STATUTORY RULES OF NORTHERN IRELAND

2010 No. 23

EUROPEAN COMMUNITIES
ROAD TRAFFIC AND VEHICLES

The Passenger and Goods Vehicles (Recording Equipment) (Downloading and Retention of Data) Regulations (Northern Ireland) 2010

Made - - - -	*28th January 2010*
Coming into operation	*30th April 2010*

The Department of the Environment makes the following Regulations in exercise of the powers conferred by section 2(2) of, and paragraph 1A of Schedule 2 to, the European Communities Act 1972(**1**).

The Department of the Environment is designated(**2**) for the purposes of section 2(2) of the European Communities Act in relation to the regulation of the type, description, construction or equipment of vehicles and the regulation and supervision of the working conditions of persons engaged in road transport.

It appears to the Department of the Environment 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.

Citation and commencement

1. — These Regulations may be cited as the Passenger and Goods Vehicles (Recording Equipment) (Downloading and Retention of Data) Regulations (Northern Ireland) 2010 and shall come into operation on 30th April 2010. .

(**1**) 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.

(**2**) S.I. 1972 No. 1811 and S.I. 1975 No. 1707

Interpretation

2.—(1) In these Regulations "the principal Regulations" means the Passenger and Goods Vehicles (Recording Equipment) Regulations (Northern Ireland) 1996(**3**).

(2) The Interpretation Act (Northern Ireland) 1954(**4**) shall apply to these Regulations as it applies to an Act of the Assembly.

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

3. In regulation 2(1) of the principal Regulations (interpretation)—

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

> "" the Community Drivers' Hours Regulation" means Regulation No (EC) 561/2006 of the European Parliament and of the Council(**5**) as amended from time to time;";

(b) after the definition of "tachograph card" insert—

> ""transport undertaking" has the meaning given in the Community Drivers' Hours Regulation;".

4. In regulation 3(7) of the principal Regulations (installation and use of recording equipment) for "5 and 6" substitute "5, 6 and 6A to 6E".

5. Regulation 4 of the principal Regulations is revoked.

6. After regulation 6 of the principal Regulations insert—

"**Delivery of record sheets and other documents**

6A.—(1) This regulation applies to the following documents—

(a) record sheets;

(b) manual records and printouts made in accordance with the Community Recording Equipment Regulation.

(2) If such a document relates to a person in his capacity as the driver of a vehicle to which regulation 3 applies, he must before the end of the delivery period deliver the document to the transport undertaking to whose orders he was subject in driving the vehicle.

(3) The delivery period is the period of 42 days starting on the day after the latest date to which the document relates.

(4) A person who without reasonable excuse fails to comply with paragraph (2) is liable on summary conviction to a fine not exceeding level 4 on the standard scale.

(5) If a transport undertaking fails without reasonable excuse to secure that each driver subject to its orders complies with paragraph (2), in respect of documents relating to him in his capacity as such a driver, it is liable on summary conviction to a fine not exceeding level 4 on the standard scale.

(6) If a person is subject to the orders of two or more transport undertakings in driving a vehicle during a period to which a document relates—

(**3**) S.R. 1996 No.145 as amended by Regulations S.R. 1998 No.270, S.R. 2005 No.325, S.R. 2005 No. 441, S.R. 2005 No.274 and S.R. 2006 No. 574
(**4**) 1954 c.33 (N.I.)
(**5**) O.J. No.L102, 11.04.06, p.1.

(a) paragraph (2) has effect as if it were a requirement to deliver that document to the undertaking to whose orders he was first subject in driving the vehicle during that period;

(b) paragraph (5), in relation to that document, applies only to the undertaking to whose orders he was first subject in driving the vehicle during that period.

Vehicle units: downloading data

6B.—(1) This regulation applies where a transport undertaking is required by Article 10 of the Community Drivers' Hours Regulation to ensure that data is downloaded from a vehicle unit in a vehicle.

(2) The undertaking must ensure that relevant data is downloaded from the unit not later than the end of the download period if—

(a) it controls the use of the vehicle throughout that period, and

(b) it uses the vehicle at some point during that period.

(3) The download period begins and ends as set out in the following table—

Case	*Download period begins*	*Download period ends*
1. The undertaking has not previously downloaded data from the unit under this regulation	On the first day after the commencement of this regulation on which the undertaking— (a) controls the use of the vehicle, and (b) is required by Article 10 to ensure that data is downloaded from the unit	On the earlier of— (a) the expiry of the period of 56 days starting on the first day of the download period; (b) any downloading of the data before the expiry of that period
2. The undertaking uses the vehicle during the period of 56 days starting on the day after the last downloading under this regulation	On the day after the last downloading under this regulation	
3. The undertaking does not use the vehicle during the period of 56 days starting on the day after the last downloading under this regulation	On the first day of the undertaking's use of the vehicle after the last downloading under this regulation	

(4) The undertaking must ensure that all relevant data is downloaded from the unit—

(a) immediately before transferring control of the use of the vehicle to another person;

(b) without delay upon permanently removing the unit from service in the vehicle;

(c) without delay upon becoming aware that the unit is malfunctioning;

(d) without delay in any circumstances such that the imminent erasure of the data by the unit, in the normal course of its operations, is reasonably foreseeable.

(5) But paragraph (4)(c) does not apply if because of the malfunctioning of the unit it is impossible to download the data.

(6) For the purposes of this regulation "relevant data" means any data recorded by the vehicle unit in a vehicle, other than detailed speed data.

(7) For the purposes of this regulation and regulation 6C an undertaking controls the use of a vehicle during any period in which it may determine when, by whom and for what purpose the vehicle may be driven.

(8) In this regulation and regulations 6C to 6E, "downloaded" is to be construed in accordance with the definition of "downloading" in Annex 1B to the Community Recording Equipment Regulation.

Driver cards: downloading data

6C.—(1) This regulation applies where a transport undertaking is required by Article 10 of the Community Drivers' Hours Regulation to ensure that data is downloaded from a driver card issued to a driver.

(2) The undertaking must ensure that all data is downloaded from the card not later than the end of the download period.

(3) The download period begins and ends as set out in the following table—

Case	*Download period begins*	*Download period ends*
1. The undertaking has not previously downloaded data from the card under this regulation	On the first day after the commencement of this regulation on which— (a) the driver drives for the undertaking, and (b) the undertaking is required by Article 10 to ensure that data is downloaded from the card	On the earlier of— (a) the expiry of the period of 28 days starting on the first day of the download period; (b) any downloading of the data before the expiry of that period
2. The undertaking has previously downloaded data from the card under this regulation	On the first day on which the driver drives for the undertaking after the last downloading under this regulation	

(4) The undertaking must ensure that the data is downloaded from the card—

(a) immediately before the driver ceases to be employed by the undertaking as a driver, or otherwise to carry out work for the undertaking as a driver;

(b) without delay upon becoming aware that the card has been damaged or is malfunctioning;

(c) without delay in any circumstances such that the imminent erasure of the data, in the normal course of use of the card, is reasonably foreseeable;

(d) if it is not possible to do so other than by means of a vehicle unit installed in a vehicle, immediately before ceasing to control the use of that vehicle.

(5) But paragraph (4)(b) does not apply if because of the damage to the card or its malfunctioning it is impossible to download the data.

Downloading data: requirement imposed by an vehicle examiner

6D.—(1) This regulation applies where—

(a) a vehicle examiner has reason to believe that an offence under these Regulations or under the Road Traffic Orders has been committed in respect of the use of a vehicle, and