

Subsidiary Legislation made under s.69.

Transport (Recording Equipment) (Minimum Conditions) Regulations 2008

LN.2008/075

Commencement **25.9.2008**

Amending enactments	Relevant current provisions	Commencement date
LN. 2012/132	r. 2, Schs.1-3	4.10.2012
2016/037	rr. 2(b), 10(1), 12(2), Sch.1	2.3.2016
2019/236	rr. 2-3, 4(1)-(2), (4), (6), 6(6), 7, 8(1), (4), 9(2)(a), (c), 10(3), 11(1), (3), 12(1), (2)(c), 13, Schs.1, 3	21.11.2019
“	rr. 2, 4(3), (6), 5(2), 6(6), 8(4), 9(2)(a)-(c), (3), 10(1)- (3), 12(1)-(2), (c), 13, Sch.1	1.1.2021
2026/140	Lonf Title, rr. 2-3, 10A-10B, 11(4), Schs.1, 4	15.7.2026

Transposing:

Directive 2006/22/EC

Directive 2009/4/EC

Directive 2009/5/EC

Regulation (EU) No. 165/2014

EU Legislation/International Agreements involved:

Regulations (EEC) No. 3821/85

Regulations (EEC) No. 561/2006

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In exercise of the powers conferred on me by section 69 of the Transport Act 1998 and in order to transpose into the law of Gibraltar Directive 2006/22/EC of the European Parliament and of the Council of 15 March 2006 on minimum conditions for the implementation of Council Regulations (EEC) No. 561/2006 and (EEC) No. 3821/85 concerning social legislation relating to road transport activities and repealing Council Directive 88/599/EEC, and to implement, in part, Annex 27 of the Agreement in respect of Gibraltar between the European Union and the European Atomic Energy Community and the United Kingdom of Great Britain and Northern Ireland, I have made the following Regulations—

Title and commencement.

1. These Regulations may be cited as the Transport (Recording Equipment) (Minimum Conditions) Regulations 2008 and come into operation on the day of publication.

Interpretation.

2. In these Regulations and unless the context otherwise requires—

“AETR” means the European Agreement concerning the Work of Crews of Vehicles engaged in International Road Transport of 1st July 1970, as amended from time to time;

“Annex 27” means Annex 27 to the TGEU;

“Appendix” refers to a numbered Appendix in Annex 27;

“Article” means—

- (a) an Article of the TGEU;
- (b) an Article or other provision of Annex 27 (however numbered or described); and
- (c) an Article or other provision of an Appendix,

and, in each case, except where the context otherwise requires;

“competent authority” means such person or persons as the Minister may appoint for the purposes of these Regulations;

“contracting country” means a country or territory which is a contracting party to the AETR;

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“Directive” means Directive 2006/22/EC of the European Parliament and of the Council of 15 March 2006 on minimum conditions for the implementation of Council Regulations (EEC) No. 561/2006 and (EEC) No. 3821/85 concerning social legislation relating to road transport activities and repealing Council Directive 88/599/EEC, as amended from time to time;

“Hours and Tachographs Regulations” means—

- (a) Regulation (EC) No. 561/2006 of the European Parliament and of the Council of 15 March 2006 on the harmonisation of certain social legislation relating to road transport and amending Council Regulations (EEC) No. 3821/85 and (EC) No. 2135/98 and repealing Council Regulation (EEC) No. 3820/85, as amended from time to time; and
- (b) 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, as the same may be amended from time to time;

“Member States” has the same meaning as in section 3(3) of the Treaty on Gibraltar and the European Union Act 2026;

“Minister” means the Minister with responsibility for Traffic or the Minister with responsibility for public transport, as the case may be;

“Principal Secretary” means the Principal Secretary of the Ministry responsible for transport;

“TACHOnet messaging system” means the messaging system complying with the technical specifications laid down in Annexes I to VII of Commission Implementing Regulation (EU) 2016/68;

“the Treaty on Gibraltar and the European Union” (or “TGEU”) has the meaning given by section 5 of the Treaty on Gibraltar and the European Union Act 2026.

Purpose.

3. These Regulations lay down minimum conditions for the implementation of the Hours and Tachographs Regulations and of the AETR, and implement Article 12 of Section 4 (Use of Tachographs by drivers) of Annex 27 of the TGEU.

Checking systems.

4.(1) The competent authority shall implement a system of appropriate and regular checks on the correct and consistent implementation of the Hours and Tachographs Regulations both at the roadside and at premises of undertakings of all transport categories.

(2) The checks referred to in sub-regulation (1) shall cover each year a large and representative cross-section of mobile workers, drivers, undertakings and vehicles of all transport categories falling within the scope of the Hours and Tachographs Regulations.

(3) The Minister shall prepare a national enforcement strategy for Gibraltar. For this purpose, the Minister may designate a body for the coordination of actions taken under regulations 6 and 8.

(4) The competent authority shall organise the checks referred to in sub-regulation (1) in such a way that 2% of days worked by drivers of vehicles falling within the scope of the Hours and Tachographs Regulations are checked. This percentage will increase to at least 3% from 1 January 2010.

(5) In carrying out checks under this regulation not less than 30% of the total number of the working days checked shall be checked at the roadside and not less than 50% shall be checked at the premises of undertakings.

(6) Shall include the following information—

- (a) the number of drivers checked at the roadside;
- (b) the number of checks at the premises of undertakings;
- (c) the number of working days checked; and
- (d) the number and type of infringements reported,

together with a record of whether passengers or goods were transported.

Statistics.

5.(1) The competent authority shall ensure that statistics collected from the checks organised in accordance with regulation 4(1) to (5) are broken down into the following categories—

- (a) for roadside checks—

- (i) type of road and country of registration of the vehicle inspected, in order to avoid discrimination;
 - (ii) type of tachograph: analogue or digital;
- (b) for checks at the premises—
 - (i) type of transport activity, namely whether the activity is international or domestic, passenger or freight, own account or for hire or reward;
 - (ii) size of company fleet;
 - (iii) type of tachograph: analogue or digital.

(2) The statistics referred to in sub-regulation (1) shall be submitted biannually to the Transport Commission and shall be published in a report. The competent authority shall keep a record of the data collected for the previous year.

(3) Undertakings responsible for drivers shall keep, for a period of one year, the documents, records of results and other relevant data passed to them by the competent authority concerning checks carried out on them at their premises and/or on their drivers at the roadside.

Roadside checks.

6.(1) The competent authority shall organise roadside checks in various places and at different times and shall cover a sufficiently extensive part of the road network to make it difficult to avoid checkpoints.

- (2) The competent authority shall ensure that—
 - (a) sufficient provision is made for checkpoints on or nearby existing and planned roads and, if necessary, that service stations and other safe locations along roadways can function as checkpoints;
 - (b) checks are carried out following a random rotation system, with an appropriate geographical balance.

(3) The points to be verified at roadside checks are set out in Part A of Schedule 1. Checks may focus on a specific point if the situation so requires.

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(4) Without prejudice to regulation 11(2), roadside checks shall be carried out without discrimination. In particular, the competent authority shall not discriminate on any of the following grounds–

- (a) country of registration of the vehicle;
- (b) country of residence of the driver;
- (c) country of establishment of the undertaking;
- (d) origin and destination of the journey;
- (e) type of tachograph: analogue or digital.

(5) The competent authority shall be provided by the Minister with–

- (a) a list of the principal points to be checked, as set out in Part A of Schedule 1;
- (b) standard checking equipment, as set out in Schedule 2.

(6) Where the findings of a roadside check on the driver of a vehicle registered in another contracting country afford grounds for believing that infringements have been committed which cannot be established during the check owing to a lack of necessary data, the Minister may instruct the competent authority to either–

- (a) assist the competent authority; or
- (b) seek assistance from the competent authority,

of that contracting country in order to clarify the situation.

Concerted checks.

7.(1) The competent authority shall, at least six times per year, undertake concerted roadside checks, and may do so with the competent authority of at least one Member State, or contracting third country on drivers and vehicles falling within the scope of the Hours and Tachographs EC Regulations and of the AETR.

(2) Checks pursuant to sub-regulation (1) shall be undertaken at the same time where done with the competent authority of a Member State or contracting third country and each competent authority shall operate in its own territory.

Checks at the premises of undertakings.

8.(1) Checks at premises shall be planned in the light of past experience in relation to the various types of transport and undertakings, and shall also be carried out if serious infringements of the Hours and Tachographs Regulations and of the AETR have been detected at the roadside.

(2) Checks at premises shall cover the points listed in Parts A and B of Schedule 1.

(3) The competent authority shall be provided by the Minister with–

(a) a list of the principal points to be checked, as set out in Parts A and B of Schedule 1;

(b) standard checking equipment, as set out in Schedule 2.

(4) The competent authority shall, in the course of the check, take into account any information provided by the designated liaison body of a contracting country concerning the activities of the undertaking in question in that contracting country.

(5) For the purposes of sub-regulations (1) to (4), checks carried out at the premises of the competent authority, on the basis of relevant documents or data handed over by undertakings at the request of the competent authority, shall have the same status as checks carried out at the premises of undertakings.

Intracommunity liaison.

9.(1) The Principal Secretary is designated to perform the tasks set out in sub-regulation (2).

(2) The Principal Secretary shall have the following tasks–

(a) to ensure coordination with equivalent persons in the contracting country concerned as regards actions taken under regulation 7;

(b) to forward the biannual statistical returns to the Transport Commission;

(c) to be primarily responsible for assisting the competent authorities of contracting country pursuant to regulation 6(6).

Exchange of information.

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10. The Principle Secretary may of his own volition or following a request from a contracting country in individual cases, exchange information-

- (a) to assist competent authorities, in Gibraltar or in a contracting country, in applying the AETR;
- (b) concerning infringements of the AETR by fitters and workshops, types of manipulation practices, and any penalties imposed for such infringements;
- (c) infringements of the rules set out in Chapter II of Regulation (EC) 561/2006 committed by non-residents and any penalties imposed for such infringements;
- (d) penalties imposed on residents for infringements committed in a contracting country.

Electronic exchange of information on driver cards.

10A.(1) In order to ensure that an applicant does not already hold a valid driver card, the Driver and Vehicle Licensing Department shall maintain a national electronic register containing the following information on driver cards for a period at least equivalent to the period of validity of those cards-

- (a) surname and first name of the driver;
- (b) birth date and, if available, place of birth of the driver;
- (c) valid driving licence number and country of issue of the driving licence (if applicable);
- (d) status of the driver card; and
- (e) driver card number.

(2) The electronic registers of Driver and Vehicle Licensing Department shall be interconnected and accessible throughout the territory of the Union, using the TACHOnet messaging system or a compatible system.

(3) In the case of the use of a compatible system, the exchange of electronic data with the other Party shall be possible through the TACHOnet messaging system.

(4) When issuing, replacing and, where necessary, renewing a driver card, the Driver and Vehicle Licensing Department shall verify through electronic data exchange that the driver

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does not already hold another valid driver card, and the data exchanged shall be limited to the data necessary for the purpose of this verification.

(5) Enforcement officers may have access to the electronic register in order to check the status of a driver card.

TACHOnet messaging service.

10B. The electronic register maintained by the Driver and Vehicle Licensing Department in compliance with Annex 27 of the TGEU shall be interconnected and accessible throughout the Union, using the TACHOnet messaging system or a compatible system, and in the case of the use of a compatible system, the exchange of electronic data with other Member States shall be possible through the TACHOnet messaging system.

Risk rating system.

11.(1) The Minister shall introduce a risk-rating system for undertakings based on the relative number and severity of any infringements of the Hours and Tachographs Regulations and of the AETR that an individual undertaking has committed.

(2) Undertakings with a high-risk rating shall be checked more closely and more often.

(3) An initial list of infringements of the Hours and Tachographs Regulations and of the AETR, and the gravity of such infringements is set out in Schedule 3.

(4) For the purposes of Annex 27 of the TGEU, the Minister must introduce a risk-rating system for undertakings based on the relative number and severity of any infringements, as set out in Appendix 27-A-1-1 and of any infringements included in the list set out in Appendix 27A11bis of Annex 27 as set out in Schedule 4.

Best practice.

12.(1) The competent authority may establish joint training programmes on best practice with its counter parts in contracting countries.

(2) An electronic and printable form, drawn up in the format of Article 11 (3) of the Directive, shall be used when a driver—

- (a) has been on sick leave,
- (b) has been on annual leave, or

- (c) has driven another vehicle exempted from the scope of Regulation (EC) No 561/2006,

during the period mentioned in Article 36 of Regulation (EU) No 165/2014.

(3) The Minister shall ensure that the competent authority is well trained for the execution of its tasks.

13. *Deleted.*

Schedules.

14. The Schedules shall have effect.

SCHEDULE 1

Regulations 6, 8 and 14

PART A**ROADSIDE CHECKS**

The following points shall, in general, be covered by roadside checks—

- (1) daily and weekly driving times, breaks and daily and weekly rest periods; also the preceding days' record sheets which have to be carried on board the vehicle in accordance with paragraph 7 of the Annex to the AETR or Article 36 of Regulation (EU) No 165/2014 and/or the data stored for the same period on the driver card and/or in the memory of the recording equipment in accordance with Schedule 2 and/or on printouts;
- (2) for the period referred to in paragraph 7 of the Annex to the AETR or Article 36 of Regulation (EU) No 165/2014, any cases where the vehicle's authorised speed is exceeded, to be defined as being any periods of more than one minute during which the vehicle's speed exceeds 90 km/h for category N3 vehicles or 105 km/h for category M3 vehicles (categories N3 and M3 being defined in Annex 2, Part A to Council Directive 70/156/EEC of 6 February 1970 on the approximation of the laws of the Member States relating to the type-approval of motor vehicles and their trailers;
- (3) where appropriate, momentary speeds attained by the vehicle as recorded by the recording equipment in no more than the previous 24 hours' use of the vehicle;
- (4) the correct functioning of the recording equipment (determination of possible misuse of the equipment and/or the driver card and/or record sheets) or, where appropriate, presence of equivalent paper documents;
- (5) Where appropriate, and with due regard to safety considerations, a verification of the recording equipment installed in vehicles in order to detect the installation and/or the use of any device, or devices, intended to destroy, suppress, manipulate or alter any data, or which is intended to interfere with any part of the electronic data exchange between the component parts of recording equipment, or which inhibits or alters the data in such ways prior to encryption;
- (6) for the purposes of Annex 27 of the TGEU, driver qualification in compliance with sections 2 to 4 of Part B of Annex 27 of the TGEU.

PART B

CHECKS AT THE PREMISES OF UNDERTAKINGS

The following points shall be checked at the premises of undertakings, in addition to those set out in Part A—

- (1) weekly rest periods and driving times between these rest periods;
- (2) observance of the two-weekly limitation of driving times;
- (3) record sheets, vehicle unit and driver card data and printouts.

The competent authority may, if appropriate, check on the joint liability of other instigators or accessories in the transport chain, such as shippers, freight forwarders or contractors, if an infringement is detected, including verification that contracts for the provision of transport permit compliance with the Hours and Tachographs Regulations and of the AETR. For the purposes of Annex 27 of the TGEU, the checks must include driver qualification in compliance with sections 2 to 4 of Part B of Annex 27 of the TGEU.

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SCHEDULE 2

Regulations 6, 8 and 14

STANDARD EQUIPMENT TO BE AVAILABLE TO ENFORCEMENT UNITS

The competent authority shall ensure that the following standard equipment is available to enforcement units carrying out the duties set out in Schedule 1 as follows–

- (1) equipment capable of downloading data from the vehicle unit and driver card of the digital tachograph, reading data, and analysing data and/or transmitting findings to a central database for analysis;
- (2) equipment to check the tachograph sheets;
- (3) Specific analysis equipment, with appropriate software, to verify and confirm the digital signature attached to data, as well as specific analysis software to provide a detailed speed profile of vehicles prior to the inspection of their recording equipment.

SCHEDULE 3

(regulations 11 and 14)

INFRINGEMENTS

In accordance with regulation 11(3), the following table contains guidelines on a common range of infringements of Regulation (EC) No. 561/2006 and Regulation (EU) No. 165/2014, divided into categories according to their gravity.

1. Groups of infringements against Regulation (EC) No. 561/2006 (Hours)

No	LEGAL BASIS	TYPE OF INFRINGEMENT		LEVEL OF SERIOUSNESS u			
				MSI	VSI	SI	MI
A	Crew						
A1	Art 5.1	Not respecting minimum ages for conductors				X	
B	Driving periods						
B1	Article 6.1	Exceed daily driving time of 9h if possibilities to extend to 10h not allowed	9h < ... < 10h				X
B2			10h ≤ ... < 11h			X	
B3			11h ≤ ...		X		
B4		Exceed daily driving time of 9h by 50 % or more without taking a break or without any rest of at least 4,5 hours	13h30 ≤ ... and no break/rest	X			
B5		Exceed extended daily driving time of 10h if extension allowed	10h < ... < 11h				X
B6			11h ≤ ... < 12h			X	
B7			12h ≤ ...		X		
B8		Exceed daily driving time of 10h by 50 % or more without taking a break of or without any rest of at least 4,5 hours	15h ≤ ... and no break/rest	X			

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B9	Article 6.2	Exceed weekly driving time	56h < ... < 60h				X
B10			60h ≤ ... < 65h			X	
B11			65h ≤ ... < 70h		X		
B12		Exceed weekly driving time by 25 % or more	70h ≤ ...	X			
B13	Art 6.3	Exceed maximum total driving time during 2 consecutive weeks	90h < ... < 100h				X
B14			100h ≤ ... < 105h			X	
B15			105h ≤ ... < 112h30		X		
B16		Exceed maximum total driving time during 2 consecutive weeks by 25 % or more	112h30 ≤ ...	X			
C	Breaks						
C1	Article 7	Exceed uninterrupted driving time of 4,5 hours before taking the break	4h30 < ... < 5h				X
C2			5h ≤ ... < 6h			X	
C3			6h ≤ ...		X		
D	Rest Periods						
D1	Article 8.2	Insufficient daily rest period of less than 11h if reduced daily rest period not allowed	10h ≤ ... < 11h				X
D2			8h30 ≤ ... < 10h			X	
D3			... < 8h30		X		
D4		Insufficient reduced daily rest period of less than 9h if reduce allowed	8h ≤ ... < 9h				X
D5			7h ≤ ... < 8h			X	

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D6			... < 7h		X		
D7		Insufficient split daily rest period of less than 3h + 9h	3h + [8h ≤ ... < 9h]				X
D8			3h + [7h ≤ ... < 8h]			X	
D9			3h + [... < 7h]		X		
D10	Article 8.5	Insufficient daily rest period of less than 9h for multi-manning	8h ≤ ... < 9h				X
D11			7h ≤ ... < 8h			X	
D12			... < 7h		X		
D13	Article 8.6	Insufficient reduced weekly resting period of less than 24 h	22h ≤ ... < 24h				X
D14			20h ≤ ... < 22h			X	
D15			... < 20h		X		
D16		Insufficient weekly resting period of less than 45 h if reduced weekly resting period not allowed	42h ≤ ... < 45h				X
D17	36h ≤ ... < 42h				X		
D18	... < 36h			X			
D19	Article 8.6	Exceeding 6 consecutive 24-hour periods following the previous weekly rest period	... < 3h				X
D20			3h ≤ ... < 12h			X	
D21			12h ≤ ...		X		
E	12-day rule derogation						
E1	Article 8.6a.	Exceeding 12 consecutive 24-hour periods following a previous regular weekly rest	... < 3h				X
E2			3h ≤ ... < 12h			X	

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E3			12h ≤ ...		X		
E4	Article 8.6a. (b)(ii)	Weekly rest period taken following 12 consecutive 24-hour periods	65h < ... ≤ 67h			X	
E5			... ≤ 65h		X		
E6	Article 8.6a. (d)	Driving period, between 22.00 and 6.00, of more than 3 hours before the break, if the vehicle is not multi-manned	3h < ... < 4,5 h			X	
E7			4,5 h ≤ ...		X		
F	Work organisation						
F1	Article 10.1	Link between wage and distance travelled or amount of goods carried			X		
F2	Article 10.2	No or improper organisation of driver's work, no or improper instructions given to driver enabling him to comply with the law			X		

2. Groups of infringements against Regulation (EU) No. 165/2014 of the European Parliament and of the Council ⁽²⁾ (Tachograph)

Infringement and of the Council VI (Tachograph)						
No	LEGAL BASIS	TYPE OF INFRINGEMENTS	LEVEL OF SERIOUSNESS			
			MSI	VSI	SI	MI
G	Installation of tachograph					
G1	Article 3.1 and Article 22.2	Not having type-approved tachograph installed and used (<i>e.g.: not having a tachograph installed by fitters, workshops or vehicle manufacturers approved by the competent authorities of the Member States, using a tachograph without the necessary seals placed or replaced by an approved fitter, workshop or vehicle manufacturer or using a tachograph without the installation plaque</i>)	X			
H	Use of tachograph, driver card or record sheet					
H1	Article 23.1	Using a tachograph not inspected by an approved workshop		X		
H2	Article 27	Driver holding and/or using more than one own driver card		X		

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H3		Driving with a driver card that has been falsified (<i>considered as driving without driver card</i>)	X			
H4		Driving with a driver card of which the driver is not the holder (<i>considered as driving without driver card</i>)	X			
H5		Driving with a driver card which has been obtained on the basis of false declarations and/or forged documents (<i>considered as driving without driver card</i>)	X			
H6	Article 32.1	Tachograph not correctly functioning (<i>e.g.: tachograph not properly inspected, calibrated and sealed</i>)		X		
H7	Article 32.1 and Article 33.1	Tachograph improperly used (<i>e.g.: deliberate, voluntary or imposed misuse, lack of instructions on correct use, etc.</i>)		X		
H8	Article 32.3	Using a fraudulent device able to modify the records of the tachograph	X			
H9		Falsifying, concealing, suppressing or destroying data recorded on the record sheets or stored and downloaded from the tachograph and/or the driver card	X			
H10	Article 33.2	Undertaking not keeping record sheets, printouts and downloaded data		X		
H11		Recorded and stored data not available for at least a year		X		
H12	Art 34.1	Incorrect use of record sheets/driver card		X		
H13		Unauthorised withdrawal of record sheets or driver card which has an impact on the record of relevant data		X		
H14		Record sheet or driver card used to cover a period longer than that for which it is intended and data is lost		X		
H15	Article 34.2	Use dirty or damaged record sheets or drivers card and data not legible		X		
H16	Article 34.3	Not using manual input when required to do so		X		
H17	Article 34.4	Not using correct record sheet or driver card not in the correct slot (multi-manning)			X	

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H18	Article 34.5	Incorrect use of switch mechanism		X		
I	Producing information					
I1	Article 36	Refusing to be checked		X		
I2	Article 36	Unable to produce records of current day and the previous 28 days		X		
I3		Unable to produce records of the driver card if the driver holds one		X		
I4	Article 36	Unable to produce manual records and printouts made during the current day and the previous 28 days		X		
I5	Article 36	Unable to produce a driver card, if the driver holds one		X		
J	Malfunctioning					
J1	Article 37.1 and Article 22.1	Tachograph not repaired by an approved fitter or workshop		X		
J2	Article 37.2	Driver not marking all required information for the periods of time, which are no longer recorded while tachograph is unserviceable or malfunctioning		X'		

⁽¹⁾ MSI = most serious infringements, VSI = very serious infringement, SI = serious infringement, MI = minor infringement.

⁽²⁾ 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.

SCHEDULE 4

(regulation 11(4))

In accordance with regulation 11(4), the following tables contains the guidelines on a common range of infringements under Annex 27 of the TGEU according to their gravity.

Appendix 27-A-1-1

MOST SERIOUS INFRINGEMENTS FOR THE PURPOSES OF ARTICLE 6(2) OF PART A OF ANNEX 27

1. Exceeding time limits as follows:

- (a) exceeding the maximum 6-day or fortnightly driving time limits by margins of 25 % or more;
- (b) exceeding, during a daily working period, the maximum daily driving time limit by a margin of 50 % or more.

2. Not having a tachograph and/or speed limiter, or having in the vehicle and/or using a fraudulent device able to modify the records of the recording equipment and/or the speed limiter or falsifying record sheets or data downloaded from the tachograph and/or the driver card.

3. Driving without a valid roadworthiness certificate and/or driving with a very serious deficiency of, inter alia, the braking system, the steering linkages, the wheels/tyres, the suspension or chassis that would create such an immediate risk to road safety that it leads to a decision to immobilise the vehicle.

4. Transporting dangerous goods that are prohibited for transport or transporting such goods in a prohibited or non-approved means of containment or without identifying them on the vehicle as dangerous goods, thus endangering lives or the environment to such extent that it leads to a decision to immobilise the vehicle.

5. Carrying goods without holding a valid driving licence or carrying by an undertaking not holding a valid operator's licence as referred to in Article 278 of the TGEU.

6. Driving with a driver card that has been falsified, or with a card of which the driver is not the holder, or which has been obtained on the basis of false declarations and/or forged documents.

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7. Carrying goods exceeding the maximum permissible laden mass by 20 % or more for vehicles the permissible laden weight of which exceeds 12 tonnes, and by 25 % or more for vehicles the permissible laden weight of which does not exceed 12 tonnes.

Appendix 27A11bis

LIST OF SERIOUS INFRINGEMENTS FOR THE PURPOSES OF ARTICLE 6(2) OF PART A OF ANNEX 27

The following tables contain categories and types of serious infringements of this Annex 27 to the TGEU, divided into three categories of seriousness according to their potential to create a risk of fatalities or serious injuries and/or distorting competition in the road transport market: most serious infringement (MSI), very serious infringement (VSI) and serious infringement (SI).

(1) Groups of infringements against Section 2 of Part B of Annex 27 of the TGEU, unless stated otherwise.

	LEGAL BASIS	TYPE OF INFRINGEMENT	LEVEL OF SERIOUSNESS			
			MSI	VSI	SI	
Driving periods						
1.	Article 4(1) and Appendix 27-A-1-1	Exceed daily driving time of 9h if possibilities to extend to 10h not allowed	10h ≤ ... < 11h			X
2.			11h ≤ ...		X	
3.		Exceed daily driving time of 9h by 50 % or more	13h30 ≤ ...	X		
4.		Exceed extended daily driving time of 10h if extension allowed	11h ≤ ... < 12h			X
5.			12h ≤ ...		X	
6.		Exceed daily driving time of 10h by 50 % or more	15h ≤ ...	X		
7.	Article 4(2) and Appendix 27-A-1-1	Exceed weekly driving time	60h ≤ ... < 65h			X
8.			65h ≤ ... < 70h		X	

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	LEGAL BASIS	TYPE OF INFRINGEMENT		LEVEL OF SERIOUSNESS		
				MSI	VSI	SI
9.	Article 4(3) and Appendix 27-A-1-1	Exceed weekly driving time by 25 % or more	$70h \leq \dots$	X		
10.		Exceed maximum total driving time during 2 consecutive weeks	$100h \leq \dots < 105h$			X
11.			$105h \leq \dots < 112h30$		X	
12.		Exceed maximum total driving time during 2 consecutive weeks by 25 % or more	$112h30 \leq \dots$	X		
Breaks						
13.	Article 5	Exceed uninterrupted driving time of 4,5 hours before taking the break	$5h \leq \dots < 6h$			X
14.			$6h \leq \dots$		X	
Rest Periods						
15.	Article 6(2)	Insufficient daily rest period of less than 11h if reduced daily rest period not allowed	$8h30 \leq \dots < 10h$			X
16.			$\dots < 8h30$		X	
17.		Insufficient reduced daily rest period of less than 9h if reduction allowed	$7h \leq \dots < 8h$			X
18.			$\dots < 7h$		X	
19.		Insufficient split daily rest period of less than 3h + 9h	$3h + [7h \leq \dots < 8h]$			X
20.			$3h + [\dots < 7h]$		X	
21.	Article 6(5)	Insufficient daily rest period of less than 9h for multi-manning	$7h \leq \dots < 8h$			X
22.			$\dots < 7h$		X	
23.	Article 6(6)	Insufficient reduced weekly resting period of less than 24h	$20h \leq \dots < 22h$			X
24.			$\dots < 20h$		X	
25.			$36h \leq \dots < 42h$			X

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	LEGAL BASIS	TYPE OF INFRINGEMENT	LEVEL OF SERIOUSNESS		
			MSI	VSI	SI
26.		Insufficient weekly resting period of less than 45h if reduced weekly resting period not allowed	... < 36h	X	
27.		Exceeding 6 consecutive 24-hour periods following the previous weekly rest period	3h ≤ ... < 12h		X
28.			12h ≤ ...	X	
29.	Article 6(7)	No compensation rest for two consecutive reduced weekly rest periods		X	
30.	Article 6(9)	Regular weekly rest period or any weekly rest period of more than 45 hours taken in a vehicle		X	
31.		The employer not covering costs for accommodation outside the vehicle			X
Work organisation					
32.	Article 6(10)	Transport undertaking not organising the work of drivers in such a way that the drivers are able to return to the employer's operational centre, or to return to the drivers' place of residence		X	
33.	Article 7(1)	Link between wage/payment and distance travelled, speed of delivery and/or amount of goods carried		X	
34.	Article 7(2)	No or improper organisation of driver's work, no or improper instructions given to driver enabling him to comply with the law		X	

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(2) Groups of infringements of Section 4 of Part B and Section 2 of Part C of Annex 27

	LEGAL BASIS	TYPE OF INFRINGEMENT	LEVEL OF SERIOUSNESS		
			MSI	VSI	SI
Installation of tachograph					
1.	Articles 3 and 5 of Section 2 of Part C and Appendix 27-A-1-1	Not having type-approved tachograph installed and used	X		
Use of tachograph, driver card or record sheet					
2.	Article 6(1) of Section 2 of Part C	Using a tachograph not inspected by an approved workshop		X	
3.	Article 3 of Section 4 of Part B and Appendix 27-A-1-1	Driver holding and/or using more than one own driver card		X	
4.		Driving with a driver card that has been falsified (considered as driving without driver card)	X		
5.		Driving with a driver card of which the driver is not the holder (considered as driving without driver card)	X		
6.		Driving with a driver card which has been obtained on the basis of false declarations and/or forged documents (considered as driving without driver card)	X		
7.	Article 7(1) of Section 4 of Part B and Article 15(1) of Section 2 of Part C	Tachograph not correctly functioning (e.g.: tachograph not properly inspected, calibrated and sealed)		X	
8.		Tachograph improperly used (e.g.: deliberate, voluntary or imposed misuse, lack of instructions on correct use, etc.)		X	
9.	Article 7(2) of Section 4 of Part B and Appendix 27-A-1-1	Having in the vehicle and/or using a fraudulent device able to modify the records of the tachograph	X		
10.		Falsifying, concealing, supressing or destroying data recorded on the record	X		

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	LEGAL BASIS	TYPE OF INFRINGEMENT	LEVEL OF SERIOUSNESS		
			MSI	VSI	SI
		sheets or stored and downloaded from the tachograph and/or the driver card			
11.	Article 15(2) of Section 2 of Part C	Undertaking not keeping record sheets, printouts and downloaded data		X	
12.		Recorded and stored data not available for at least a year		X	
13.	Article 6(1) of Section 4 of Part B	Incorrect use of record sheets/driver card		X	
14.		Unauthorised withdrawal of record sheets or driver card which has an impact on the record of relevant data		X	
15.		Record sheet or driver card used to cover a period longer than that for which it is intended, and data is lost		X	
16.	Article 6(2) of Section 4 of Part B	Use dirty or damaged record sheets or drivers card and data not legible		X	
17.	Article 6(3) of Section 4 of Part B	Not using manual input when required to do so		X	
18.	Article 6(4) of Section 4 of Part B	Not using correct record sheet or driver card not in the correct slot (multi-manning)			X
19.	Article 6(5) of Section 4 of Part B	Incorrect use of switch mechanism		X	
Producing information					
20.	Article 6(5), point (b)(v) of Section 4 of Part B	Incorrect use or non-use of the ferry/train sign			X
21.	Article 6(6) of Section 4 of Part B	Required information not entered on the record sheet		X	
22.	Article 6(7) of Section 4 of Part B	Records not showing the symbols of the countries whose borders were crossed by the driver during the daily working period			X

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	LEGAL BASIS	TYPE OF INFRINGEMENT	LEVEL OF SERIOUSNESS		
			MSI	VSI	SI
23.	Article 6(7) of Section 4 of Part B	Records not showing the symbols of the countries where the driver's daily working period started and finished			X
24.	Article 10 of Section 4 of Part B	Refusing to be checked		X	
25.		Unable to produce manual records and printouts made during the current day and the previous 56 days		X	
26.		Unable to produce a driver card, if the driver holds one		X	
Malfunctioning					
27.	Article 16(1) and Article 5(1) of Section 2 of Part C	Tachograph not repaired by an approved fitter or workshop		X	
28.	Article 11 of Section 4 of Part B	Driver not marking all required information for the periods of time, which are no longer recorded while tachograph is unserviceable or malfunctioning		X	

(3) Groups of infringements of Section 3 of Part B of Annex 27

	LEGAL BASIS	TYPE OF INFRINGEMENT	LEVEL OF SERIOUSNESS			
			MSI	VSI	SI	
Maximum weekly working time						
1.	Article 3	Exceeding maximum weekly working time of 48h if possibilities to extend to 60h already consumed	$56h \leq \dots 60h$			X
2.			$60h \leq \dots$		X	
3.		Exceeding maximum weekly working time of 60h if no derogation under Article 7 granted	$65 \leq \dots < 70h$			X
4.			$70h \leq \dots$		X	

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	LEGAL BASIS	TYPE OF INFRINGEMENT		LEVEL OF SERIOUSNESS		
				MSI	VSI	SI
Breaks						
5.	Article 4	Insufficient obligatory break taken when working time between 6 and 9 hours	10 < ... ≤ 20 min			X
6.			... ≤ 10 min		X	
7.		Insufficient obligatory break taken when working time over 9 hours	20 < ... ≤ 30min			X
8.			... ≤ 20 min		X	
Night work						
9.	Article 6	Daily working time in each 24h when night work performed if no derogation under Article 7 granted	11h ≤ ... < 13h			X
10.			13h ≤ ...		X	
Records						
11.	Article 8	Employers falsifying working time records or refusing to provide records to inspection officer			X	
12.		Employed/self-employed drivers falsifying records or refusing to provide records to inspection officer			X	

(4) Groups of infringements of Section 1 of Part C of Annex 27

	LEGAL BASIS	TYPE OF INFRINGEMENT	LEVEL OF SERIOUSNESS		
			MSI	VSI	SI
Weights					
1.	Article 1 and Appendix 27-A-1-1	Exceed maximum permissible weights for N3 vehicles	$5 \% \leq \ldots < 10 \%$		X
2.			$10 \% \leq \ldots < 20 \%$	X	
3.			$20 \% \leq \ldots$	X	
4.			$5 \% \leq \ldots < 15 \%$		X

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	LEGAL BASIS	TYPE OF INFRINGEMENT		LEVEL OF SERIOUSNESS		
				MSI	VSI	SI
5.		Exceed maximum permissible weight for N2 vehicles	$15 \% \leq \dots < 25 \%$		X	
6.			$25 \% \leq \dots$	X		
Lengths						
7.	Article 1	Exceed maximum permissible length	$2 \% < \dots < 20 \%$			X
8.			$20 \% \leq \dots$		X	
Width						
9.	Article 1	Exceed maximum permissible width	$2,65 \leq \dots < 3,10 \text{ metres}$			X
10.			$3,10 \text{ metres} \leq \dots$		X	

(5) Groups of infringements of rules on technical roadside inspection

	LEGAL BASIS	TYPE OF INFRINGEMENT	LEVEL OF SERIOUSNESS		
			MSI	VSI	SI
Roadworthiness					
1.	Annex 27, Part A, Article 6(1)(b)(iv) and Appendix 27-A-1-1	Driving without a valid proof of roadworthiness tests passed, as required by Union and UK law	X		
2.		Not keeping a vehicle in a safe and roadworthy condition resulting in a very serious deficiency of the braking system, the steering linkages, the wheels/tyres, the suspension or chassis or other equipment that would create such an immediate risk to road safety that it leads to a decision to immobilise the vehicle	X		

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(6) Groups of infringements of rules on speed limitation devices

	LEGAL BASIS	TYPE OF INFRINGEMENT	LEVEL OF SERIOUSNESS		
			MSI	VSI	SI
1.	Annex 27, Part A, Article 6(1)(b)(vii)	Speed limitation device not fitted	X		
2.		Speed limitation device not satisfying the applicable technical requirements		X	
3.		Speed limitation device not fitted by an approved workshop			X
4.		Having and/or using a fraudulent device able to falsify data of speed limitation device or having and/or using a fraudulent speed limitation device	X		

(7) Groups of infringements of Section 1 of Part B of Annex 27

	LEGAL BASIS	TYPE OF INFRINGEMENTS	LEVEL OF SERIOUSNESS		
			MSI	VSI	SI
Training and Licence					
1.	Article 3	Carrying goods without a compulsory initial qualification and/or compulsory periodic training		X	
2.	Article 9 and Appendix 27-B-1-2	Driver unable to present the valid qualification card or the driving licence with the marking, as required by the national law (e.g.: lost, forgotten, damaged, unreadable)			X

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(8) Groups of infringements of driving licence requirements

	LEGAL BASIS	TYPE OF INFRINGEMENTS	LEVEL OF SERIOUSNESS		
			MSI	VSI	SI
1.	Annex 27, Part A, Article 6(1)(b)(viii) and Appendix 27-A-1-1	Carrying goods without holding a valid driving licence	X		
2.		Using a driving licence which is damaged or unreadable or not in line with common model			X

(9) Groups of infringements of rules on the transport of dangerous goods by road

	LEGAL BASIS	TYPE OF INFRINGEMENTS	LEVEL OF SERIOUSNESS		
			MSI	VSI	SI
1.	Annex 27, Part A, Article 6(1)(b)(vi) and Appendix 27-A-1-1	Transporting dangerous goods that are prohibited for transport	X		
2.		Transporting dangerous goods in a prohibited or non-approved means of containment, thus endangering lives or the environment to such extent that it leads to a decision to immobilise the vehicle	X		
3.		Transporting dangerous goods without identifying them on the vehicle as dangerous goods, thus endangering lives or the environment to such extent that it leads to a decision to immobilise the vehicle	X		
4.		Leakage of dangerous substances		X	
5.		Carriage in bulk in a container which is not structurally serviceable		X	
6.		Carriage in a vehicle without an appropriate certificate of approval		X	
7.		Vehicle no longer complies with the approval standards and presents an immediate danger		X	

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	LEGAL BASIS	TYPE OF INFRINGEMENTS	LEVEL OF SERIOUSNESS		
			MSI	VSI	SI
8.		The rules governing the securing and stowage of the load have not been complied with		X	
9.		The rules governing mixed loading of packages have not been complied with		X	
10.		The provisions limiting the quantities carried in one transport unit have not been complied with, including permissible degrees of filling tanks or packages;		X	
11.		Information relevant to the substance being carried enabling determination of level of seriousness of offence is missing (e.g. UN number, proper shipping name, packing group)		X	
12.		Driver does not hold a valid vocational training certificate		X	
13.		Fire or an unprotected light is being used		X	
14.		The ban on smoking is not being observed.		X	
15.		The vehicle is not properly supervised or parked			X
16.		The transport unit comprises more than one trailer/semi-trailer			X
17.		Vehicle no longer complies with the approval standards but does not present an immediate danger			X
18.		The vehicle is not carrying operational fire extinguishers as required			X
19.		The vehicle does not carry the equipment required in the ADR or in the instructions in writing			X
20.		Packages with damaged packaging, IBCs or large packaging or damaged uncleaned empty packaging are being carried			X

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	LEGAL BASIS	TYPE OF INFRINGEMENTS	LEVEL OF SERIOUSNESS		
			MSI	VSI	SI
21.		Carriage of packaged goods in a container which is not structurally serviceable			X
22.		Tanks/tank containers (including ones that are empty and uncleaned) have not been closed properly			X
23.		Incorrect labelling, marking or placarding on the vehicle and/or containment			X
24.		There are no instructions in writing conforming to the ADR, or the instructions in writing are not relevant to the goods carried			X

(10) Groups of infringements of Chapter 2 of Title III of Part Three of the TGEU, unless stated otherwise

	LEGAL BASIS	TYPE OF INFRINGEMENT	LEVEL OF SERIOUSNESS		
			MS I	VS I	SI
Licence					
1.	Article 278(1) and Appendix 27-A-1-1	Carrying goods without holding a valid licence (i.e.: a licence is non-existent, falsified, withdrawn, expired, etc.)	X		
2.	Article 278(3)	The haulage undertaking or the driver unable to present a valid licence or a valid certified true copy of the licence to the inspecting officer (i.e.: licence or certified true copy of the licence lost, forgotten, damaged, etc.)		X	
Driver attestation					
3.	Annex 27, Part A, Article 6(1)(b)(v)	Drivers carrying goods without holding a valid driver attestation (i.e. driver's attestation is non-existent, falsified; withdrawn, expired, etc.)		X	

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	LEGAL BASIS	TYPE OF INFRINGEMENT	LEVEL OF SERIOUSNESS		
			MSI	VSI	SI
4.	Annex 27, Part A, Article 6(1)(b)(v)	The driver or the haulage undertaking unable to present a valid driver attestation or a valid certified true copy of the driver attestation to the inspecting officer (i.e. driver attestation or certified true copy of the driver attestation lost, forgotten, damaged, etc.)			X
Specific transport operations allowed under this Agreement					
5.	Article 277	Carrying out cabotage or other transport operations not in compliance with the laws, regulations and administrative provisions, including limitations on the number of journeys, in force in the host Party.		X	

(11) Groups of infringements of rules on animal transport

	LEGAL BASIS	TYPE OF INFRINGEMENTS	LEVEL OF SERIOUSNESS		
			MSI	VSI	SI
1.	Annex 27, Part A, Article 6(1)(b)(x)	Partitions are not strong enough to withstand the weight of animals		X	
2.		Using loading or unloading ramps that have slippery surfaces, that lack lateral protections or that are too steep			X
3.		Using lifting platforms or upper floors that do not have safety barriers preventing animals from falling or escaping during loading and unloading operations			X
4.		Means of transport not approved for long journeys, or not approved for the type of animals being transported.			X

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	LEGAL BASIS	TYPE OF INFRINGEMENTS	LEVEL OF SERIOUSNESS		
			MSI	VSI	SI
5.		Transporting without valid required documentation, journey log or transporter authorisation or certificate of competence			X

(12) Groups of infringements of laws applicable to contractual obligations

	LEGAL BASIS	TYPE OF INFRINGEMENT	LEVEL OF SERIOUSNESS		
			MSI	VSI	SI
1.	Annex 27, Part A, Article 6(1)(b)(xii)	Violation of the law applicable to contractual obligations		X	

Degrees of seriousness of serious infringements

- (1) The degrees of seriousness of infringements shall be serious (“SI”), very serious (“VSI”) and most serious (“MSI”).
- (2) Serious and very serious infringements, when committed repeatedly by the same operator, shall be regarded as more serious by the competent authority in the Party of establishment. When calculating the frequency of occurrence of repeated infringements, the competent authorities in the Party shall take into account the following factors:

The seriousness of the infringements (SI or VSI);

 - Time (at least one rolling year from the date of a control);
 - Number of vehicles used for the transport activities managed by the transport manager (average per year).
- (3) Taking into account the potential of creating a risk to road safety, the maximum frequency of serious infringements beyond which they should be considered as more serious shall be established as follows:
 - three SI per vehicle and per year = one VSI;

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- three VSI per vehicle and per year = launch of a national procedure on good repute.
- (4) The number of infringements per vehicle per year is an average figure calculated by dividing the total number of all infringements of the same level of seriousness (SI or VSI) by the average number of vehicles used during the year. The frequency formula provides for a maximum threshold for occurrence of serious infringements beyond which they shall be considered more serious. Competent authorities in the Parties may establish stricter thresholds if envisaged in their national administrative procedure for assessing good repute.