STATUTORY RULES OF NORTHERN IRELAND

2006 No. 274

EUROPEAN COMMUNITIES

ROAD TRAFFIC AND VEHICLES

The Passenger and Goods Vehicles (Recording Equipment) (Amendment) Regulations (Northern Ireland) 2006

Made - - - -	*21st June 2006*
Coming into operation	*31st July 2006*

The Department of the Environment makes the following Regulations in exercise of the powers conferred by section 2(2) of the European Communities Act 1972(**1**), and being a department designated(**2**) in relation to the regulation and supervision of the working conditions of persons engaged in road transport and the regulation of the type, description, construction or equipment of vehicles:

Citation and commencement

1. These Regulations may be cited as the Passenger and Goods Vehicles (Recording Equipment) (Amendment) Regulations (Northern Ireland) 2006 and shall come into operation on 31st July 2006.

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

3.—(1) Regulation 2(1) (interpretation) of the principal Regulations shall be amended as follows.

(2) There shall be inserted the following definitions in the appropriate places—

(**1**) 1972 c. 68
(**2**) S.Is.1972/1811 and 1975/1707
(**3**) S.R. 1996 No.145; relevant amending Regulations are S.R. 1998 No.270, S.R. 2005 No.325 and S.R. 2005 No.441
(**4**) 1954 c. 33 (N.I.)

""analogue recording equipment" means recording equipment that complies with Annex I to the Community Recording Equipment Regulation;

"digital recording equipment" means recording equipment that complies with Annex IB to the Community Recording Equipment Regulation;

"electronic copy" of data means a copy of data stored electronically together with the data's digital signature (within the meaning of that Annex);

"hard copy" in relation to data stored electronically means a printed out version of the data;

"the relevant Annexes" to the Community Recording Equipment Regulation —

(a) in the case of a vehicle put into service for the first time before 1st May 2006 means—

(i) either Annex I or Annex IB to that Regulation; and

(ii) Annex II to that Regulation; and

(b) in the case of a vehicle put into service for the first time on or after that date means—

(i) Annex IB to that Regulation; and

(ii) Annex II to that Regulation.

"vehicle examiner" means an examiner appointed under Article 74 of the Road Traffic (Northern Ireland) Order 1995(**5**).".

(3) In the definition of "the Community Recording Equipment Regulation"—

(a) at the end of paragraph (h) the word "and" shall be omitted;

(b) for paragraph (i) there shall be substituted the following—

"(i) Regulation (EC) 561/2006(**6**); and

(j) any regulations adopted in accordance with the procedure laid down in Article 18 of the Community Recording Equipment Regulation making amendments necessary to adapt the Annexes to that Regulation to technical progress;".

4.—(1) Regulation 3 (installation and use of recording equipment) of the principal Regulations shall be amended as follows.

(2) In paragraph (1)(a), in head (ii) for "Annexes I and II" there shall be substituted "the relevant Annexes".

(3) In paragraph (3), for "Annexes I and II" there shall be substituted "the relevant Annexes".

(4) After paragraph (4) insert—

"(4A) A person shall not be liable to be convicted under paragraph (1)(a) by reason of the driver card not being used with the recording equipment installed in the vehicle in question if he proves to the court that—

(a) the driver card was damaged, malfunctioning, lost or stolen;

(b) the requirements of Article 16(2) and, apart from the last paragraph thereof, Article 16(3) of the Community Recording Equipment Regulation were being complied with; and

(c) in all other respects the recording equipment was being used as provided by Articles 13 to 15 of that Regulation.".

5. In regulation 6(2) (records etc. produced by equipment may be used in evidence) of the principal regulations, after "record sheet" insert "or print out".

(**5**) S.I. 1995 No. 2994 (N.I.18)
(**6**) O.J. No. L102, 11.04.06, p. 12.

6. For regulation 7 of the principal Regulations there shall be substituted the following regulation —

"**Inspection of recording equipment and record sheets**

7.—(1) A vehicle examiner may, on production if so required of his authority—

(a) at any time, enter the vehicle and inspect the vehicle and recording equipment, and inspect and copy any record sheet on the vehicle on which a record has been produced by means of that equipment or on which entries have been made; and

(b) at any time which is reasonable having regard to the circumstances of the case, enter any premises on which he has reason to believe that such a vehicle is kept or that any such record sheets are to be found, and inspect any such vehicle, and inspect and copy any such record sheets which he finds there.

(2) For the purpose of exercising his powers under paragraph (1)(a), a vehicle examiner may detain the vehicle in question during such time as is required for the exercise of that power.

(3) Any person who obstructs a vehicle examiner in the exercise of his powers under paragraph (1) or (2), shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(4) Any person who makes, or causes to be made, any record or entry on a record sheet kept or carried for the purposes of the Community Recording Equipment Regulation or regulation 3 which he knows to be false or, with intent to deceive, alters or causes to be altered any such record or entry, shall be liable—

(a) on summary conviction, to a fine not exceeding the statutory maximum;

(b) on conviction on indictment, to imprisonment for a term not exceeding 2 years or a fine or both.

(5) If a vehicle examiner has reason to believe that an offence under paragraph (4) has been committed in respect of any record sheet inspected by him under this regulation, he may seize that record sheet; and where a record sheet is seized as foresaid and within 6 months of the date on which it was seized no person has been charged since that date with an offence in relation to that record sheet under that paragraph and the record sheet has not been returned to the person from whom it was taken, a magistrates' court shall, on application made for the purpose by that person, or by a vehicle examiner, make such order respecting the disposal of the record sheet and award such costs as the justice of the case may require.

(6) The powers conferred by these Regulations on a vehicle examiner shall be exercisable also by a constable.

(7) In this regulation references to the inspection and copying of any record produced by recording equipment include references to the application to the record of any process for eliciting the information recorded thereby and to take down the information elicited from it.

(8) Paragraphs (1) to (5) and (7) do not apply in respect of vehicles to which regulation 3 applies."

7.—(1) After regulation 7 of the principal Regulations there shall be inserted—

"**Inspection of records and other documents and data relating to recording equipment**

7A.—(1) A vehicle examiner may, on production if so required of his authority, require any person to produce, and permit him to inspect, remove, retain and copy—

(a) if that person is the owner of a vehicle to which regulation 3 applies, any document of that person which the vehicle examiner may reasonably require to inspect for the purpose of ascertaining whether the provisions of these Regulations have been complied with;

(b) any record sheet or hard copy of electronically stored data which that person is required by the Community Recording Equipment Regulation to retain or to be able to produce;

(c) any book, register or other document required by the applicable Community rules or which the vehicle examiner may reasonably require to inspect for the purpose of ascertaining whether the requirements of the applicable Community rules have been complied with.

(2) A vehicle examiner may, on production if so required of his authority, require any person—

(a) to produce and permit him to inspect any driver card which that person is required by Article 15(7) of the Community Recording Equipment Regulation to be able to produce; and

(b) to permit the vehicle examiner to copy the data stored on the driver card (and to remove temporarily the driver card for the purpose of doing so) and to remove and retain the copy.

(3) If the vehicle examiner so requires by notice in writing, anything that a person is required to produce under paragraph (1) or (2) shall, instead of being produced when the requirement under those paragraphs is imposed, be produced at an address specified in the notice, within such time (not being less than ten days) from the service of the notice as is so specified.

(4) Where a notice is served under paragraph (3) the vehicle examiner may exercise his powers under this regulation at the place specified in the notice.

(5) In these Regulations any reference to copying data stored on a driver card or on digital recording equipment includes a reference to making a hard copy or an electronic copy of the data (and any reference to copies of data shall be construed accordingly).

Power of entry

7B.—(1) A vehicle examiner may, on production if so required of his authority, at any time enter any vehicle to which regulation 3 applies in order to inspect that vehicle and any recording equipment in or on it.

(2) Where any vehicle examiner enters any vehicle under paragraph (1) he may—

(a) inspect, remove, retain and copy any record sheet that he finds there on which a record has been produced by means of analogue recording equipment or on which an entry has been made;

(b) inspect, remove, retain and copy any hard copy of data that he finds there which was stored on any digital recording equipment or on a driver card;

(c) inspect, remove, retain and copy any other document that he finds there which the vehicle examiner may reasonably require to inspect for the purpose of ascertaining whether the requirements of the applicable Community rules have been complied with;

(d) inspect any driver card that he finds there, copy the data stored on it (using any digital recording equipment in or on the vehicle or temporarily removing the driver card for the purpose of copying the data) and remove and retain the copy;