EXPLANATORY MEMORANDUM TO

THE PASSENGER AND GOODS VEHICLES (RECORDING EQUIPMENT) (DOWNLOADING OF DATA) REGULATIONS 2015

2015 No. [XXXX]

1. 1.1 This explanatory memorandum has been prepared by the Department for Transport and is laid before Parliament by Command of Her Majesty.

1.2 This memorandum contains information for the Joint Committee on Statutory Instruments.

2. Purpose of the instrument

2.1 This instrument amends primary legislation governing the downloading of data from on-board digital tachographs fitted to lorries and coaches and from drivers' cards regulated by EU rules concerning drivers' hours and rest periods.

2.2 Its purpose is to increase from 56 days to 90 days the maximum interval that transport operators are permitted between downloads of drivers' hours data from on-board digital tachographs.

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None

4. Legislative Context

4.1 These regulations amend the Transport Act 1968 ("the Act").

4.2 Regulation (EC) No 561/2006 of the European Parliament and of the Council gave individual Member States the discretion to set the maximum permitted interval between downloads of data from on-board digital tachographs. Following public consultation, the Department decided on an interval of 56 days.

4.3 SI 2008 No 198 inserted section 97D(3) into the Act which provided for a maximum interval of 56 days between data downloads from on-board digital tachographs.

4.4 In 2010, Commission Regulation (EU) No 581/2010 set an upper limit of 90 days on the maximum interval between downloads that Member States could adopt.

4.5 Following the Red Tape Challenge and consultation, the Government decided to offer operators more flexibility, as permitted under EU law, by increasing the maximum download interval from 56 days to 90 days.

5. Territorial Extent and Application

5.1 This instrument applies to Great Britain.

6. European Convention on Human Rights

6.1 The [Name of Minister or Name of Authority] has made the following statement regarding Human Rights:

"In my view the provisions of The Passenger and Goods Vehicles (Recording Equipment) (Downloading of Data) Regulations 2015 are compatible with the Convention rights."

7. Policy background

- ***What is being done and why***

7.1 Most drivers of large commercial vehicles are subject to the EU drivers' hours rules. These rules limit continuous driving time and require drivers to take minimum breaks and rest periods. This helps to reduce the risk of accidents caused by driver-fatigue and thus improves road safety.

7.2 In order to enforce the EU drivers' hours rules, it is important to have a record of drivers' activities. Therefore, vehicles subject to the EU drivers' hours rules must be fitted with either an analogue or digital tachograph which records drivers' activities.

7.3 Digital tachographs were introduced in 2006; these record the drivers' daily activities in the form of data which is stored on both the driver's card and on the vehicle unit itself.

7.4 Data recorded on both the driver's card and the vehicle unit must be downloaded periodically to the relevant transport operator. Periodic downloads are needed both to check compliance with EU drivers' hours rules and to prevent data stored on the vehicle unit and driver's card from being overwritten. The original EU legislation gave individual Member States discretion to set their own maximum permitted intervals between downloads. Following public consultation, the Department decided on a 28-day maximum interval for drivers' cards and a 56-day maximum interval for vehicle units, this being frequent enough for effective enforcement whilst not being too burdensome to the operators.

7.5 In 2010, in order to set an upper limit on the discretion of Member States, Commission Regulation (EU) No 581/2010 established a maximum interval between downloads for vehicle units of 90 days. It established 28 days as the corresponding interval for driver cards.

7.6 The Government's Red Tape Challenge process highlighted the fact that a maximum permitted download interval of 56 days under domestic legislation could amount to "gold-plating" of the relevant EU legislation. The Government therefore decided to consult with the transport industry on the possibility of raising the interval to 90 days, being the maximum permitted under EU legislation.

7.7 The proposal was particularly welcomed by operators and drivers involved in long international journeys and tours, these being activities which can make it difficult, at a practical level, to download data within current permitted intervals. The impacts of the change are, however, expected to be limited. We estimate that around 11% of Passenger Vehicles and 21% of Heavy Goods Vehicles registered since 2006 (and therefore fitted with a digital tachograph) will be affected by the change.

8. Consultation outcome

8.1 The Department for Transport carried out a targeted industry consultation (from 12th December 2012 to 22nd February 2013) on the proposal to increase the maximum interval between downloads from digital on-board tachographs (i.e. the vehicle unit) from 56 days to the maximum 90-day limit allowed under EU legislation.

8.2 From the 20 responses received, it emerged that many operators already download data from the vehicle unit more regularly than the current 56 days required, as they incorporate it into periodic maintenance inspections of their vehicles.

8.3 However, for those operators involved in long international journeys and tours over 56 days, the extended interval alleviates a number of practical problems encountered when trying to download data whilst abroad.

8.4 The Driver and Vehicle Standards Agency (DVSA) confirmed that they would still be able to enforce the EU drivers' hours rules effectively if the changes went ahead.

9. Guidance

9.1 The Department will amend DVSA's Drivers' Hours Guidance to reflect the change to 90 days. The Guidance will also make it clear that, from the date these Regulations come into force: (i) any download period starting after that date will be 90 days or a shorter period if data is downloaded earlier, (ii) any download period that has not expired before that date will have the new maximum 90 day period; and (iii) in order to decide when a download period other than the first download period begins, the period within which usage must be considered is 90 days.

10. Impact

10.1 The impact on businesses, charities and voluntary bodies is deregulatory. We estimate that operators could save £0.93m per year.

10.2 The impact on the public sector is deregulatory.

10.3 An Impact Assessment is attached to this memorandum.

11. Regulating small business

11.1 The legislation applies to small business.

12. Monitoring & review

12.1 These regulations reduce rather than impose regulatory burdens on businesses and civil society organisations. They change the implementation of an EU obligation by extending the maximum download period from vehicle units from 56 to 90 days as permitted by the Commission Regulation.

12.2 For that reason it is not considered appropriate or necessary to include within the regulations either a sunset or a periodic review clause.

12.3 The Department for Transport is required to implement Regulation (EU) No. 165/2014, which amongst other things will introduce a third category of tachograph, by March 2016 and intends to conduct a general and far reaching review of Part VI of the Act in doing so. The Department will take this opportunity to improve the clarity of section 97D of the Act.

13. Contact

Giada Covallero at the Department for Transport, Tel: 020 7944 2457 or email: Giada.Covallero@dft.gsi.gov.uk can answer any queries regarding the instrument.