Draft Regulations laid before Parliament under paragraph 6(1) of Schedule 5 to the European Union (Future Relationship) Act 2020, for approval by resolution of each House of Parliament.

This draft Statutory Instrument supersedes the draft of the same title which was laid before Parliament and published on 23rd June 2022 (ISBN 978-0-348-23665-1). It is being issued free of charge to all known recipients of that draft Statutory Instrument.

D R A F T S T A T U T O R Y I N S T R U M E N T S

2022 No. 0000

ROAD TRAFFIC

TRADE

The Drivers' Hours, Tachographs, International Road Haulage and Licensing of Operators (Amendment) Regulations 2022

Made - - - -	*2022*
Coming into force	*2022*

The Secretary of State for Transport makes these Regulations in exercise of the powers conferred by section 31(1) of the European Union (Future Relationship) Act 2020(**a**).

A draft of these Regulations has been laid before, and approved by a resolution of, each House of Parliament in accordance with paragraph 6(1) of Schedule 5 to the European Union (Future Relationship) Act 2020.

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Drivers' Hours, Tachographs, International Road Haulage and Licensing of Operators (Amendment) Regulations 2022 and come into force on the twenty eighth day after the day on which they are made.

(2) Subject to paragraph (3), these Regulations extend to England and Wales, Scotland and Northern Ireland.

(3) Regulation 5 extends to England and Wales and Scotland.

Amendment of Regulation (EC) No 561/2006

2.—(1) Regulation (EC) No 561/2006(**b**) 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 is amended as follows.

(**a**) 2020 c. 29. By virtue of section 37 (interpretation) the Secretary of State for Transport, as a Minister of the Crown, is a relevant national authority able to exercise the powers conferred by section 31 (implementation power).
(**b**) EUR 2006/561, amended by S.I. 2019/453, 2020/1658 and 2021/135.

(2) In Article 2(1), after point (a)—

(a) omit "or"; and

(b) insert—

"(aa) from 1st July 2026, of goods in international transport operations or in cabotage operations, where the maximum permissible mass of the vehicle, including any trailer or semi-trailer, exceeds 2,5 tonnes, or".

(3) In Article 3 after point (h) insert—

"(ha) vehicles with a maximum permissible mass, including any trailer or semi-trailer, exceeding 2,5 tonnes but not exceeding 3,5 tonnes that are used for the transport of goods, where the transport is not effected for hire or reward, but on the own account of the company or the driver, and where driving does not constitute the main activity of the person driving the vehicle;".

(4) In Article 4 after point (n) insert—

"(na) "special regular passenger services" means services by whomsoever organised, which provide for the transport of specified categories of passengers to the exclusion of other passengers;

(nb) "occasional passenger services" means services which are not regular passenger services or special regular passenger services, and which are characterised above all by the fact that they carry groups of passengers assembled at the initiative of the customer or the carrier themselves;".

(5) In Article 8(6), after the second subparagraph insert—

"By way of derogation from the first subparagraph, a driver engaged in international transport of goods may, outside the United Kingdom or the member State of the employer's establishment, take two consecutive reduced weekly rest periods provided that the driver in any four consecutive weeks takes at least four weekly rest periods, of which at least two shall be regular weekly rest periods.

For the purpose of this paragraph, a driver shall be considered to be engaged in international transport where the driver starts the two consecutive reduced weekly rest periods outside the United Kingdom or the member State of the employer's establishment and the country of the drivers' place of residence.".

(6) After Article 8(6) insert—

"6a. By way of derogation from paragraph 6, a driver engaged in a single occasional passenger service of international carriage of passengers, may postpone the weekly rest period for up to 12 consecutive 24 hour periods following a previous regular weekly rest period provided that—

(a) the service lasts at least 24 consecutive hours in the United Kingdom, a member State or another country or territory to which this Regulation applies, other than the one in which the service started;

(b) after the use of the derogation, the driver takes—

(i) either two consecutive regular weekly rest periods; or

(ii) one regular weekly rest period followed immediately by one reduced weekly rest period of at least 24 hours. However, any reduction in that weekly rest period shall be compensated by an equivalent period of rest taken en bloc before the end of the third week following the end of the derogation period;

(c) after 1st January 2014 the vehicle is equipped with recording equipment in accordance with the requirements of Annex IB to Regulation (EEC) No 3821/85(**a**); and

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(**a**) EUR 3821/1985.

(d) after 1st January 2014, if driving during the period from 22,00 to 06,00, the vehicle is multi-manned or the driving period referred to in Article 7 is reduced to three hours.".

(7) After Article 8(6b) insert the following subparagraph—

"Where two reduced weekly rest periods have been taken consecutively in accordance with the third subparagraph of paragraph 6, the next weekly rest period shall be preceded by an equivalent rest period taken as compensation for those two reduced weekly rest periods.".

(8) After Article 8(8a) insert the following subparagraph—

"However, where the driver has taken two consecutive reduced weekly rest periods in accordance with paragraph 6, the transport undertaking shall organise the work of the driver in such a way that the driver is able to return before the start of the regular weekly rest period of more than 45 hours taken in compensation.

The undertaking shall document how it fulfils that obligation and shall keep the documentation at its premises in order to present it at the request of control authorities.".

(9) In Article 10, after paragraph (2) insert—

"3. A transport undertaking, whether established in the United Kingdom, a member State, or another country or territory, shall be liable for infringements committed by drivers of the undertaking, even if the infringement was committed on a territory other than the territory in which it is established. Liability is conditional on the transport undertaking's infringement of paragraphs 1 and 2. Evidence that the transport undertaking cannot reasonably be held responsible for the infringement committed can be considered.".

Amendment of Regulation (EU) No 165/2014

3.—(1) Regulation (EU) No 165/2014(**a**) 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 is amended as follows.

(2) In Article 2(2) at the end of sub-paragraph (z2) insert—

";

(z3) "smart tachograph 1" means a tachograph complying with Annex IC to Commission Implementing Regulation (EU) 2016/799(**b**), as adapted by Appendix 31-B-4-3 to the Trade and Co-operation Agreement between the United Kingdom of Great Britain and Northern Ireland, of the one part, and the European Union and the European Atomic Energy Community, of the other part entered into on 30th December 2020(**c**);

(z4) "smart tachograph 2" means a tachograph complying with the following requirements—

(i) automatic recording of border crossings as described in Article 8(1);

(ii) recording of loading and unloading activities;

(iii) recording whether the vehicle is used for carriage of goods or passengers; and

(iv) on or after 21st August 2023, the specifications set out in Implementing Regulation (EU) 2021/1228(**d**), as adapted by a decision of the Specialised Committee on Road Transport established under the Trade and Co-operation Agreement between the United Kingdom of Great Britain and Northern Ireland, of

(**a**) EUR 165/2014, amended by S.I. 2019/453, 2020/1658 and 2021/135.
(**b**) EUR 2016/799.
(**c**) The Trade and Cooperation Agreement can be found at https://www.gov.uk/government/publications/ukeu-and-eaec-trade-and-cooperation-agreement-ts-no82021.
(**d**) EUR 2021/1228.

the one part, and the European Union and the European Atomic Energy Community, of the other part entered into on 30th December 2020".

(3) In Article 3, after paragraph (1) insert—

"1a. A smart tachograph 2 shall be installed and used in vehicles registered for the first time on or after 21st August 2023.

1b. A smart tachograph 2 shall be installed and used in other vehicles—

(a) on or after 31st December 2024, in the case of vehicles equipped with an analogue tachograph or a digital tachograph immediately before that date;

(b) on or after 19th August 2025, in the case of vehicles equipped with a smart tachograph 1 immediately before that date; and

(c) on or after 1st July 2026, in the case of all other vehicles with a maximum permissible mass, including any trailer or semi-trailer, exceeding 2.5 tonnes,

but only when operating on the territory of a Party to the Trade and Co-operation Agreement between the European Union and the United Kingdom entered into on 30th December 2020, other than the territory where they are registered.".

(4) In Article 8(1)—

(a) after the first indent insert—

"— every time the vehicle crosses the border of the United Kingdom and a member State, or crosses a border between member States, or crosses a border between a member State and another country or territory,

— every time the vehicle performs loading or unloading activities,";

(b) in the third subparagraph for "36 months after the entry into force of the detailed provisions referred to in the first paragraph of Article 11" substitute "on or after 31st December 2024";

(c) after the third subparagraph insert—

"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 the United Kingdom or a member State for the first time on or after 21st August 2023, without prejudice to the obligation to retrofit certain vehicles later in accordance with Article 3(1a).".

(5) In Article 9(1) for "36 months after the entry into force of the detailed provisions referred to in Article 11" substitute "on or after 31st December 2024".

(6) In Article 10—

(a) for "36 months after the entry into force of the detailed provisions referred to in Article 11" substitute "on or after 31st December 2024";

(b) in point (b) for "Article 11" substitute "Implementing Regulation 2021/1228";

(c) at the end insert "The tachographs of vehicles registered for the first time on or after 21st August 2023 in the United Kingdom or a member State shall be equipped with the interface referred to in the first paragraph of this Article.".

(7) In Article 11 omit "Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 42(3).".

(8) In Article 34—

(a) in paragraph (1) after "otherwise authorised" insert "or is necessary in order to enter the symbol of the country after having crossed a border";

(b) in paragraph (5)—

(i) in subparagraph (b)(ii) omit ", as defined in point (a) of Article 3 of Directive 2002/15/EC";

(ii) in subparagraph (b)(iii) omit ", as defined in point (b) of Article 3 of Directive 2002/15/EC"; and

(iii) at the end insert—

"In this paragraph—

"driving" has the same meaning as in the definition of "working time" in regulation 2 of the Road Transport (Working Time) Regulations 2005(**a**), in relation to England and Wales and Scotland, and in regulation 2(2) of the Road Transport (Working Time) Regulations (Northern Ireland) 2005(**b**), in relation to Northern Ireland; and

"availability" has the same meaning as in the definition of "period of availability" in those regulations.";

(c) in paragraph (6) after subparagraph (e) insert—

"(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 that the driver enters after crossing the border of a member State or of the United Kingdom at the beginning of the driver's first stop in that member State or the United Kingdom. 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.";

(d) after paragraph (6) insert—

"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 that the driver enters after crossing a border of a member State or the United Kingdom at the beginning of the driver's first stop in that member State or the United Kingdom. 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.

It shall not be necessary for drivers to enter the information referred to in the first subparagraph if the tachograph is automatically recording location data in accordance with Article 8.".

Amendment of Regulation (EC) No 1072/2009

4.—(1) Regulation (EC) No 1072/2009(**c**) of the European Parliament and of the Council of 21 October 2009 on common rules for access to the international road haulage market is amended as follows.

(2) In Article 2(2)(b) after "by a vehicle" insert ", whose operator is established in the United Kingdom,".

(3) In Article 8(2), omit the second subparagraph.

Amendment of the Goods Vehicles (Licensing of Operators) (Temporary Use in Great Britain) Regulations 1996

5.—(1) The Goods Vehicles (Licensing of Operators) (Temporary Use in Great Britain) Regulations 1996(**d**) are amended as follows.

(**a**) S.I. 2005/639. Regulation 2 has been previously amended by S.I. 2007/583, 2011/1043 and 2012/991.
(**b**) S.I. 2005/241. Regulation 2 has been previously amended by S.I. 2007/323 and 2012/169.
(**c**) EUR 1072/2009, amended by the European Union (Future Relationship) Act 2020, section 24(1) and (2)(b) and by S.I. 2019/708 and 2022/293.
(**d**) S.I. 1996/2186. Regulation 5 has been previously amended by S.I. 2011/1043 and 2019/670, and regulation 6 by S.I. 2019/670. There are other amendments not relevant to this instrument.

(2) In regulation 5 (exemptions for Northern Ireland or foreign goods vehicles used for the carriage of goods between Member States of the European Union), omit paragraphs (a)(i) and (c).

(3) In regulation 6 (exemption for Northern Ireland or foreign goods vehicles with international licences)—

(a) for the heading substitute—

"**Exemption for Northern Ireland goods vehicles, or other goods vehicles established outside the United Kingdom, with international licences**";

(b) omit "or foreign"; and

(c) after "vehicle" where it first appears insert ", or other goods vehicle whose operator's State of establishment is not the United Kingdom,".

Signed by authority of the Secretary of State for Transport

Name
Parliamentary Under Secretary of State
Date Department for Transport

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations implement aspects of the Trade and Cooperation Agreement between the European Union and the United Kingdom entered into on 30th December 2020, relating to road freight and passenger transport, mainly in the area of drivers' hours and tachograph rules, but also in the area of international haulage access to the UK. These Regulations primarily reinstate provisions that were removed or amended in preparation for exiting the European Union.

Regulation 2 amends Regulation No (EC) 561/2006 (drivers' hours and tachograph rules) to—

(a) include in its scope goods vehicles over 2.5 tonnes on international journeys, from 1st July 2026;

(b) provide an exemption, from 1st July 2026, for vehicles between 2.5 and 3.5 tonnes used for own account international journeys and not for hire or reward;

(c) insert definitions of "occasional passenger services" and "special regular passenger services";

(d) provide for a derogation for vehicles used for a single provision of occasional passenger services consisting of the international carriage of passengers to allow drivers of these vehicles to postpone the weekly rest period for up to 12 consecutive 24-hour periods;

(e) provide for a derogation allowing drivers on international journeys to take two consecutive reduced weekly rest periods;

(f) provide that operators are liable for infringements committed under the drivers' hours rules by their drivers in the European Union and other countries and territories as well as the UK.

Regulation 3 amends Regulation (EU) No 165/2014 to—

(a) insert definitions of "smart tachograph 1" and "smart tachograph 2";

(b) insert implementation dates for the smart tachograph 2;

(c) impose certain requirements for drivers to record border crossings;

(d) omit reference to "EU implementing acts".

Regulation 4 amends Regulation (EC) 1072/2009 to—

(a) amend the definition of "international carriage";

(b) remove rights of EU hauliers to undertake cabotage following an unladen journey into the UK.

Regulation 5 amends the Goods Vehicles (Licensing of Operators) (Temporary Use in Great Britain) Regulations 1996 (S.I. 1996/2186) to make consequential amendments in respect of exemptions to particular requirements of those Regulations relating to Northern Ireland goods vehicles and other goods vehicles whose operators are established outside of the United Kingdom and who hold international licences.

A full impact assessment has not been produced for this instrument as no, or no significant, impact on the private, public or voluntary sectors is foreseen.

An Explanatory Memorandum for this instrument has been published alongside these Regulations at www.legislation.gov.uk.

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