked—

(a) the Community Drivers' Hours and Recording Equipment (Exemptions and Supplementary Provisions) Regulations 1986(**6**);

(b) the Community Drivers' Hours and Recording Equipment (Exemptions and Supplementary Provisions) (Amendment) Regulations 1986(**7**);

(c) the Community Drivers' Hours and Recording Equipment (Exemptions and Supplementary Provisions) (Amendment) Regulations 1987(**8**);

(d) the Community Drivers' Hours and Recording Equipment (Exemptions and Supplementary Provisions) (Amendment) Regulations 1988(**9**);

(e) the Community Drivers' Hours and Recording Equipment (Amendment) Regulations 1998(**10**); and

(f) paragraph 7 of the Schedule to the Railways Act 1993 (Consequential Modifications) Order 1994(**11**).

Exemption from the Community Drivers' Hours Regulation

2.—(1) Pursuant to Article 13(1) of the Community Drivers' Hours Regulation, exemption is granted from Articles 6, 7, 8 and 9 of that Regulation in respect of—

(a) any vehicle falling within a description specified in Part 1 of the Schedule to these Regulations, and

(b) any vehicle—

(i) which has a maximum permissible mass not exceeding 7.5 tonnes,

(ii) which is being used to deliver items as part of a universal service by a universal service provider as defined in Article 2(13) of Directive 97/67/EC(**12**) of the

(**4**) O.J. No.L102, 11.04.06, p.1.
(**5**) O.J. No.L370, 31.12.85, p.8.; relevant amendments have been made by the Community Drivers' Hours Regulation.
(**6**) S.I. 1986/1456.
(**7**) S.I. 1986/1669.
(**8**) S.I. 1987/805.
(**9**) S.I. 1988/760.
(**10**) S.I. 1998/2006.
(**11**) S.I. 1994/857.
(**12**) O.J. No. L15, 21.01.98 p14-25. Directive 97/67/EC has been amended by Directive 2002/39/EC and by Regulation 1882/2003 but these do not amend Article 2 (13).

European Parliament and of the Council on common rules for the development of the internal market of Community postal services,

(iii) which is being used within a 50 kilometre radius from the base of the universal service provider, and

(iv) the driving of which does not constitute the driver's main activity.

(2) Pursuant to Article 14(1) of the Community Drivers' Hours Regulation, exemption is granted from Articles 6, 7, 8 and 9 of that Regulation in respect of any vehicle falling within a description specified in Part 2 of the Schedule to these Regulations.

Supplementary provisions relating to the Community Drivers' Hours Regulation

3. For the purpose of Article 3(i) of the Community Drivers' Hours Regulation a vehicle has a historic status if it is a vehicle which is by virtue of its construction and equipment suitable for carrying passengers or goods and which was manufactured more than 25 years before the date on which it is being driven.

Exemption from the Community Recording Equipment Regulation

4.—(1) Pursuant to Article 3(2) of the Community Recording Equipment Regulation, exemption is granted from the provisions of that Regulation in respect of any vehicle falling within a description specified in Part 1 of the Schedule to these Regulations.

(2) Pursuant to Article 3(3) of the Community Recording Equipment Regulation, exemption is granted from the provisions of that Regulation in respect of:

(a) any vehicle falling within a description specified in Part 2 of the Schedule to these Regulations; and

(b) any vehicle being used for collecting sea coal.

Amendment of Part 6 of the Transport Act 1968

5. The 1968 Act is amended as follows.

6. In section 95(2) for paragraph (c) substitute—

"(c) vehicles not falling within paragraph (a) or (b) of this subsection which—

(i) are vehicles within the meaning given by Article 4 of the Community Drivers' Hours Regulation; and

(ii) are not referred to in Article 3 of that Regulation.".

7. In section 96—

(a) in subsection (11A)—

(i) omit the words "in Great Britain";

(ii) for the words from "any other person" to "the contravention" substitute "the offender's employer, and any other person to whose orders the offender was subject,";

(b) in subsection (11B), after paragraph (b) insert—

"; or

(c) being charged as mentioned in paragraph (b), he proves—

(i) that at the time of the contravention he was complying with Article 10(1) (distance-related payments etc) and Article 10(2) (organisation of drivers' work etc) of the Community Drivers' Hours Regulation; and

(ii) that he took all reasonable steps to avoid the contravention.";

(c) after subsection (11B) insert—

"(11C) A person who—

(a) is subject to the requirement imposed by Article 10(4) of the Community Drivers' Hours Regulation (undertakings etc to ensure that contractually agreed transport time schedules respect that Regulation); and

(b) fails to take all reasonable steps to comply with that requirement,

shall be liable on summary conviction to a fine not exceeding level 4 on the standard scale.".

8. In section 103(1) —

(a) after the definition of "the analogue recording equipment" insert—

""the Community Drivers' Hours Regulation" means Regulation (EC) No. 561/2006 of the European Parliament and of the Council as amended from time to time;", and

(b) at the end of the definition of "the applicable Community Rules" insert—

"and includes the European Agreement concerning the Work of Crews of Vehicles engaged in International Road Transport of 1st July 1970(**13**), as amended, as applied by Article 2(3) of the Community Drivers' Hours Regulation".

Signed by authority of the Secretary of State for Transport

Name
Minister of State
date Department for Transport

(**13**) Cmnd 7401, Cmnd 8572, Cmnd. 9037, Cm 1776, Cm 3042 and Cm 3135.