STATUTORY RULES OF NORTHERN IRELAND

2005 No. 441

EUROPEAN COMMUNITIES

ROAD TRAFFIC AND VEHICLES

The Passenger and Goods Vehicles (Recording Equipment) (Amendment No. 2) Regulations (Northern Ireland) 2005

Made - - - -	*6th October 2005*
Coming into operation	*31st October 2005*

The Department of the Environment, being a Department designated(**1**) for the purpose of section 2(2) of the European Communities Act 1972(**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, in exercise of the powers conferred by that section, and in exercise of the powers conferred on it by section 56(1) and (5) of the Finance Act 1973(**3**) and of all other powers enabling it in that behalf, and with the consent of the Department of Finance and Personnel(**4**) as regards regulation 5, hereby makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Passenger and Goods Vehicles (Recording Equipment) (Amendment No. 2) Regulations (Northern Ireland) 2005 and shall come into operation on 31st October 2005.

Interpretation

2. In these Regulations "the principal Regulations" means the Passenger and Goods Vehicles (Recording Equipment) Regulations (Northern Ireland) 1996(**5**).

3. The Interpretation Act (Northern Ireland) 1954(**6**) shall apply to these Regulations as it applies to an Act of the Assembly.

(**1**) S.Is. 1972/1811 and 1975/1707
(**2**) 1972 c. 68
(**3**) 1973 c. 51
(**4**) Formerly the Department of Finance. See S.I.1982/338 (N.I. 6)Art. 3
(**5**) S.R. 1996 No.145; relevant amending regulations are S.R. 1998 No. 270, S.R. 2002 No. 50 and S.R. 2005 No. 325
(**6**) 1954 c. 33 (N.I.)

Amendment to regulation 2 (interpretation)

4.—(1) Regulation 2 of the principal Regulations shall be amended in accordance with paragraphs (2) and (3).

(2) In paragraph (1)—

(a) there shall be inserted the following definitions in the appropriate places—

""company card", "control card", and "driver card" have the meanings given by Annex 1B to the Community Recording Equipment Regulation;

"competent authority" has the same meaning as in the Community Recording Equipment Regulations;

"tachograph card" means a company card, control card, driver card or workshop card;

"working day" means a day other than a Saturday, Sunday, or public holiday."; and

(b) for the definition of "the Community Recording Equipment Regulation", there shall be substituted the following definition—

""the Community Recording Equipment Regulation" means Council Regulation (EEC) No. 3821/85 on recording equipment in road transport(**7**) as it has effect in accordance with—

(a) Commission Regulation (EEC) No. 3314/90(**8**);

(b) Commission Regulation (EEC) No. 3688/92(**9**);

(c) Commission Regulation (EC) 2479/95(**10**);

(d) Commission Regulation (EC) 1056/97(**11**);

(e) Article 1 of Commission Regulation (EC) 2135/98(**12**);

(f) Commission Regulation (EC) 1360/2002(**13**);

(g) Commission Regulation (EC) 1882/2003(**14**);

(h) Commission Regulation (EC) 432/2004(**15**); and

(i) 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;

and as read with the Community Drivers' Hours and Recording Equipment (Exemptions and Supplementary Provisions) Regulations (Northern Ireland) 1987(**16**);".

(3) After paragraph (2) there shall be inserted the following paragraph—

"(3) Where any question arises as to whether a person is normally resident in Northern Ireland he shall be deemed to be normally resident there if he shows that he will have lived

(**7**) O.J. No. L370, 31.12.85, p. 8
(**8**) O.J. No. L318, 17.11.90, p. 20
(**9**) O.J. No. L374, 22.12.90, p. 12
(**10**) O.J. No. L256, 26.10.95, p. 8.
(**11**) O.J. No. L154, 12.06.97, p. 21.
(**12**) O.J. No. L274, 09.10.98, p. 1.
(**13**) O.J. No. L207, 05.08.02, p. 1.
(**14**) O.J. No. L284, 31.10.03, p. 1.
(**15**) O.J. No. L071, 10.03.04, p. 3.
(**16**) S.R. 1987 No. 218; relevant amending regulations are S.R. 1988 No. 297

there for no fewer than 185 days during the period of 12 months ending on the day on which the tachograph card is to be issued.".

Amendment to regulation 9 (fee for approval or renewal of approval of fitters and workshops)

5.—(1) For regulation 9 of the principal Regulations(**17**) there shall be substituted—

"**Fee for approval or renewal of approval of fitters and workshops and for tachograph cards**

9.—(1) The fee to be paid to the Department for—

(a) granting approval of a fitter or workshop for recording equipment in accordance with Article 12 of the Community Recording Equipment Regulation shall be £336;

(b) renewing an approval shall be £102.

(2) An applicant for a tachograph card shall pay such fee as may be determined in accordance with paragraphs (3), (4) and (5).

(3) The fee payable upon an application for a driver card shall, in the circumstances specified in column (1) of the Table set out in Schedule 2, be the fee specified in relation thereto in column (2) of the Table.

(4) The fee payable upon an application for a company card shall, in the circumstances specified in column (1) of the Table set out in Schedule 3, be the fee specified in relation thereto in column (2) of the Table.

(5) No fee shall be payable in respect of—

(a) a workshop card or a control card;

(b) replacement of a malfunctioning driver card or company card; or

(c) a driver card issued with the corrected personal details of the driver in exchange for an existing driver card.

(6) When an application is made for a tachograph card, which, but for this paragraph, would attract more than one fee, only one fee shall be paid in respect of that card and where the fees are different, that fee shall be the higher or the highest of them.".

New provisions relating to tachograph cards

6. After regulation 10 of the principal Regulations (disapplication of requirement to keep drivers' record books) there shall be inserted the following regulations—

"**Driver card requirements**

10A.—(1) The Department shall issue a driver card to a person who complies with the requirements in paragraph (2).

(2) The requirements are that the person—

(a) satisfies the Department that he is a driver subject to the provisions of—

(i) Commission Regulation (EEC) No 3820/85, and

(ii) the Community Recording Equipment Regulation;

(b) satisfies the Department that he is normally resident within Northern Ireland;

(**17**) Regulation 9 was amended by S.R. 2002 No. 50, regulation 2

(c) makes an application for the card—

(i) not more than 90 days before he wishes it to come into force, and

(ii) in such form, and provides the Department with such documents and information in support of the application, as the Department may require;

(d) save in the circumstances described in paragraph (3), does not hold a driver card; and

(e) pays the fee prescribed in accordance with regulation 9.

(3) The circumstances referred to in paragraph (2)(d) are that the person—

(a) holds a driver card ("existing card") issued by the Department which is in force; and

(b) has applied to renew it not later than 15 working days before the date of expiry of his existing card.

Renewal and exchange of driver card

10B.—(1) The holder of a driver card may apply to exchange his driver card if the requirements of this regulation are satisfied.

(2) The driver card must have been issued to the holder by the competent authority, other than the Department, of a Member State of the European Union.

(3) The holder shall comply with the requirements of regulation 10A (2)(a) to (c) and (e).

(4) That save for a card to be surrendered under paragraph (5) the holder does not hold a driver card.

(5) The holder shall surrender the driver card issued by the other competent authority to the Department.

Company cards

10C.—(1) The Department shall issue a company card to a person who complies with the requirements in paragraph (2).

(2) The requirements are that the person—

(a) is the owner or holder of a vehicle in which there is equipment for recording information as to the use of the vehicle which—

(i) has been installed in accordance with the Community Recording Equipment Regulation, and

(ii) complies with Annexes IB and II to that Regulation;

(b) either—

(i) if an individual is normally resident in Northern Ireland, or

(ii) if a company has a place of business in Northern Ireland;

(c) makes application for the card in such form and provides the Department with such documents and information in support of the application as the Department may require; and

(d) pays the fee prescribed in accordance with regulation 9.