1977 No. 310

ROAD TRAFFIC AND VEHICLES

Passenger and Goods Vehicles (Recording Equipment) Regulations (Northern Ireland) 1977

Made . . . . . *25th October* 1977

Coming into operation . . . *12th December* 1977

The Department of the Environment for Northern Ireland, being a Department designated(a) for the purposes of section 2(2) of the European Communities Act 1972(b) in relation to the regulation and supervision of working conditions of persons engaged in road transport, in exercise of the powers conferred by that section, by sections 49, 57, 74C and 189 of the Road Traffic Act (Northern Ireland) 1970(c) and by section 56(1), (2) and (5) of the Finance Act 1973(d) and now vested in it(e) and of every other power enabling it in that behalf, and with the approval of the Department of Finance, hereby makes the following Regulations:—

Citation and commencement

1. These Regulations may be cited as the Passenger and Goods Vehicles (Recording Equipment) Regulations (Northern Ireland) 1977 and shall come into operation on 12th December 1977.

Revocation

2. The Public Service and Goods Vehicles (Recording Equipment) Regulations (Northern Ireland) 1975(f) are hereby revoked.

Interpretation

3.—(1) In these Regulations—

"the Act" means the Road Traffic Act (Northern Ireland) 1970;

"Department" means the Department of the Environment for Northern Ireland;

"employee-driver" means a person who drives a vehicle in the course of his employment;

"goods vehicle" means—

(i) heavy locomotives, light locomotives, motor tractors and any motor vehicle so constructed that a trailer may by partial superimposition be attached to the vehicle in such a manner as to cause a substantial part of the weight of the trailer to be borne by the vehicle; and

(ii) motor vehicles (other than passenger vehicles) constructed or adapted to carry goods other than the effects of passengers;

(a) S.I. 1975/1707 (1975 III, p. 5814)
(b) 1972 c. 68
(c) 1970 c. 2 (N.I.) as amended by S.I. 1973/1229 (N.I. 17) Art. 5 and S.R. & O. (N.I.) 1972 No. 359 (p. 1755)
(d) 1973 c. 51
(e) S.R. & O. (N.I.) 1973 No. 504 Art. 5(*b*) (II, p. 2992)
(f) S.R. 1975/296 (II, p. 1420)

"owner-driver" means a person who drives a vehicle for the purposes of a trade or business carried on by him;

"passenger vehicle" means—

(i) public service vehicles constructed or adapted to carry 8 or more passengers; and

(ii) motor vehicles (other than public service vehicles) constructed or adapted to carry more than 12 passengers;

"recording equipment" means equipment which is designed for recording information as to the use of a vehicle and which is installed in a vehicle for the purposes of the relevant Community instrument;

"the relevant Community instrument" means Council Regulation (EEC) No. 1463/70 of 20th July 1970(**g**).

(2) Any reference in these Regulations to an Article or Annex followed by a number is a reference to the Article or the Annex, as the case may be, so numbered in the relevant Community instrument.

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

Application of Regulations

4. These Regulations apply to passenger vehicles and goods vehicles which are registered in any of the Member States and in which recording equipment is installed for the purposes of the relevant Community instrument.

Use of recording equipment

5.—(1) Where recording equipment in a vehicle to which these Regulations apply conforms to the provisions of Annexes I and II (which relate to the construction, testing, installation, inspection and marking of recording equipment) and is operated and used in accordance with Articles 15 and 17 (which relate to the functioning and use of recording equipment), any record produced by means of such equipment shall, in any proceedings under Part IV of the Act, be evidence of the matters appearing from the record.

(2) For the purposes of this regulation recording equipment shall, until the contrary is proved, be presumed to conform to the provisions of Annexes I and II if there is affixed to or alongside the equipment an installation plaque as required by paragraph V.3. of Annex I and if the seals referred to in paragraph V.4. of that Annex are unbroken.

(3) Any entry made by a crew member in accordance with Article 17(2) and (3) or Article 18(2) on the record sheet of the recording equipment or on a temporary sheet attached to the record sheet, shall, in any proceedings under Part IV of the Act, be evidence of the matters appearing from the sheet in question.

Supply, return and retention of record sheets

6.—(1) Where recording equipment in a vehicle to which these Regulations apply is used in accordance with Articles 15 and 17, any failure—

(*a*) by an owner-driver, before a record sheet is taken for use by him, or by the employer of the crew members, before a record sheet is issued to a crew member, to insert in the record sheet a serial number which

(g) O.J. No. L164/1 of 27.7.70 (h) 1954 c. 33 (N.I.)

is different from the serial number on any other record sheet taken for use or (as the case may be) issued by him during the preceding 12 months, or

(*b*) by the employer of the crew members—

(i) to supply them with the appropriate record sheets in accordance with Article 16(1), or

(ii) without reasonable excuse to secure that the crew members return to him, when completed, the record sheets supplied to them as aforesaid, or

(iii) within 7 days from the date on which a record sheet is returned to him by the crew member to whom it was issued, to examine and sign that sheet, or

(iv) to retain the sheets containing the records produced by the recording equipment, or entered in accordance with Article 18(2), for the period specified in Article 16(2), or

(*c*) by a crew member—

(i) to be able to produce to an inspector of vehicles at any time during the prescribed period each record sheet containing records produced by the recording equipment, or entered in accordance with Article 18(2), and relating to him, or

(ii) to return to his employer, within 21 days of the completion of the entries on that sheet (unless the sheet has been previously taken by an inspector of vehicles or constable in pursuance of regulation 9) each record sheet containing records produced by the recording equipment, or entered in accordance with Article 18(2), and relating to him, or

(iii) when a record sheet supplied to him has been so damaged, or so affected by dirt, that it will not, if used in the recording equipment, produce a satisfactory record, to return that record sheet to his employer as soon as is reasonably practicable after the occurrence of the damage or the time when it became so affected, or

(iv) on leaving the employment of the employer who has supplied him with any record sheets for use in the recording equipment, to return to that employer any unused record sheets in his possession, or

(v) if an owner-driver of the vehicle, to retain the sheets containing the records produced by the recording equipment, or entered in accordance with Article 18(2), for the period specified in Article 16(2),

shall be an offence punishable on summary conviction by a fine not exceeding £200.

(2) In this regulation a failure to return, retain or be able to produce a record sheet includes a failure to return, retain or be able to produce a temporary sheet attached to a record sheet as mentioned in Article 18(2) (which relates to the making of manual entries on record sheets and on sheets attached thereto), and the expression "the prescribed period" in relation to a record sheet means the period prescribed by Article 17(5) or, as the case may be, prescribed in pursuance of Article 17(6) by regulation 7 (whichever period is appropriate as respects that record sheet).

Period of retention of records by crew members

7. For the purposes of these Regulations the period for which the crew members of a vehicle registered in Northern Ireland and engaging in national transport operations are required by Article 17 (which in paragraph (5) prescribes a period of 14 days but in paragraph (6) permits Member States to reduce that period for such crew members) to retain and have with them the record sheets relating to such operations shall be 2 days.

Keeping of register of record sheets

8.—(1) Where recording equipment in a vehicle to which these Regulations apply is used in accordance with Articles 15 and 17—

(*a*) the employer who supplies the record sheets in accordance with Article 16(1) to the crew members employed by him shall keep a register containing particulars of the record sheets supplied, and

(*b*) the owner-driver who uses the record sheets shall keep a register containing the particulars of the record sheets taken by him for use.

(2) Where the owner-driver of a vehicle employs other persons who act as crew members of the vehicle, the same register may be used for the record sheets used by the owner-driver and for the record sheets supplied by him to his employees.

(3) A register kept in accordance with this regulation at a place where record sheets are supplied by the employer to crew members employed by him or are taken by an owner-driver for use by him shall bear a number which is different from that borne by any other such register kept at that place and shall contain pages (numbered consecutively) each of which shall bear the number of the register and shall contain the following entries—

(*a*) the name and address of the employer or owner-driver,

(*b*) in a case where a goods vehicle is involved, the operator's licence number (where there is such a licence issued under section 14 of the Transport Act (Northern Ireland) 1967(i)),

(*c*) the address of the place where the record sheets are supplied or taken for use, and

(*d*) in respect of each occasion when record sheets are supplied by an employer to a crew member employed by him or are taken by an owner-driver for use by him—

(i) the serial numbers of the sheets supplied or taken,

(ii) the date on which they are supplied or taken,

(iii) the name of the crew member to whom the sheets are supplied by the employer,

(iv) the signature of the employer of the crew member,

(v) the signature of the crew member, and

(vi) the date or dates of the return of those sheets to the employer or of their removal from the vehicle by the owner-driver.

(4) Each register kept in accordance with this regulation shall be preserved not less than 12 months from the date of the making of the last entry in it.

(5) Any failure by an employer or an owner-driver to keep or preserve the register required by this regulation shall be an offence punishable on summary conviction by a fine not exceeding £200.

(i) 1967 c. 37 (N.I.)