STATUTORY RULES OF NORTHERN IRELAND

2009 No. 91

ROAD TRAFFIC

The Community Drivers' Hours and Recording Equipment (Exemptions and Supplementary Provisions) Regulations (Northern Ireland) 2009

Made - - - -	*10th March 2009*
Coming into operation	*23rd April 2009*

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 Community Drivers' Hours and Recording Equipment (Exemptions and Supplementary Provisions) Regulations (Northern Ireland) 2009 and shall come into operation on 23rd April 2009.

Interpretation

2.—(1) In these Regulations—

"the Community Drivers' Hours Regulation" means Regulation No (EC) 561/2006 of the European Parliament and of the Council(**3**) as amended from time to time;

(**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

(**3**) O.J. No.L102, 11.04.06, p.1.

"the Community Recording Equipment Regulation" means Council Regulation (EEC) No 3821/85(**4**) as amended from time to time;

(2) The Interpretation Act (Northern Ireland) 1954(**5**) shall apply to these Regulations as it applies to an Act of the Assembly.

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

Exemption from the Community Drivers' Hours Regulation

3.—(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, 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(**6**) of the 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.

Supplementary provisions relating to the Community Drivers' Hours Regulation

4. 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

5.—(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.

(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; and

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

Amendment of Part VI of the Road Traffic (Northern Ireland) Order 1981

6.—(1) The Road Traffic (Northern Ireland) Order 1981(**7**) shall be amended as follows.

(**4**) O.J. No.L370, 31.12.85, p.8.; relevant amendments have been made by the Community Drivers' Hours Regulation
(**5**) 1954 c.33 (N.I.)
(**6**) O.J. No. L15, 21.01.98 p14-25. Directive 97/67/EC has been amended by Directive 2002/39/EC and by Regulation 1982/2003 but these do not amend Article 2(13).
(**7**) 1981 No. 154 (N.I. 1)

(2) In Article 2(2) (interpretation)—

(a) at the end of the definition of "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(**8**), as amended from time to time"; and

(b) After the definition of "certificate of insurance" insert—

""the Community Drivers' Hours Regulation" means Regulation No (EC) 561/2006 of the European Parliament and of the Council(**9**) as amended from time to time;".

(3) In Article 81 (offences against applicable community rules)—

(a) for paragraph (1) substitute—

"(1) Where, in the case of a driver of a motor vehicle, there is a contravention of any requirement of the applicable Community rules as to periods of driving, or distance driven, or periods on or off duty, then the offender, the offender's employer and any other person to whose orders the offender was subject shall be guilty of an offence under this Order."; and

(b) after paragraph (1) insert the following paragraphs—

"(1A) A person shall not be liable to be convicted under paragraph (1) if being charged as the offender's employer, or a person to whose orders the offender was subject, he proves—

(a) 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 Driver's Hours Regulation); and

(b) that he took all reasonable steps to avoid the contravention.

(1B) 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 guilty of an offence under this Order.".

Amendment of the Road Traffic Offenders (Northern Ireland) Order 1996

7. In Part 1 of Schedule 1 to the Road Traffic Offenders (Northern Ireland) Order 1996(**10**) (prosecution and punishment of offences) after the entry relating to offences under Article 81 (1) of the Road Traffic (Northern Ireland) Order 1981 insert—

"81(1B)	Contravention of requirement imposed by Article 10(4) of Regulation (EC) No 561/2006 (undertakings etc. to ensure that contractually agreed	Summarily.	Level 4 on the standard scale.".

(**8**) Cmnd 7401, Cmnd 8572, Cmnd 9037, Cm 1776, Cm 3042 and Cm 3135
(**9**) O.J. No.L102, 11.04.06, p.1.
(**10**) S.I. 1996/1320 (N.I. 10)

	transport time schedules respect that Regulation).

Revocation

8. The following Regulations are revoked—

(a) the Community Drivers' Hours and Recording Equipment (Exemptions and Supplementary Provisions) Regulations (Northern Ireland) 1987(**11**);

(b) the Community Drivers' Hours and Recording Equipment (Exemptions and Supplementary Provisions) (Amendment) Regulations (Northern Ireland) 1988(**12**);

(c) the Community Drivers' Hours and Recording Equipment (Exemptions and Supplementary Provisions) (Amendment) Regulations (Northern Ireland) 1999(**13**);

Sealed with the Official Seal of the Department of the Environment on 10th March 2009.

L.S.

Stanley Duncan
A senior officer of the
Department of the Environment

(**11**) S.R. 1987/218
(**12**) S.R. 1988/297
(**13**) S.R. 1999/295