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Regulation (EU) No 165/2014 of the European Parliament and of the Council

of 4 February 2014

on tachographs in road transport, repealing Council Regulation (EEC) No 3821/85 on recording equipment in road transport and amending Regulation (EC) No 561/2006 of the European Parliament and of the Council on the harmonisation of certain social legislation relating to road transport

(Text with EEA relevance)

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Regulation (EU) No 165/2014 of the European Parliament and of the Council

of 4 February 2014

on tachographs in road transport, repealing Council Regulation (EEC) No 3821/85 on recording equipment in road transport and amending Regulation (EC) No 561/2006 of the European Parliament and of the Council on the harmonisation of certain social legislation relating to road transport

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 91 thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee,

After consulting the Committee of the Regions,

Acting in accordance with the ordinary legislative procedure,

Whereas:

(1) Council Regulation (EEC) No 3821/85 lays down provisions concerning the construction, installation, use and testing of tachographs. It has been substantially amended on several occasions. In order to ensure greater clarity, its main provisions should therefore be simplified and re-structured.

(2) Experience has shown that, in order to ensure the effectiveness and efficiency of the tachograph system, certain technical elements and control procedures should be improved.

(3) Certain vehicles are subject to an exemption from the provisions of Regulation (EC) No 561/2006 of the European Parliament and of the Council. In order to ensure coherence, it should also be possible to exempt such vehicles from the scope of this Regulation.

(4) Tachographs should be installed in vehicles to which Regulation (EC) No 561/2006 applies. Certain vehicles should be excluded from the scope of that Regulation in order to introduce some flexibility, namely vehicles with a maximum permissible mass not exceeding 7,5 tonnes used for carrying materials, equipment or machinery for the driver's use in the course of his work, and which are used only within a 100 km radius from the base of the undertaking, on condition that driving such vehicles does not constitute the driver's main activity. In order to ensure coherence between the relevant exemptions set out in Regulation (EC) No 561/2006, and to reduce the administrative burden on transport undertakings whilst respecting the objectives of that Regulation, certain maximum permissible distances set out in those exemptions should be revised.

(5) The Commission will consider extending the period of validity of the adaptor for M1 and N1 vehicles until 2015 and give further consideration to a long-term solution for M1 and N1 vehicles before 2015.

(6) The Commission should consider the inclusion of weight sensors in heavy goods vehicles and should assess the potential for weight sensors to contribute to improved compliance with road transport legislation.

(7) The use of tachographs connected to a global navigation satellite system is an appropriate and cost-efficient means of recording automatically the position of a vehicle at certain points during the daily working period in order to support control officers during controls, and should therefore be provided for.

(8) In its judgment in Case C-394/92 Michielsen and Geybels Transport Service, the Court of Justice provided a definition of the term 'daily working period', and the control authorities should read the

provisions of this Regulation in the light of that definition. The ‘daily working period’ commences at the time when the driver switches on the tachograph following a weekly or daily rest period, or, if the daily rest is divided into separate periods, following a rest period of at least nine hours’ duration. It ends at the beginning of a daily rest period or, if the daily rest is divided into separate periods, at the beginning of a rest period extending over a minimum of nine consecutive hours.

(9) Directive 2006/22/EC of the European Parliament and of the Council requires Member States to carry out a minimum number of checks at the roadside. Remote communication between the tachograph and control authorities for roadside control purposes facilitates targeted roadside checks, making it possible to reduce the administrative burden created by random checks on transport undertakings, and should therefore be provided for.

(10) Intelligent transport systems (ITS) can help to meet the challenges faced by the European transport policy, such as increasing road transport volumes and congestion, and rising energy consumption. Standardised interfaces should therefore be provided in tachographs in order to ensure their interoperability with ITS applications.

(11) Priority should be given to the development of applications which help drivers to interpret the data recorded in the tachograph in order to enable them to comply with social legislation.

(12) The security of the tachograph and its system is essential to ensure that trustworthy data is produced. Manufacturers should therefore design, test and continuously review the tachograph throughout its life cycle in order to prevent, detect and mitigate security vulnerabilities.

(13) Field tests of a tachograph that has not yet been type-approved allow equipment to be tested in real-life situations before it is widely introduced, thereby allowing faster improvements. Field tests should therefore be permitted, on condition that participation in such tests and compliance with Regulation (EC) No 561/2006 is effectively monitored and controlled.

(14) Given the importance of maintaining the highest possible security level, security certificates should be issued by a certification body recognised by the Management Committee within the framework of the ‘Mutual Recognition Agreement of Information Technology Security Evaluation Certificates’ of the Senior Officials Group on Information Systems Security (SOG-IS). In the context of international relations with third countries, the Commission should not recognise any certification body for the purposes of this Regulation unless that body provides equivalent conditions of security evaluation as envisaged by the Mutual Recognition Agreement. In this respect, the advice of the Management Committee should be relied upon.

(15) Fitters and workshops play an important role in the security of tachographs. It is therefore appropriate to lay down certain minimum requirements for their reliability and for approving and auditing them. Moreover, Member States should take appropriate measures to ensure that conflicts of interest between fitters or workshops and transport undertakings are prevented. Nothing in this Regulation prevents Member States from ensuring their approval, control and certification through the procedures laid down in Regulation (EC) No 765/2008 of the European Parliament and of the Council, provided that the minimum criteria set out in this Regulation are fulfilled.

(16) In order to ensure more effective scrutiny and control of driver cards, and to facilitate the tasks of control officers, national electronic registers should be established, and provision should be made for the interconnection of those registers.

(17) When checking the uniqueness of driver cards, Member States should use the procedures included in Commission Recommendation 2010/19/EU.

(18) Consideration should be given to the special situation in which a Member State should be able to provide a driver who does not have his normal residence in a Member State or in a country which is a contracting party to the European Agreement concerning the Work of Crews of Vehicles Engaged in International Road Transport of 1 July 1970 (‘the AETR Agreement’) with a temporary, non-renewable driver card. In such cases, the Member States concerned are to fully apply the relevant provisions of this Regulation.

(19) In addition, it should be possible for a Member State to issue driver cards to drivers resident on its territory even when the Treaties do not apply to certain parts thereof. In such cases, the Member States concerned are to fully apply the relevant provisions of this Regulation.

(20) Control officers face continuous challenges as a result of changes to the tachograph and new manipulation techniques. In order to ensure more effective control, and to enhance the harmonisation of control approaches throughout the Union, a common methodology should be adopted for the initial and continuing training of control officers.

(21) The recording of data by the tachograph, as well as developing technologies for the recording of position data, remote communication and the interface with ITS, will entail the processing of personal data. Therefore, the relevant Union rules, in particular those laid down in Directive 95/46/EC of the European Parliament and of the Council and Directive 2002/58/EC of the European Parliament and of the Council, apply.

(22) In order to allow for fair competition in the development of applications related to the tachograph, intellectual property rights and patents related to the transmission of data in or out of the tachograph should be available to all on a royalty-free basis.

(23) Where applicable, the data exchanged during communication with the control authorities in the Member States should comply with relevant international standards, such as the suite of standards related to Dedicated Short-Range Communication established by the European Committee for Standardisation.

(24) To ensure fair competition in the internal road transport market and to send a clear signal to drivers and transport undertakings, Member States should impose, in compliance with the categories of infringements defined in Directive 2006/22/EC, effective, proportionate, dissuasive and non-discriminatory penalties, without prejudice to the principle of subsidiarity.

(25) Member States should ensure that the selection of vehicles for inspection is carried out without discrimination on grounds of the nationality of the driver, or of the country of registration or entry into service of the commercial vehicle.

(26) In the interests of the clear, effective, proportionate and uniform implementation of social rules in road transport, Member States' authorities should apply the rules in a uniform manner.

(27) Each Member State should inform the Commission of any discoveries it makes regarding the availability of fraudulent devices or installations to manipulate the tachograph, including those offered through the internet, and the Commission should inform all other Member States of those discoveries.

(28) The Commission should continue to maintain its internet-based helpdesk, which allows drivers, transport undertakings, control authorities and approved fitters, workshops and vehicle manufacturers to submit questions and concerns related to the digital tachograph, including regarding new types of manipulations or fraud.

(29) Through the adaptations of the AETR Agreement, the use of the digital tachograph has been made mandatory as regards vehicles registered in third countries which are signatories to the AETR Agreement. As those countries are directly affected by changes to the tachograph introduced by this Regulation, they should be able to participate in a dialogue on technical matters, including regarding the system for the exchange of information on driver cards and workshop cards. A Tachograph Forum should therefore be set up.

(30) In order to ensure uniform conditions for the implementation of this Regulation, implementing powers should be conferred on the Commission relating to requirements, display and warning functions and type-approval of tachographs, as well as to detailed provisions for smart tachographs; the procedures to be followed for carrying out field tests and the forms to be used in order to monitor those field tests; the standard form for the written statement giving reasons for seal removal; the common procedures and specifications necessary for the interconnection of electronic registers; and the methodology specifying the content of the initial and continuing training of control officers. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council.

(31) The implementing acts adopted for the purpose of this Regulation, which will replace the provisions in Annex I B to Regulation (EEC) No 3821/85 and other implementing measures, should be adopted by 2 March 2016. However, if for some reason those implementing acts have not been adopted in time, transitional measures should safeguard the necessary continuity.

(32) Implementing acts referred to in this Regulation should not be adopted by the Commission where the committee referred to in this Regulation delivers no opinion on the draft implementing act presented by the Commission.

(33) In the context of the application of the AETR Agreement, references to Regulation (EEC) No 3821/85 should be understood as references to this Regulation. The Union will consider the appropriate steps to be taken within the United Nations Economic Commission for Europe to ensure the necessary coherence between this Regulation and the AETR Agreement.

(34) The European Data Protection Supervisor was consulted in accordance with Article 28(2) of Regulation (EC) No 45/2001 of the European Parliament and of the Council and delivered an opinion on 5 October 2011.

(35) Regulation (EEC) No 3821/85 should therefore be repealed,

HAVE ADOPTED THIS REGULATION:

CHAPTER I

PRINCIPLES, SCOPE AND REQUIREMENTS

Article 1

Subject-matter and principles

1. This Regulation sets out obligations and requirements in relation to the construction, installation, use, testing and control of tachographs used in road transport, in order to verify compliance with:

(a) Regulation (EC) No 561/2006;

(b) Part V of the Vehicle (Construction, Equipment and Maintenance) Regulations;

(c) the Road Transport (Working Time) Regulations 2005.

2. This Regulation sets out the conditions and requirements under which the information and data, other than personal data, recorded, processed or stored by tachographs may be used for purposes other than the verification of compliance with the acts referred to in paragraph 1.

3. This Article lays down requirements for drivers falling within the scope of Section 2 of Part B of Annex 27 of the TGEU.

Article 2

Definitions

1. For the purposes of this Regulation, the definitions set out in Article 4 of Regulation (EC) No 561/2006 shall apply.

2. In addition to the definitions referred to in paragraph 1, for the purposes of this Regulation the following definitions shall apply:

(a) ‘tachograph’ or ‘recording equipment’ means the equipment intended for installation in road vehicles to display, record, print, store and output automatically or semi-automatically details of the movement, including the speed, of such vehicles, in accordance with Article 4(3), and details of certain periods of activity of their drivers;

(b) ‘vehicle unit’ means the tachograph excluding the motion sensor and the cables connecting the motion sensor. The vehicle unit may be a single unit or several units distributed in the vehicle, provided that it complies with the security requirements of this Regulation; the vehicle unit includes, among other things, a processing unit, a data memory, a time measurement function, two smart card interface devices for driver and co-driver, a printer, a display, connectors and facilities for entering the user’s inputs;

(c) ‘motion sensor’ means a part of the tachograph providing a signal representative of vehicle speed and/or distance travelled;

(d) ‘tachograph card’ means a smart card, intended for use with the tachograph, which allows identification by the tachograph of the role of the cardholder and allows data transfer and storage;

(e) ‘record sheet’ means a sheet designed to accept and retain recorded data, to be placed in an analogue tachograph, and on which the marking devices of the analogue tachograph continuously inscribe the information to be recorded;

(f) ‘driver card’ means a tachograph card, issued by the competent authority to a particular driver, which identifies the driver and allows for the storage of driver activity data;

(g) ‘analogue tachograph’ means a tachograph complying with the specifications in Annex 1 to this Regulation as amended by Appendix 27-B-4-1 in Annex 27 of the TGEU;

(h) ‘digital tachograph’ means a tachograph complying with one of the following set of specifications, as amended by Appendix 27-B-4-2-

(i) Annex 1B to Regulation (EEC) No 3821/85 as applicable until 30 September 2011;

(ii) Annex 1B to Regulation (EEC) No 3821/85 as applicable as from 1 October 2011; or

(iii) Annex 1B to Regulation (EEC) No 3821/85 as applicable from 1 October 2012;

(i) ‘control card’ means a tachograph card issued by the competent authority to a national competent control authority which identifies the control body and, optionally, the control officer, and which allows access to the data stored in the data memory or in the driver cards and, optionally, in the workshop cards for reading, printing and/or downloading;

(j) ‘company card’ means a tachograph card issued by the competent authority to a transport undertaking needing to operate vehicles fitted with a tachograph, which identifies the transport undertaking and allows for the displaying, downloading and printing of the data, stored in the tachograph, which have been locked by that transport undertaking;

(k) ‘workshop card’ means a tachograph card issued by the competent authority to designated staff of a tachograph manufacturer, a fitter, a vehicle manufacturer or a workshop, approved by the competent authority, which identifies the cardholder and allows for the testing, calibration and activation of tachographs, and/or downloading from them;

(l) ‘activation’ means the phase in which the tachograph becomes fully operational and implements all functions, including security functions, through the use of a workshop card;

(m) ‘calibration’ of a digital tachograph means updating or confirming vehicle parameters, including vehicle identification and vehicle characteristics, to be held in the data memory through the use of a workshop card;

(n) ‘downloading’ from a digital tachograph or smart tachograph means the copying, together with the digital signature, of a part, or of a complete set, of data files recorded in the data memory of the vehicle unit or in the memory of a tachograph card, provided that this process does not alter or delete any stored data;

(o) ‘event’ means an abnormal operation detected by the digital tachograph which may result from a fraud attempt;

(p) ‘fault’ means an abnormal operation detected by the digital tachograph which may result from an equipment malfunction or failure;

(q) ‘installation’ means the mounting of a tachograph in a vehicle;

(r) ‘non-valid card’ means a card detected as faulty, or whose initial authentication failed, or whose start of validity date is not yet reached, or whose expiry date has passed;

(s) ‘periodic inspection’ means a set of operations performed to check that the tachograph works properly, that its settings correspond to the vehicle parameters, and that no manipulation devices are attached to the tachograph;

(t) ‘repair’ means any repair of a motion sensor or of a vehicle unit that requires the disconnection of its power supply, or its disconnection from other tachograph components, or the opening of the motion sensor or vehicle unit;

(u) ‘type-approval’ means a process to certify that the tachograph, its relevant components or the tachograph card to be introduced to market fulfil the requirements of this Regulation;

(v) ‘interoperability’ means the capacity of systems and the underlying business processes to exchange data and to share information;

(w) ‘interface’ means a facility between systems which provides the media through which they can connect and interact;

(x) ‘time measurement’ means a permanent digital record of the coordinated universal date and time (UTC);

(y) ‘time adjustment’ means an automatic adjustment of current time at regular intervals and within a maximum tolerance of one minute, or an adjustment performed during calibration;

(z) ‘open standard’ means a standard set out in a standard specification document available freely or at a nominal charge which it is permissible to copy, distribute or use for no fee or for a nominal fee.

(za) “control officer” means an officer authorised, by the Minister with responsibility for Transport under section 66A of the Transport Act 1998, to carry out functions for the purposes of Part IVA of the Transport Act 1998;

(zb) “equivalent EU regulation” means Regulation (EU) No 165/2014 of the European Parliament and of the Council of 4 February 2014 on tachographs in road transport, as it has effect in EU law, as amended from time to time;

(zc) “competent authority” means the competent authority appointed for the purposes of the Transport (Recording Equipment) (Minimum Conditions) Regulations 2008;

(zd) smart tachograph 1” means a tachograph complying with Annex 1C to the Implementing Regulation (EU) 2016/799 as applicable from the 15th June 2019 to 20th August 2023, as amended by Appendix 27-B-4-3 of Annex 27 of the TGEU;

(ze) smart tachograph 2” means a tachograph complying with Annex 1C to the Implementing Regulation (EU) 2016/799 as amended by Appendix 27-B-4-4 of Annex 27 of the TGEU;

Article 3

Scope

1. Tachographs shall be installed and used in vehicles which are used for the carriage of passengers or goods by road and to which Regulation (EC) No 561/2006 applies.

2. This Regulation is subject to-

(a) paragraph 2 of Schedule 3 to the Transport Act 1998;

(b) any provisions made under paragraph 3.

3. The Minister may by regulations except from the application of this Regulation vehicles used for transport operations which are being, or have been, granted an exception by regulations under Article 14(1) of Regulation (EC) No 561/2006. An exception granted under regulations under this Article ceases to have effect when the exception granted under regulations under Article 14(1) of Regulation (EC) No 561/2006 ceases to have effect, unless the regulations under this Article cease to have effect first.

In an urgent case Minister may grant a temporary exception in respect of vehicles which are being, or have been, granted an exception under Article 14(2) of Regulation (EC) No 561/2006 by publishing a notice specifying:

(a) the transport operations and circumstances to which the exception relates, and

(b) the period for which the exception has effect, which may not exceed 30 days.

4. No later than three years from the end of the year of entry into force of the detailed provisions referred to in the second paragraph of Article 11, the following categories of vehicles operating in a Member State other

than their Member State of registration shall be fitted with a smart tachograph as provided in Articles 8, 9 and 10 of this Regulation:

(a) vehicles fitted with an analogue tachograph;

(b) vehicles fitted with a digital tachograph complying with the specifications in Annex IB to Regulation (EEC) No 3821/85 applicable until 30 September 2011 ;

(c) vehicles fitted with a digital tachograph complying with the specifications in Annex IB to Regulation (EEC) No 3821/85 applicable from 1 October 2011 ; and

(d) vehicles fitted with a digital tachograph complying with the specifications in Annex IB to Regulation (EEC) No 3821/85 applicable from 1 October 2012 .

4a. No later than four years after the entry into force of detailed provisions referred to in the second paragraph of Article 11, vehicles which are fitted with a smart tachograph complying with Annex IC to Commission Implementing Regulation (EU) 2016/799 (23) operating in a Member State other than their Member State of registration shall be fitted with a smart tachograph as provided in Articles 8, 9 and 10 of this Regulation.

5. In the case of national transport operations, Member States may require the installation and use of tachographs in accordance with this Regulation in any of the vehicles for which their installation and use are not otherwise required by paragraph 1.

Article 4

Requirements and data to be recorded

1. Tachographs, including external components, tachograph cards and record sheets shall fulfil stringent technical and other requirements such as to permit the proper implementation of this Regulation.

2. Tachographs and tachograph cards shall comply with the following requirements.

They shall:

- record data related to the driver, driver activity and the vehicle which shall be accurate and reliable;
- be secure, in particular guaranteeing the integrity and the origin of the source of data recorded by and retrieved from vehicle units and motion sensors;
- be interoperable as between the various generations of vehicle units and tachograph cards;
- allow for efficient verification of compliance with this Regulation and other applicable legal acts;
- have enough memory capacity to store all of the data required under this Regulation;
- be user-friendly.

3. Digital tachographs shall record the following data:

(a) the distance travelled, and the speed of the vehicle;

(b) time measurement;

(c) position points as referred to in Article 8(1);

(d) the identity of the driver;

(e) the activity of the driver;

(f) control, calibration and tachograph repair data, including the identity of the workshop;

(g) events and faults.

4. Analogue tachographs shall record at least the data referred to in points (a), (b) and (e) of paragraph 3.

5. Access to the data stored in the tachograph and the tachograph card may be granted at all times to:

(a) the competent control authorities;

(b) the relevant transport undertaking so that it can comply with its legal obligations, in particular as set out in Articles 32 and 33.

6. The downloading of data shall be performed with the minimum of delay to transport undertakings or drivers.

7. Data recorded by the tachograph which may be transmitted in or out of the tachograph, whether wirelessly or electronically, shall be in the form of publicly available protocols as defined in open standards.

8. To ensure that tachographs and tachograph cards comply with the principles and requirements of this Regulation, and in particular of this Article, the Minister may, by regulations, make detailed provisions necessary for the application of this Article, in particular provisions which provide for the technical means of how to fulfil those requirements.

9. The detailed provisions referred to in paragraph 8 shall, where appropriate, be based on standards and shall guarantee interoperability and compatibility between the various generations of vehicle units and all tachograph cards.

Article 5

Functions of the digital tachograph

Digital tachographs shall ensure the following functions:

- speed and distance measurement;
- monitoring driver activities and driving status;
- monitoring the insertion and withdrawal of tachograph cards;
- recording of drivers' manual entries;
- calibration;
- automatic recording of the position points referred to in Article 8(1);
- monitoring control activities;
- detection and recording of events and faults;
- reading from data memory and recording and storing in data memory;
- reading from tachograph cards and recording and storing in tachograph cards;
- displaying, warning, printing and downloading data to external devices;
- time adjustment and measurement;
- remote communication;
- company locks management;
- built-in and self-tests.

Article 6

Display and warning

1. Information contained in digital tachographs and tachograph cards relating to vehicle activities and to drivers and co-drivers shall be displayed in a clear, unambiguous and ergonomic way.

2. The following information shall be displayed:

(a) time;

(b) mode of operation;

(c) driver activity:

if the current activity is driving, the driver’s current continuous driving time and the current cumulative break time,

if the current activity is availability/other work/rest or break, the current duration of that activity (since it was selected) and the current cumulative break time;

(d)
data related to warnings;

(e)
data related to menu access.

Additional information may be displayed, provided that it is clearly distinguishable from the information required in this paragraph.

3. Digital tachographs shall warn drivers when detecting any event and/or fault, and before and at the time of exceeding the maximum allowed continuous driving time, in order to facilitate compliance with the relevant legislation.

4. Warnings shall be visual and may also be audible. Warnings shall have a duration of at least 30 seconds, unless they are acknowledged by the user by pushing any key of the tachograph. The reason for the warning shall be displayed and shall remain visible until acknowledged by the user using a specific key or command of the tachograph.

5. To ensure that tachographs comply with the requirements of this Article concerning display and warnings, the Minister may, by regulations, make detailed provisions necessary for the application of this Article. T

Article 7

Deleted

CHAPTER II

SMART TACHOGRAPH

Article 8

Recording of the position of the vehicle at certain points during the daily working period

1. In order to facilitate the verification of compliance with the relevant legislation, the position of the vehicle shall be recorded automatically at the following points, or at the closest point to such places where the satellite signal is available:

- the starting place of the daily working period,
- every time the vehicle crosses the border of a Member State,
- every time the vehicle performs loading or unloading activities,
- every three hours of accumulated driving time, and
- the ending place of the daily working period.

In order to facilitate the verification of compliance by control authorities, the smart tachograph shall also record whether the vehicle has been employed for the carriage of goods or passengers, as required by Regulation (EC) No 561/2006.

For those purposes, vehicles registered for the first time 36 months after the entry into force of the detailed provisions referred to in the first paragraph of Article 11 shall be fitted with a tachograph connected to a positioning service based on a satellite navigation system.

However, the recording of the border-crossing and additional activities referred to in the second and third indents of the first subparagraph and in the second subparagraph shall apply to vehicles that were registered in a Member State for the first time more than two years after the entry into force of the detailed provisions referred to in the second paragraph of Article 11, without prejudice to the obligation to retrofit certain vehicles later in accordance with Article 3(4).

2. As regards the connection of the tachograph to a positioning service based on a satellite navigation system, as referred to in paragraph 1, use shall be made only of service connections that exploit a positioning service free of charge. No position data other than those expressed, wherever possible, in geographical coordinates for determining the points referred to in paragraph 1, shall be permanently stored in the tachograph. Position data which need to be temporarily stored in order to allow for the automatic recording of the points referred to in paragraph 1 or to corroborate the motion sensor shall not be accessible to any user and shall automatically be deleted once they are no longer required for those purposes.

Article 9

Remote early detection of possible manipulation or misuse

1. In order to facilitate targeted roadside checks by the competent control authorities, tachographs installed in vehicles registered for the first time 36 months after the entry into force of the detailed provisions referred to in Article 11 shall be able to communicate to those authorities while the vehicle is in motion.

2. Three years after the entry into force of detailed provisions referred to in the second paragraph of Article 11, the competent authority must ensure that control authorities are equipped to an appropriate extent with the remote early detection equipment necessary to permit the data communication referred to in this Article, taking into account their specific enforcement requirements and strategies.

3. The communication referred to in paragraph 1 shall be established with the tachograph only when so requested by the equipment of the control authorities. It shall be secured to ensure data integrity and authentication of the recording and control equipment. Access to the data communicated shall be restricted to control authorities authorised to check infringements of the Union legal acts referred to in Article 7(1), and of this Regulation and to workshops in so far as it is necessary to verify the correct functioning of the tachograph.

4. The data exchanged during communication shall be limited to the data necessary for the purpose of targeted roadside checks of vehicles with a potentially manipulated or misused tachograph. Such data shall relate to the following events or data recorded by the tachograph:

- the latest security breach attempt,
- the longest power supply interruption,
- sensor fault,
- motion data error,
- vehicle motion conflict,
- driving without a valid card,
- card insertion while driving,
- time adjustment data,
- calibration data including the dates of the two latest calibrations,
- vehicle registration number,
- speed recorded by the tachograph,
- exceeding maximum driving time.

5. The data exchanged shall be used for the sole purpose of verifying compliance with this Regulation. They shall not be transmitted to entities other than authorities controlling driving and rest periods and to judicial bodies, in the framework of an ongoing judicial procedure.

6. The data may only be stored by the control authorities for the duration of a roadside check, and shall be deleted at the latest three hours after their communication, unless the data indicate a possible manipulation or misuse of the tachograph. If, in the course of the ensuing roadside check, the manipulation or misuse is not confirmed, the data transmitted shall be deleted.

7. Transport undertakings which operate vehicles shall be responsible for informing drivers of the possibility of remote communication for the purpose of early detection of possible manipulation or misuse of tachographs.

8. In no case shall a remote early detection communication of the type described in this Article lead to automatic fines or penalties for the driver or transport undertaking. The competent control authority, on the basis of the data exchanged, may decide to carry out a check on the vehicle and the tachograph. The result of the remote communication shall not prevent control authorities from carrying out random roadside checks based on a risk rating system based on the relative number and severity of infringements of Regulations (EC) 561/2006 of the European Parliament and of the Council that an individual undertaking has committed.

Article 10

Interface with Intelligent Transport Systems

The tachographs of vehicles registered for the first time 36 months after the entry into force of the detailed provisions referred to in Article 11 may be equipped with standardised interfaces allowing the data recorded or produced by tachograph to be used in operational mode, by an external device, provided that the following conditions are met:

(a) the interface does not affect the authenticity and the integrity of the data of the tachograph;

(b) the interface complies with the detailed provisions of Article 11;

(c) the external device connected to the interface has access to personal data, including geopositioning data, only after the verifiable consent of the driver to whom the data relates.

The tachographs of vehicles registered for the first time in a Member State more than two years after the entry into force of detailed provisions referred to in the second paragraph of Article 11 shall be equipped with the interface referred to in paragraph 1.

Article 11

Detailed provisions for smart tachographs

In order to ensure that smart tachographs comply with the principles and requirements set out in this Regulation, the Minister may, by regulations, make detailed provisions necessary for the application of Articles 8, 9 and 10, excluding any provisions which would provide for the recording of additional data by the tachograph.

By 21 August 2021 , the Commission shall adopt implementing acts laying down detailed provisions for the uniform application of the obligation to record and store data relating to any border crossing of the vehicle and activities referred to in the second and third indent of the first subparagraph of Article 8(1) and in the second subparagraph of Article 8(1).

By 21 February 2022 , the Commission shall adopt implementing acts laying down detailed provisions necessary for the uniform application of rules on data requirements and functions, including Articles 8, 9 and 10 of this Regulation, and the installation of, tachographs for vehicles referred to in point (aa) of Article 2(1) of Regulation (EC) No 561/2006.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 42(3).

The detailed provisions referred to in the first, second and third paragraphs of this Article shall:

(a) in relation to the performance of the functions of the smart tachograph as referred to in this Chapter, include the necessary requirements to guarantee the security, accuracy and reliability of data as provided to the tachograph by the satellite positioning service and the remote communication technology referred to in Articles 8 and 9;

(b) specify the various conditions and requirements for the satellite positioning service and the remote communication technology referred to in Articles 8 and 9 to be either outside or embedded in the tachograph and, when outside, specify the conditions for the use of the satellite positioning signal as a second motion sensor;

(c) specify the necessary standards for the interface referred to in Article 10. Such standards may include a provision on the distribution of access rights for drivers, workshops and transport undertakings, and control roles for the data recorded by the tachograph, which control roles shall be based on an authentication/authorisation mechanism defined for the interface, such as a certificate for each level of access and subject to the technical feasibility thereof.

CHAPTER III

TYPE-APPROVAL

Article 11A

Requirement for Gibraltar, UK or EU type-approval

1. A vehicle unit, motion sensor, model record sheet or tachograph card shall, where installed or used in a vehicle to which Article 3 applies, be of a type approved in accordance with:

(a) this Chapter and the Tachographs (Miscellaneous Provisions) Regulations 2015 (“the 2015 Regulations”); or

(b) Chapter III of the United Kingdom’s EU retained law for Regulation (EU) No 165/2014 and the Motor Vehicles (Type Approval) Regulations 1980; or

(c) Chapter 3 of the equivalent EU Regulation.

2. In this Chapter a reference to “Gibraltar type-approval” is a reference to type-approval in accordance with this Chapter and the 2015 Regulations, and related expressions are to be read accordingly.

Article 12

Applications for Gibraltar type-approval: certificates

1. An application for Gibraltar type-approval shall be made to the competent authority in such form as required for the purpose by the competent authority and shall include the information in subparagraph 3.

2. *not used*.

3. The application shall be accompanied by:

(a) a security certificate;

(b) a functionality certificate;

(c) an interoperability certificate;

(d) in the case of an application relating to a vehicle unit, information about the seals.

4. A security certificate shall be issued by a person appointed by the competent authority (which may be a person outside Gibraltar).

5. A functionality certificate shall be issued by the competent authority.

6. An interoperability certificate shall be issued by a person appointed by the competent authority (which may be a person outside the Gibraltar).

7. In respect of tachographs, their relevant components, and tachograph cards:

(a) the security certificate shall certify the following for the vehicle unit, tachograph cards, motion sensor, and connection to the satellite navigation system receiver when the satellite navigation system is not embedded in the vehicle units:

(i) compliance with security targets;

(ii) fulfilment of the following security functions: identification and authentication, authorisation, confidentiality, accountability, integrity, audit, accuracy and reliability of service;

(b) the functional certificate shall certify that the tested item fulfils the appropriate requirements in terms of functions performed, environmental characteristics, electromagnetic compatibility characteristics, compliance with physical requirements and compliance with other applicable standards;

(c) the interoperability certificate shall certify that the tested item is fully interoperable with the necessary tachographs or tachograph card models.

8. The competent authority shall give notice to manufacturers to ensure that a manufacturer is required to give notice to the competent authority of any alterations in software or hardware of a tachograph or in the nature of materials used for its manufacture.

9. Where notice of alterations is given to the competent authority, the competent authority may require an update or a confirmation of the relevant functional, security or interoperability certificates, before confirming to the manufacturer the extension of the type-approval or taking action under regulation 9 of the 2015 Regulations.

Articles 13 to 16

Deleted

Article 17

Approval of record sheets

1. For the purpose of an application for Gibraltar type-approval of a model record sheet, the form of information document issued by the competent authority (as mentioned in Article 12) shall require that:

(a) an applicant for Gibraltar type-approval of a model record sheet states on the application form the type or types of analogue tachograph on which the record sheet in question is designed to be used; and

(b) suitable equipment of such type or types is required in connection with the application for type-approval, for the purpose of testing the record sheet.

2. The competent authority shall indicate on the approval certificate for the model record sheet the type or types of analogue tachograph on which that model record sheet may be used.

Articles 18 & 19

Deleted

Article 20

Security

1. Manufacturers shall design, test and review vehicle units, motion sensors and tachograph cards put into production so as to detect vulnerabilities arising in all phases of the product life-cycle, and shall prevent or mitigate their possible exploitation. The frequency of tests shall be at least every two years.

2. Manufacturers shall submit the documentation necessary for vulnerability analysis to the person who, under Article 12, is responsible for issuing security certificates.

3. If, in the course of the tests referred to in paragraph 1, vulnerabilities in system elements (vehicle units, motion sensors and tachograph cards) are detected, no security certificate is to be issued and, accordingly, no type-approval application is to be considered (see Article 12). If vulnerabilities are detected in the course of the tests referred to in paragraph 1 for elements already on the market, the manufacturer shall inform the competent authority. The competent authority shall take all measures necessary to ensure that the problem is addressed, in particular by the manufacturer (including, where necessary, the withdrawal of type-approval).

Article 21

Field tests

Drivers and transport undertakings participating in a field test authorised under section 66CA of the Transport Act 1998 shall comply with the requirements of Regulation (EC) No 561/2006. In order to demonstrate such compliance, drivers shall follow the procedure set out in Article 35(2) of this Regulation.

CHAPTER IV

INSTALLATION AND INSPECTION

Article 22

Installation and repair

1. Tachographs may be installed or repaired only by fitters, workshops or vehicle manufacturers approved by the competent authority for that purpose in accordance with Article 24 (but see Article 25A).

2. Approved fitters, workshops or vehicle manufacturers shall, in accordance with the specifications included in the type-approval certificate, seal the tachograph after having verified that it is functioning properly, and, in particular, in such a way as to ensure that no manipulation device can tamper with or alter the data recorded.

3. The approved fitter, workshop or vehicle manufacturer shall place a special mark on the seals which it affixes and, in addition, for digital, smart 1 and smart 2 tachographs, shall enter the electronic security data for carrying out authentication checks, and each Party shall keep and publish a register of the marks and electronic security data used and the necessary information related to the electronic security data used.

4. For the purpose of certifying that the installation of the tachograph took place in accordance with the requirements of this Regulation, an installation plaque shall be affixed in such a way as to be clearly visible and easily accessible.

5. Tachograph components shall be sealed as specified in the type-approval certificate. Any connections to the tachograph which are potentially vulnerable to tampering, including the connection between the motion sensor and the gearbox, and the installation plaque where relevant, shall be sealed.

A seal shall be removed or broken only:

- by fitters or workshops approved by the competent authorities under Article 24 for repair, maintenance or recalibration purposes of the tachograph, or by control officers properly trained and, where required authorised, for control purposes;
- for the purpose of vehicle repair or modification which affects the seal. In such cases, a written statement stating the date and time at which the seal was broken and giving the reasons for the seal removal shall be kept on board the vehicle. The Minister may by regulations make provision about the form of the written statement.

The removed or broken seals shall be replaced by an approved fitter or a workshop without undue delay and at the latest within seven days of their removal or breaking. When the seals have been removed or broken for control purposes, they may be replaced by a control officer equipped with sealing equipment and a unique special mark without undue delay.

When a control officer removes a seal, the control card shall be inserted in the tachograph from the moment of the removal of the seal until the inspection is finished, including in the case of the placement of a new seal. The control officer shall issue a written statement containing at least the following information:

- vehicle identification number,
- name of the officer,
- control authority and Member State,
- number of the control card,
- number of the removed seal,
- date and time of seal removal,
- number of the new seal, where the control officer has placed a new seal.

Before replacing the seals, a check and calibration of the tachograph shall be performed by an approved workshop, except where a seal has been removed or broken for control purposes and replaced by a control officer.

Article 23

Inspections of tachographs

1. Tachographs shall be subject to regular inspection by approved workshops. Regular inspections shall be carried out at least every two years.

2. The inspections referred to in paragraph 1 shall check at least the following:

- the tachograph is correctly fitted and appropriate for the vehicle;
- the tachograph is working properly;
- the tachograph carries the type-approval mark;
- the installation plaque is affixed;
- all seals are intact and effective;
- there are no manipulation devices attached to the tachograph or traces of the use of such devices;
- the tyre size and the actual circumference of the tyres.

3. Workshops shall draw up an inspection report in cases where irregularities in the functioning of the tachograph had to be remedied, whether as a result of a periodic inspection or of an inspection carried out at the specific request of the competent authority. They shall keep a list of all inspection reports drawn up.

4. Inspection reports shall be retained for a minimum period of two years from the time the report was made. Each Party shall decide whether inspection reports are to be retained or sent to the competent authority during that period. In cases where the inspection reports are kept by the workshop, upon request from the competent authority, the workshop shall make available the reports of inspections and calibrations carried out during that period.

Article 24

Approval of fitters, workshops and vehicle manufacturers

1. The competent authority shall approve, regularly control and certify the fitters, workshops and vehicle manufacturers which may carry out installations, checks, inspections and repairs of tachographs.

2. The competent authority shall ensure that fitters, workshops and vehicle manufacturers approved, controlled and certified under paragraph 1 are competent and reliable. For that purpose, the competent authority shall establish and publish a set of clear national procedures and shall ensure that the following minimum criteria are met:

(a) the staff are properly trained;

(b) the equipment necessary to carry out the relevant tests and tasks is available;

(c) the fitters, workshops and vehicle manufacturers are of good repute.

3. Audits of approved fitters or workshops shall be carried out as follows:

(a) approved fitters or workshops shall be subject, at least every two years, to an audit of the procedures they apply when handling tachographs. The audit shall focus in particular on the security measures taken and the handling of workshop cards. The competent authority may carry out these audits without conducting a site visit;

(b) unannounced technical audits of approved fitters or workshops shall also take place in order to check the calibrations, inspections and installations carried out. Those audits shall cover at least 10 % of the approved fitters and workshops annually.

4. The competent authority shall take appropriate measures to prevent conflicts of interests between fitters or workshops and transport undertakings. In particular, where there is a serious risk of a conflict of interests, additional specific measures shall be taken to ensure that the fitter or workshop complies with this Regulation.

5. *Deleted*

6. The competent authority shall withdraw approvals, either temporarily or permanently, from fitters, workshops and vehicle manufacturers which fail to meet their obligations under this Regulation.

Article 25

Workshop cards

1. The period of validity of workshop cards shall not exceed one year. When renewing the workshop card, the competent authority shall ensure that the criteria listed in Article 24(2) are met by the fitter, workshop or vehicle manufacturer.

2. The competent authority shall renew a workshop card within 15 working days after receipt of a valid renewal request and all the necessary documentation. If a workshop card is damaged, malfunctions, or is lost or stolen, the competent authority shall supply a replacement card within five working days of receiving a detailed request to that effect. Competent authorities shall maintain a register of lost, stolen or defective cards.

3. If the competent authority withdraws the approval of a fitter, workshop or vehicle manufacturer as provided for in Article 24, the competent authority shall also withdraw the workshop cards issued thereto.

4. Member States shall take all necessary measures to prevent the workshop cards distributed to approved fitters, workshops and vehicle manufacturers from being falsified.

Article 25A

Recognition of UK and EU approved fitters, workshops and vehicle manufacturers

1. Fitters, workshops and vehicle manufacturers which are approved by the United Kingdom in accordance with the United Kingdom's EU retained law for Regulation (EU) No 165/2014 and the Motor Vehicles (Type Approval) Regulations 1980 or an EU member State in accordance with Article 24 of the equivalent EU Regulation ("EU approved fitters, workshops and vehicle manufacturers") shall be treated for the purposes of this Regulation as if they were approved by the competent authority in accordance with Article 24 of this Regulation.

2. The competent authority is not required by Article 24(1) of this Regulation to control or certify EU approved fitters, workshops and vehicle manufacturers and the following provisions of this Regulation do not apply in relation to EU approved fitters, workshops and vehicle manufacturers:

(a) Article 2(2)(k);

(b) Article 24(2) to (6);

(c) Article 25.

CHAPTER V

DRIVER CARDS

Article 26

Issuing of driver cards

1. A driver card is to be issued by the competent authority on request to a person whose normal residence is in Gibraltar. A driver's card is to be issued within one month of the receipt by the competent authority of the request and all necessary documentation.

2. For the purposes of this Article, 'normal residence' means the place where a person usually lives, that is for at least 185 days in each calendar year, because of personal and occupational ties, or, in the case of a person with no occupational ties, because of personal ties which show close links between that person and the place where he is living.

However, the normal residence of a person whose occupational ties are in a place different from their personal ties and who consequently lives in turn in different places shall be regarded as being the place of their personal ties, provided that such person returns there regularly. This last condition need not be complied with where the person is living in a place in order to carry out a fixed-term assignment.

3. Drivers shall give proof of their normal residence by any appropriate means, such as their passport, identity card or any other valid document. Where the competent authority has doubts as to the validity of a statement as to normal residence, or for the purpose of certain specific controls, the competent authority may request any additional information or evidence.

4. In duly justified and exceptional cases, the competent authority may issue a temporary and non-renewable driver card valid for a maximum period of 185 days to a driver who does not have his normal residence in Gibraltar or in a State which is a Contracting Party to the AETR Agreement, provided that such driver is in a labour law relationship with an undertaking established in Gibraltar and, in so far as Regulation (EC) No 1072/2009 of the European Parliament and of the Council applies, presents a driver attestation as referred to in that Regulation.

5. The competent authority shall take appropriate measures to ensure that an applicant does not already hold a valid driver card and shall personalise the driver card, ensuring that its data are visible and secure.

6. The driver card shall not be valid for more than five years.

7. A valid driver card shall not be withdrawn or suspended unless the competent authority finds that the card has been falsified, or the driver is using a card of which he is not the holder, or the card held has been obtained on the basis of false declarations and/or forged documents.

7a. The competent authority of the issuing Member State may require a driver to replace the driver card by a new one if this is necessary to comply with the relevant technical specifications.

7b. If such suspension or withdrawal measures are taken by a Party or, in the case of the Union, a Member State other than the issuing Party or, in the case of the Union, other than the issuing Member State, the

former shall return the card to the authorities of the Party or, in the case of the Union, the authorities of the Member State which issued it, as soon as possible, indicating the reasons for the withdrawal or suspension. If the return of the card is expected to take longer than two weeks, the suspending or withdrawing Party or, in the case of the Union, the suspending or withdrawing Member State shall inform the issuing Party or, in the case of the Union, the issuing Member State within those two weeks of the reasons for suspension or withdrawal.

8. The competent authority shall take all necessary measures to prevent driver cards from being falsified.

8a. This Article shall not prevent a Party or, in the case of the Union, a Member State from issuing a driver card to a driver who has his normal residence in a part of that Party's territory, to which this Annex does not apply, provided that the relevant provisions of this Section are applied in such cases.

Article 27

Use of driver cards

1. The driver card is personal.

2. A driver may hold no more than one valid driver card, and is only authorised to use his own personalised driver card. A driver shall not use a driver card which is defective or which has expired.

Article 28

Renewal of driver cards

1. Where a driver wishes to renew his driver card, he shall apply to the competent authority not later than 15 working days before the expiry date of the card.

2. Where, in the case of renewals, the Member State of the driver’s normal residence is different from that which issued his current card, and where the authorities of the former Member State are requested to renew the driver card, they shall inform the authorities which issued the earlier card of the reasons for its renewal.

3. In the event of a request for the renewal of a card which is imminently about to expire, the competent authority shall supply a new card before the expiry date, provided that the request was sent within the time-limits laid down in paragraph 1.

Article 29

Stolen, lost or defective driver cards

1. The competent authority shall keep records of issued, stolen, lost or defective driver cards for a period at least equivalent to their period of validity.

2. If a driver card is damaged or if it malfunctions, the driver shall return it to the competent authority. Theft of the driver card shall be formally declared to the competent authority of the State where the theft occurred.

3. Any loss of the driver card shall be reported in a formal declaration to the competent authorities in the issuing Party and to the competent authorities in the Party of the driver’s normal residence, if that is different.

4. If the driver card is damaged, malfunctions or is lost or stolen, the driver shall, within seven calendar days, apply for its replacement to the competent authority. The competent authority shall supply a replacement card

within eight working days after receipt of a detailed request to that effect.

5. In the circumstances set out in paragraph 4, the driver may continue to drive without a driver card for a maximum period of 15 calendar days or for a longer period if this is necessary for the vehicle to return to the premises where it is based, provided that the driver can prove the impossibility of producing or using the card during that period.

Article 30

Mutual acceptance of driver cards

1. Each Party shall accept the driver cards issued by the other Party.

2. Where the holder of a valid driver card issued by a Party has established his normal residence in the other Party and has asked for his card to be exchanged for an equivalent driver card, it shall be the responsibility of the Party or, in the case of the Union, the Member State which carries out the exchange to verify whether the card produced is still valid.

3. Parties or, in the case of the Union, Member States carrying out an exchange shall return the old card to the authorities of the issuing Party or, in the case of the Union, the issuing Member State and indicate the reasons for so doing.

4. Where a Party or, in the case of the Union, a Member State replaces or exchanges a driver card, the replacement or exchange, and any subsequent replacement or exchange, shall be registered in that Party or, in the case of the Union, in that Member State.

Article 31

Deleted

CHAPTER VI

USE OF EQUIPMENT

Article 32

Correct use of tachographs

1. Transport undertakings and drivers shall ensure the correct functioning and proper use of digital tachographs and driver cards. Transport undertakings and drivers using analogue tachographs shall ensure their correct functioning and the proper use of record sheets.

2. Digital tachographs shall not be set in such a way that they automatically switch to a specific category of activity when the vehicle’s engine or ignition is switched off, unless the driver remains able to choose manually the appropriate category of activity.

3. It shall be forbidden to falsify, conceal, suppress or destroy data recorded on the record sheet or stored in the tachograph or on the driver card, or print-outs from the tachograph. Any manipulation of the tachograph, record sheet or driver card which could result in data and/or printed information being falsified, suppressed or destroyed shall also be prohibited. No device which could be used to this effect shall be present on the vehicle.

4. Vehicles shall not be fitted with more than one tachograph, except for the purposes of the field tests referred to in Article 21.

Article 33

Responsibility of transport undertakings

1. Transport undertakings shall be responsible for ensuring that their drivers are properly trained and instructed as regards the correct functioning of tachographs, whether digital, smart or analogue, shall make regular checks to ensure that their drivers make correct use thereof, and shall not give to their drivers any direct or indirect incentives that could encourage the misuse of tachographs.

Transport undertakings shall issue a sufficient number of record sheets to drivers of vehicles fitted with analogue tachographs, taking into account the fact that record sheets are personal in character, the length of the period of service and the possible need to replace record sheets which are damaged or have been taken by a enforcement officer. Transport undertakings shall issue to drivers only record sheets of an approved model suitable for use in the equipment installed in the vehicle.

Where a vehicle is fitted with a digital tachograph, the transport undertaking and the driver shall ensure that, taking into account the length of the period of service, the printing of data from the tachograph at the request of a enforcement officer can be carried out correctly in the event of an inspection.

2. Transport undertakings shall keep record sheets and printouts, whenever printouts have been made to comply with Article 35, in chronological order and in a legible form, for at least a year after their use, and shall give copies to the drivers concerned who request them. Transport undertakings shall also give copies of data downloaded from driver cards to the drivers concerned who request them, together with printed paper versions of those copies. Record sheets, printouts and downloaded data shall be produced or handed over at the request of any control officer.

3. Road transport operators shall be liable for infringements of Section 2 (Requirements for Tachographs, Drivers’ Cards and Workshop Cards) in Annex 27, and of Section 4 (Use of Tachographs by drivers) of Part B of Annex 27, committed by their drivers or by drivers at their disposal.

4. For the purposes of paragraph 3, each Party may make such liability conditional on the road transport operator's infringement of the first subparagraph of paragraph 1 of this Article and Article 7(1) and (2) of Section 2 (Driving Times, Breaks and Rest Periods) of Part B of Annex 27.

Article 34

Use of driver cards and record sheets

1. Drivers shall use record sheets or driver cards every day on which they drive, starting from the moment they take over the vehicle. The record sheet or driver card shall not be withdrawn before the end of the daily working period unless its withdrawal is otherwise authorised or is necessary in order to enter the symbol of the country after having crossed a border. No record sheet or driver card may be used to cover a period longer than that for which it is intended.

2. Drivers shall adequately protect the record sheets or driver cards, and shall not use dirty or damaged record sheets or driver cards.

3. When, as a result of being away from the vehicle, a driver is unable to use the tachograph fitted to the vehicle, the periods of time referred to in points (ii), (iii) and (iv) of paragraph 5(b) shall:

(a) if the vehicle is fitted with an analogue tachograph, be entered on the record sheet, either manually, by automatic recording or other means, legibly and without dirtying the record sheet; or

(b) if the vehicle is fitted with a digital tachograph, be entered onto the driver card using the manual entry facility provided for in the tachograph.

Drivers are not required to present forms attesting to their activities while away from the vehicle.

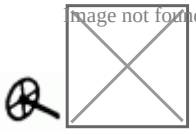
4. Where there is more than one driver on board a vehicle fitted with a digital tachograph, or smart tachograph 1 or smart tachograph 2, each driver shall ensure that his driver card is inserted into the correct slot in the tachograph.

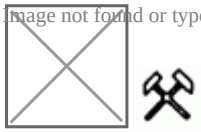
Where there is more than one driver on board a vehicle fitted with an analogue tachograph, the drivers shall amend the record sheets as necessary, so that the relevant information is recorded on the record sheet of the driver who is actually driving.

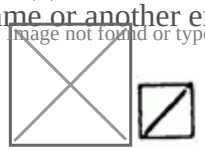
5. Drivers shall:

(a) ensure that the time recorded on the record sheet corresponds to the official time in the country of registration of the vehicle;

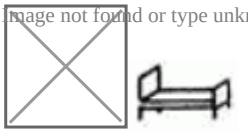
(b) operate the switch mechanisms enabling the following periods of time to be recorded separately and distinctly:

(i) under the sign  : driving time,

(ii) under the sign  : ‘other work’, which means any activity other than driving, as defined in point (a) of Article 2 of Section 3, of Part B of Annex 27 of the TGEU, and also any work for the same or another employer within or outside of the transport sector,

(iii) under the sign  : ‘availability’, as defined in point (b) of Article 2 of Section 3 of Part B of Annex 27 of the TGEU,

(iv) under the sign : breaks, rest, annual leave or sick leave,

(v) under the sign for ‘ ferry/train ’ : In addition to the sign  : the rest period spent on a ferry or train as required by paragraph 12 of article 6 of Section 2 of Part B of Annex 27 of the TGEU.

6. Each driver of a vehicle fitted with an analogue tachograph shall enter the following information on his record sheet:

(a) on beginning to use the record sheet — his surname and first name;

(b) the date and place where use of the record sheet begins and the date and place where such use ends;

(c) the registration number of each vehicle to which the driver is assigned, both at the start of the first journey recorded on the record sheet and then, in the event of a change of vehicle, during use of the record sheet;

(d) the odometer reading:

(i) at the start of the first journey recorded on the record sheet,

(ii) at the end of the last journey recorded on the record sheet,

(iii) in the event of a change of vehicle during a working day, the reading on the first vehicle to which the driver was assigned and the reading on the next vehicle;

(e) the time of any change of vehicle;

(f) the symbols of the countries in which the daily working period started and finished. The driver shall also enter the symbol of the country or territory that the driver enters after crossing a border of a Member State and of Gibraltar, at the beginning of the driver's first stop in that Member State or Gibraltar. That first stop shall be made at the nearest possible stopping place at or after the border. Where the crossing of the border takes place on a ferry or train, the driver shall enter the symbol of the country at the port or station of arrival.

7. The driver shall enter in the digital tachograph the symbols of the countries in which the daily working period started and finished. The driver shall also enter the symbol of the country or territory that the driver enters after crossing a border of a Party, or in the case of the Union, a Member State at the beginning of the driver's first stop in that Party, or in the case of the Union, the Member State. That first stop shall be made at the nearest possible stopping place at or after the border. Where the crossing of the border takes place on a ferry or train, the driver shall enter the symbol of the country at the port or station of arrival. A Party or, in the case of the Union, a Member State may require drivers of vehicles engaged in transport operations inside their territory to add more detailed geographic specifications to the country symbol, provided that each Party notifies in advance the other Party about those detailed geographic specifications. It shall not be necessary for drivers to enter the information referred to in the first sentence of the first subparagraph if the tachograph is automatically recording that location data.

Article 35

Damaged driver cards and record sheets

1. In the event of damage to a record sheet bearing recordings or to a driver card, drivers shall keep the damaged record sheet or driver card together with any spare record sheet used to replace it.

2. Where a driver card is damaged, malfunctions, or is lost or stolen, the driver shall:

(a) at the start of his journey, print out the details of the vehicle he is driving, and enter on that printout:

(i) details that enable the driver to be identified (name, driver card or driving licence number), including his signature;

(ii) the periods referred to in points (ii), (iii) and (iv) of Article 34(5)(b);

(b) at the end of the journey, print out the information relating to periods of time recorded by the tachograph, record any periods of other work, availability and rest taken since the printout made at the start of the journey, where not recorded by the tachograph, and mark on that document details enabling the driver to be identified (name, driver card or driving licence number), including the driver's signature.

Article 36

Records to be carried by the driver

1. Where a driver drives a vehicle fitted with an analogue tachograph, the driver shall be able to produce, whenever an authorised control officer so requests:

(i) the record sheets for the current day and the preceding 28 days;

(ii) the driver card, if one is held; and

(iii) any manual records and printouts made during the current day and the previous 28 days.

2. Where the driver drives a vehicle fitted with a digital, a smart 1 tachograph or smart 2 tachograph, the driver shall be able to produce, whenever an authorised control officer so requests:

(i) the driver's driver card;

(ii) any manual records and printouts made during the current day and the previous 28 days; and

(iii) the record sheets corresponding to the same period as that referred to in point (ii) during which the driver drove a vehicle fitted with an analogue tachograph.

3. From 31 December 2024, the period of 28 days referred to in points (i) and (iii) of paragraph 1 and in point (ii) of paragraph 2 shall be replaced by 56 days.

4. An authorised control officer may check compliance with Section 2 of Part B of Annex 27 of the TGEU by analysis of the record sheets, of the displayed, printed or downloaded data which have been recorded by the tachograph or by the driver card or, failing that, of any other supporting document that justifies non - compliance with a provision of that Section.

Article 37

Procedures in the event of malfunctioning equipment

1. In the event of the breakdown or faulty operation of a tachograph, the transport undertaking shall have it repaired by an approved fitter or workshop, as soon as circumstances permit.

If the vehicle is unable to return to the transport undertaking’s premises within a period of one week calculated from the day of the breakdown or of the discovery of defective operation, the repair shall be carried out en route.

(1A) Each Party or, in the case of the Union, the Member States shall give the competent authorities power to prohibit the use of the vehicle in cases where the breakdown or faulty operation has not been remedied as provided in paragraph 1 in so far as this is in accordance with the national legislation in the Party concerned.

2. While the tachograph is unserviceable or malfunctioning, the driver shall mark data enabling him to be identified (name, driver card or driving licence number), including a signature, as well as the information for the various periods of time which are no longer recorded or printed out correctly by the tachograph:

(a) on the record sheet or sheets, or

(b) on a temporary sheet to be attached to the record sheet or to be kept together with the driver card.

CHAPTER VII

ENFORCEMENT AND SANCTIONS

Article 38

Control officers

1. In order to monitor effectively compliance with this Regulation, sufficient equipment and appropriate legal powers shall be made available to control officers to enable them to carry out their duties in accordance with this Regulation. That equipment shall include, in particular:

(a) control cards allowing access to data recorded in tachographs and in tachograph cards, and optionally in workshop cards;

(b) the tools necessary to download data files from vehicle units and tachograph cards and to be able to analyse such data files and printouts from digital tachographs in combination with record sheets or charts from analogue tachographs.

2. If, after having carried out a check, control officers find sufficient evidence leading to reasonable suspicion of fraud, they shall be empowered to direct the vehicle to an authorised workshop to perform further tests in order to check, in particular, that the tachograph:

(a) works properly;

(b) records and stores data correctly, and that the calibration parameters are correct.

3. Control officers shall be empowered to request authorised workshops to perform the tests referred to in paragraph 2 and specific tests designed to detect the presence of manipulation devices. If manipulation devices are detected, the equipment, including the device itself, the vehicle unit or its components, and the driver card, may be removed from the vehicle and may be used as evidence in accordance with rules of procedure relating to the handling of such evidence.

4. Control officers shall, where appropriate, make use of the possibility to check tachographs and driver cards which are on site during a check of the premises of undertakings.

Article 39

Training of control officers

1. The competent authority shall ensure that control officers are appropriately trained for the analysis of the data recorded and the checking of tachographs in order to achieve efficient and harmonised control and enforcement.

2. *Deleted*

3. The Minister may, by regulations, adopt measures specifying the content of the initial and continuing training of control officers, including training in relation to techniques to target controls and to detect manipulation devices and fraud. Those measures may include guidelines to facilitate the implementation of the relevant provisions of this Regulation and of Regulation (EC) No 561/2006.

Article 40 & 41

Deleted

CHAPTER VIIA

REGULATIONS UNDER THIS REGULATION

Article 41A

Regulations under this Regulation

Regulations made under this Regulation may:

(a) make consequential, supplementary, incidental transitional, transitory or saving provision;

(b) make different provision for different purposes.

CHAPTER VIII

FINAL PROVISIONS

Articles 42 to 44

Deleted

Article 45

Amendment of Regulation (EC) No 561/2006

Regulation (EC) No 561/2006 is hereby amended as follows:

(1)in Article 3, the following point is inserted after point (a):

‘(aa) vehicles or combinations of vehicles with a maximum permissible mass not exceeding 7,5 tonnes used for carrying materials, equipment or machinery for the driver’s use in the course of his work, and which are used only within a 100 km radius from the base of the undertaking and on the condition that driving the vehicle does not constitute the driver’s main activity;’;

(2)Article 13(1) is amended as follows:

(a) in points (d), (f) and (p), the words ‘50 kilometre’ or ‘50 km’ are replaced by the words ‘100 km’;

(b) the first subparagraph of point (d) is replaced by the following:

‘(d) vehicles or combinations of vehicles with a maximum permissible mass not exceeding 7,5 tonnes used by universal service providers as defined in Article 2(13) of Directive 97/67/EC of the European Parliament and of the Council of 15 December 1997 on common rules for the development of the internal market of Community postal services and the improvement of quality of service to deliver items as part of the universal service.’.

Article 46

Deleted

Article 47

Repeal

Regulation (EEC) No 3821/85 is hereby repealed. References to the repealed Regulation shall be construed as references to this Regulation.

Article 48

Entry into force

This Regulation shall enter into force on the day following that of its publication in the *Official Journal of the European Union*.

It shall, subject to the transitional measures in Article 46, apply with effect from 2 March 2016. However, Articles 24, 34 and 45 shall apply with effect from 2 March 2015.

ANNEX I

REQUIREMENTS FOR CONSTRUCTION, TESTING, INSTALLATION AND INSPECTION FOR ANALOGUE TACHOGRAPHS

1. In this Annex-

"AETR" means the European Agreement concerning the Work of Crews of Vehicles engaged in International Road Transport of 1st July 1970;

"enactment" includes an enactment contained in subsidiary legislation within the meaning of the Interpretation and General Clauses Act.

2. Appendix 1 to the Annex to the AETR (which makes provision corresponding to Annex 1 to the equivalent EU regulation) applies for the purposes of this Regulation.

3. References in any enactment to Annex I to this Regulation are to be read as references to Appendix 1 to the Annex to the AETR as applied by paragraph 2.

ANNEX IB

REQUIREMENTS FOR CONSTRUCTION, TESTING, INSTALLATION AND INSPECTION FOR DIGITAL TACHOGRAPHS

1. In this Annex-

"AETR" means the European Agreement concerning the Work of Crews of Vehicles engaged in International Road Transport of 1st July 1970;

"enactment" includes an enactment contained in subsidiary legislation within the meaning of the Interpretation and General Clauses Act.

2. Appendix 1B to the Annex to the AETR (which is an adaptation of Annex IB to Regulation (EEC) No 3821/85, as it has effect in EU law) applies for the purposes of this Regulation.

3. References in any enactment to Annex IB to this Regulation are to be read as references to Appendix 1B to the Annex to the AETR (including provisions adapted by it) as applied by paragraph 2.

ANNEX II

APPROVAL MARK AND CERTIFICATE

1. In this Annex-

"AETR" means the European Agreement concerning the Work of Crews of Vehicles engaged in International Road Transport of 1st July 1970;

"enactment" includes an enactment contained in subsidiary legislation within the meaning of the Interpretation and General Clauses Act.

2. Appendix 2 to the Annex to the AETR (which makes provision corresponding to Annex II to the equivalent EU Regulation) applies for the purposes of this Regulation.

3. References in any enactment to Annex II to this Regulation are to be read as references to Appendix 2 to the Annex to the AETR as applied by paragraph 2.