EXPLANATORY MEMORANDUM TO

THE DRIVERS' HOURS AND TACHOGRAPHS (AMENDMENT AND MODIFICATION) REGULATIONS 2025

2025 No. 402

1. Introduction

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

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

2. Declaration

2.1 Lilian Greenwood MP, Parliamentary Under Secretary of State at the Department for Transport, confirms that this Explanatory Memorandum meets the required standard.

2.2 Hannah Tooze and Katherine Macdivitt, Deputy Directors for the Road Freight Division at the Department for Transport, confirm that this Explanatory Memorandum meets the required standard.

3. Contact

3.1 Helen Grech at the Department for Transport telephone: 07717 800687 or email: freight@dft.gov.uk can be contacted with any queries regarding the instrument.

Part One: Explanation, and context, of the Instrument

4. Overview of the Instrument

What does the legislation do?

4.1 This instrument amends legislation related to drivers' hours and tachograph rules (see section 5) for international transport journeys to fully implement international obligations under the United Kingdom (UK) and European Union (EU) Trade and Cooperation Agreement ("TCA")[1].

4.2 This instrument will make two main changes:

- first, the legal basis for drivers' hours and tachograph rules applicable to passenger service vehicles ("PSVs"), irrespective of country of registration, and heavy goods vehicles ("HGVs"), registered outside of the UK and EU, on international transport journeys is being changed. The legal basis will change from the assimilated drivers' hours and tachograph regulations (see paragraph 5.1) to

[1] The Trade and Cooperation 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 30 December 2020: https://www.gov.uk/government/publications/ukeu-and-eaec-trade-and-cooperation-agreement-ts-no82021 A copy of this document can be inspected (on reasonable notice) free of charge by contacting the Treaty Enquiries Service: +44 (0)20 7008 1109.

the European agreement concerning the work of crews of vehicles engaged in international road transport ("AETR")[2];

- second, the instrument will clarify that drivers of in-scope HGVs on international transport journeys between the UK and EU will now need to produce 56 days, instead of 28 days, of tachograph data.

Where does the legislation extend to, and apply?

4.3 The extent of this instrument (that is, the jurisdiction(s) which the instrument forms part of the law of) is England and Wales, Scotland and Northern Ireland.

4.4 The territorial application of this instrument (that is, where the instrument produces a practical effect) is England and Wales, Scotland and Northern Ireland.

5. Policy Context

What is being done and why?

5.1 This instrument will amend Regulation (EC) 561/2006, as it has effect in the UK[3] ("assimilated drivers' hours regulation") and Regulation (EU) 165/2014, as it has effect in the UK[4] ("assimilated tachograph regulation").[5]

Assimilated drivers' hours and tachograph regulations

5.2 The drivers' hours rules are in place to protect road safety by limiting the time drivers spend at the wheel and thus helping reduce fatigue-related incidents, to ensure fair competition in the industry and to protect the working conditions of drivers.

5.3 The tachograph rules are in place to allow for proper enforcement of the drivers' hours rules.

5.4 As fundamental road safety measures, both the drivers' hours and the tachograph regulations were assimilated as UK law by section 3 of the European Union (Withdrawal) Act 2018 when the UK left the EU.

5.5 The assimilated drivers' hours regulation specifies the maximum driving times and minimum break and rest periods for drivers of HGVs weighing over 3.5 tonnes and PSVs with 10 or more seats that are engaged in the carriage of either goods or passengers by road.

5.6 The assimilated tachograph regulation specifies the rules relating to the construction, installation, use, testing and control of tachographs used in road transport.

5.7 Tachographs are devices that must be fitted to vehicles that are in-scope of the assimilated drivers' hours regulation and are used to record a driver's compliance with the assimilated drivers' hours regulation. There are currently four types of tachographs in circulation:

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[2] The AETR is a United Nations treaty which sets out the drivers' hours and tachograph rules for goods and passenger vehicles used for international transport journeys between the parties to the AETR. https://unece.org/fileadmin/DAM/trans/doc/2010/sc1/ECE-TRANS-SC1-2010-AETR-en.pdf.

[3] Regulation (EC) 561/2006: https://www.legislation.gov.uk/eur/2006/561/contents.

[4] Regulation (EU) 165/2014: https://www.legislation.gov.uk/eur/2014/165/contents.

[5] Both Regulation (EC) 561/2006 and Regulation (EU) 165/2014 were incorporated as retained direct EU legislation by Section 3 of the European Union (Withdrawal) Act 2018 https://www.legislation.gov.uk/ukpga/2018/16/section/3/enacted and are now referred to as 'assimilated direct legislation' by virtue of section 5 of the Retained EU Law (Revocation and Reform) Act 2023: https://www.legislation.gov.uk/ukpga/2023/28.

- Analogue tachographs (fitted to vehicles registered from 1980) - recordings are made by a stylus cutting traces into a wax-coated chart.
- Digital tachographs (fitted in vehicles registered from 1 May 2006) work by storing digital data on the driver and vehicle in the tachograph memory and separately on a driver's card.
- Smart 1 tachographs (fitted in vehicles registered from 15 June 2019) work in a similar way to a digital tachograph, but also automatically record the location of the vehicle and allow for enforcement authorities to remotely interrogate the data.
- Smart 2 and 'transitional' smart 2 tachographs (fitted in vehicles registered for the first time from 21 August 2023, for vehicles used for international journeys between UK and EU, and from 21 February 2024 for vehicles used for domestic journeys) work in a similar way as digital and smart 1 tachographs, but also automatically record border crossings including between EU Member States and are more fraud resistant.

The AETR rules

5.8 The AETR is a United Nations ("UN") treaty which, amongst other things, sets out the drivers' hours and tachograph rules for in-scope goods and passenger vehicles (i.e. goods vehicles weighing more than 3.5 tonnes and passenger vehicles with 10 or more seats) used for international transport journeys between the Parties to the AETR. There are currently 52 parties including the UK, all 27 EU Member States and other European States and States of the former Soviet Union. The AETR rules have governed transport journeys between the UK and non-EU Member States since the UK became a contracting party in 1978.

5.9 The UN aim was for the AETR to keep pace with the changes to the EU drivers' hours and tachograph regulations. The AETR was last updated in 2010 and included the adoption of digital tachographs. There is currently no progress on updating the AETR to match the developments made to the EU drivers' hours and tachograph regulations since 2010. International negotiations on possible changes to the AETR have been made difficult for a number of years due to fundamental political disagreements between certain parties as to how the agreement should operate.

5.10 Since 2010, the EU regulations have been amended, in particular with the adoption of the smart tachograph by the EU tachograph regulation (Regulation (EU) 165/2014)[6]. The EU and assimilated tachograph regulations also include retrofitting dates for replacement of the older style tachographs (for example analogue and digital) with the smart 2 tachograph for vehicles used for international transport outside the country of their registration.

5.11 Although the main provisions, such as maximum driving limits and minimum break and rest requirements, in the AETR are aligned with both the assimilated and EU drivers' hours and tachograph rules, the AETR does not include the adoption of the smart tachograph or any of the EU Mobility Package changes made in 2020[7]. The EU Mobility Package consists of three legislative texts that are intended to improve the working conditions of lorry drivers and reduce the risk of unfair competition in the

[6] https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32014R0165.

[7] Regulation (EU) 2020/1054 of the European Parliament and of the Council of 15 July 2020 amending Regulation (EC) No 561/2006 as regards minimum requirements on maximum daily and weekly driving times, minimum breaks and daily and weekly rest periods and Regulation (EU) No 165/2014 as regards positioning by means of tachographs: https://www.legislation.gov.uk/eur/2020/1054/contents.

road transport industry. The changes made by the Mobility Package to the EU drivers' hours and tachograph regulations came into force on 20 August 2020 and were directly applicable within the EU (including the UK).

International obligations on applicable drivers' hours and tachograph rules for passenger service vehicles

TCA and Interbus

5.12 The market access rules that UK bus and coach operators involved in running international passenger transport services must follow are provided under three treaties. The TCA sets out rules for most UK-EU passenger transport journeys. Occasional services are regulated by the Interbus Agreement ("Interbus").[8] The TCA requires that the conditions under Article 8 of Interbus are complied with, including in relation to the applicable drivers' hours and tachograph rules, for international passenger transport services between the UK and EU. From 1 April 2025, the Regular and Special Regular (RSR) Protocol[9] to Interbus will apply instead and the temporary bridging provisions under the TCA will largely fall away. The RSR Protocol will also require compliance with Article 8 of Interbus.

5.13 Article 8 of Interbus states that contracting parties, which consist of the UK, the EU (as one party) and other European countries outside the EU, shall either accede to the AETR or, if they have not done so, shall apply, alongside other Union acts, Regulation (EC) 561/2006 and Regulation (EU) 165/2014 (as they stood in 2011). As the UK acceded to AETR in 1978, the rules under the AETR are applicable for international passenger transport services. This differs from the current legal basis underpinning the rules in the UK, which is the assimilated drivers' hours and tachographs regulations.

Changes to the assimilated drivers' hours and tachograph regulations

5.14 This instrument will transfer the legal base for drivers' hours and tachograph rules applicable to PSVs (irrespective of country of registration) and HGVs (registered outside of the UK and EU) on international transport journeys, from the assimilated drivers' hours and tachograph regulations to the AETR rules. This will ensure the UK adheres to its international obligations.

5.15 The rules under the assimilated drivers' hours and tachograph regulations will continue to apply to journeys wholly within the UK made by all HGVs and PSVs and also to journeys wholly within the combined geography of the UK and EU undertaken by HGVs registered in the UK or an EU Member State.

Other changes to the assimilated drivers' hours and tachograph regulations

5.16 As a consequence of the amendment to apply AETR rules for PSVs used on international passenger transport, this instrument is also removing the derogation given to drivers of PSVs being used for occasional international transport journeys (known as the 12-day rule derogation), and consequently, the definition of 'occasional passenger service' (which is a term only applied in that derogation) from the

[8] Interbus is the Agreement on the international occasional carriage of passengers by coach and bus, as subsequently amended, which entered into force on 1 January 2003. https://www.gov.uk/government/publications/ms-no92018-interbus-agreement-with-protocol-and-decision

[9] https://www.gov.uk/government/publications/protocol-to-interbus-agreement-with-agreement-and-decision-ms-no102024.

assimilated drivers' hours regulation. To note, there is a similar derogation in the AETR rules for occasional international passenger services.

5.17 In addition, as a consequence of removing the 12-day rule derogation, this instrument will also remove the three infringements associated with this derogation, listed in Regulation (EU) 2016/403,[10] as it has effect in the UK ("assimilated infringement regulation"). The assimilated infringement regulation classifies serious infringements of rules related to commercial road transport, which may lead to the loss of good repute of the transport operator.

5.18 This instrument will also make minor changes to the definitions of "regular passenger services" and "special regular passenger services" in the assimilated drivers' hours regulation to fully align with the TCA and Interbus.

5.19 This instrument will also modify the assimilated tachograph regulation to clarify that in-scope HGVs being used for international transport between the UK and EU will need to keep tachograph records for 56 days rather than 28 days. This is a requirement under the TCA (under Article 10 of Section 4 of Part B of Annex 31). This obligation has applied since 31 December 2024 and was previously implemented into domestic law through the glossing provision under section 29 of the European Union (Future Relationship) Act 2020 ("FRA 2020").[11] This modification will provide legal clarity. As a consequence, this instrument also changes the assimilated infringement regulation to ensure the infringement of not keeping 56 days of records, for those to whom the requirement applies, is covered.

5.20 This instrument only modifies the record keeping requirement for HGVs on international transport journeys between the UK and EU. The existing 28-day period continues to apply to HGVs and PSVs on UK national transport journeys and to all PSVs on international transport journeys that come under the AETR rules.

What was the previous policy, how is this different?

5.21 As part of the preparations for a possible no-deal exit from the EU, the assimilated drivers' hours and tachograph regulations were amended by the Drivers' Hours and Tachographs (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/453)[12] to remedy deficiencies arising from the withdrawal of the UK from the EU. In particular, that instrument reflected that the legal framework for road transport operations between the UK and the EU from 31 December 2020 would be the AETR rules, as has been the case for transport journeys between the UK and most countries outside the EU since the UK became a contracting party to the AETR in 1978.

5.22 After the negotiation of the TCA in December 2020, the UK legislated for a continuity approach in the Drivers' Hours and Tachographs (Amendment) Regulations 2020[13] (S.I. 2020/1658) which amended the scope of the assimilated drivers' hours regulation (and thus the applicable tachograph regulation) from the AETR to the assimilated drivers' hours regulation for all vehicles used on international journeys between the UK and EU.

5.23 The TCA title about the transport by road of goods requires the UK and EU to apply rules equivalent to those in place in the EU at the end of 2020, including the EU

[10] Regulation (EU) 2016/403: https://www.legislation.gov.uk/eur/2016/403.
[11] European Union (Future Relationship) Act 2020: https://www.legislation.gov.uk/ukpga/2020/29/contents.
[12] Drivers' Hours and Tachographs (Amendment etc.) (EU Exit) Regulations 2019: https://www.legislation.gov.uk/uksi/2019/453.
[13] Drivers' Hours and Tachographs (Amendment) Regulations 2020: https://www.legislation.gov.uk/uksi/2020/1658/contents/made.

Mobility Package changes made in 2020, but not yet in force. These provisions included those related to the adoption of the smart tachograph 2 and the retrofitting dates for the old-style tachographs (see paragraph 5.7). The assimilated drivers' hours and tachograph regulations have been amended since 2020 to reflect changes required in the TCA. This instrument will not change the policy in relation to the international transport of goods undertaken further to the TCA.

5.24 Road passenger transport services between the UK and EU, further to Interbus and the TCA, prior to this instrument have needed to follow the assimilated drivers' hours and tachograph regulations when in the UK. This instrument will change the UK legal basis for these transport services to the AETR so there is one set of rules in force for the whole of these international passenger transport journeys. This change will ensure that the UK is compliant with its international obligations and allows proper enforcement against drivers of EU registered PSVs in the UK. The UK implemented a temporary enforcement position to permit these journeys, if they complied with AETR rules but did not meet the requirements of the assimilated drivers' hours and tachograph regulations, pending this statutory instrument coming into force.

5.25 The differences between the rules based on AETR and the assimilated regulations have up to now been minor. However, divergence between the AETR rules and those in the EU is increasing, particularly with the introduction of the smart tachograph for vehicles in-scope of the assimilated regulations and the retrofitting dates for the replacement of old-style tachographs with the smart tachograph 2 for vehicles on international transport in the EU.

5.26 This instrument will have the effect (unlike the previous policy) of not requiring UK or EU operators to retrofit smart 2 tachographs when operating on international road passenger journeys between the UK and EU.

5.27 The position for operators of goods vehicles operating international transport journeys between the UK and EU will remain unchanged; tachographs must be retrofitted due to TCA requirements implemented in the UK via the assimilated tachograph regulation. The position for UK operators of passenger vehicles operating international transport journeys between the UK and EU will change as, because of the AETR rules applying, there will be no retrofitting requirements. The position will remain unchanged for vehicles (whether goods or passenger) used solely for national transports in the UK, namely that there is no retrofit requirement.

5.28 Drivers of goods and passenger vehicles, being used for both national transport journeys and international transport journeys, are required to retain 28 days of data on their tachograph cards. However, the TCA has required drivers of in-scope goods vehicles on international journeys between the UK and EU to retain 56-days of data on their tachograph card since 31 December 2024. This instrument clarifies this requirement.

5.29 The amendment to the definitions of "regular passenger services" and "special regular passenger services" will add clarification but will not change previous practices.

6. Legislative and Legal Context

How has the law changed?

6.1 This instrument will be made using powers in section 31(1) and (3) of the FRA 2020 and under paragraph 27 of Schedule 5 to that Act. This instrument will make amendments and modifications to three pieces of assimilated law to fully implement the commitments in the TCA regarding drivers' hours and tachographs. These are the

assimilated drivers' hours regulation, the assimilated tachograph regulation and the assimilated infringement regulation.

6.2 The following changes will be made in this instrument:

Assimilated drivers' hours regulation

a. Amends the scope in Article 2 so that PSVs (irrespective of country of registration) and HGVs (registered outside UK and EU) on international transport journeys need to apply the AETR rules.

b. Amends the definitions of "regular passenger services" and "special regular passenger services" in Article 4(n) and 4(na) to clarify that "special regular passenger services" also need to meet the conditions of "regular passenger services". In addition, this instrument specifies that these "special regular services" include the transport of workers between home and work, and the transport of school pupils and students to and from their educational institution.

c. Removes the definition of "occasional passenger services" in Article 4(nb).

d. Removes Article 8(6a) to remove the 12-day rule derogation given to a driver engaged in a "single occasional passenger service of international carriage of passengers".

Assimilated tachograph regulation

e. Modifies Article 36 to clarify that the 56 days record keeping requirement is applicable for in-scope goods vehicles (i.e. goods vehicles registered in the UK or EU weighing over 3.5 tonnes and, from 1 July 2026, some 2.5 to 3.5 tonne goods vehicles) on international journeys between the UK and EU.

Assimilated infringement regulation

f. Removes the three infringements in table 1 referring to the 12-day rule derogation.

g. Amends the two infringements in table 2 referring to the requirement to produce 28 days of data to include 56 days where applicable.

Why was this approach taken to change the law?

6.3 The approach has been taken to achieve the policy outcome of the UK being fully compliant with our international obligations. The changes made relate to the UK's relationship with the EU and in particular the carriage of passengers and goods by road between the UK and EU.

6.4 The change in the required length of records to be carried by drivers of goods transports when on international journeys between the UK and EU, from 28 days to 56 days, is a requirement of the TCA. This instrument will provide legal clarity to assist enforcement of that provision in the UK.

7. Consultation

Summary of consultation outcome and methodology

7.1 There was no formal public consultation as this statutory instrument implements the existing commitments in the TCA and does not have an impact on the general public.

7.2 The changes being made ensure the UK approach to enforcement on affected international journeys is consistent with its international obligations. This instrument will not add any new legal requirements applicable to UK-based or EU-based operators and their drivers involved in the international transport of passengers or goods between the UK and EU. Whether driving in compliance with the EU regulations, the assimilated drivers' hours and tachographs regulations or the AETR, the fundamental rules on maximum driving and minimum breaks and rests will remain the same.

7.3 The Department for Transport's Deputy Director of Road Freight Regulation contacted the main trade associations (the Confederation of Passenger Transport, the Road Haulage Association and Logistics UK) on 16 December 2024 to inform them of the applicable rules for buses and coaches used on international transport and that domestic legislation (the assimilated drivers' hours regulation) would need to be amended at the earliest opportunity to reflect these changes and that a notification would be sent out to industry stakeholders on 17 December 2024.

7.4 Industry stakeholders were notified by email on 17 December 2024 using the Driver and Vehicle Standard Agency ("DVSA") email alert system that covers all holders of operator licences. DVSA is a government agency responsible for enforcing the drivers' hours and tachograph rule.

7.5 While industry did not raise any major issues with the Department about the change in applicable rules, as the main rules on maximum driving time and minimum break and rest requirements are the same, stakeholders did query whether or not PSVs would still need to comply with the retrofitting dates for the smart tachograph 2 in the assimilated tachograph regulation for vehicles used on international journeys between the UK and EU, as the first retrofitting date for vehicles fitted with an analogue and digital tachograph was 31 December 2024.

7.6 Additionally, one Trade Association expressed concern from one of their members that had retrofitted some of their PSVs with a smart tachograph 2 in anticipation of the 31 December 2024 deadline.

7.7 Even though retrofitting will remain a legal requirement until this instrument comes into force, industry was assured that DVSA will not be enforcing these retrofitting dates for PSVs. Once this instrument comes into force, these vehicles will be out of scope of both the assimilated drivers' hours regulation and tachograph regulation when being used on international journeys between the UK and EU, including the retrofitting date requirements. Vehicles fitted with a smart tachograph 2 will be compliant with the AETR rules.

Northern Ireland

7.8 Drivers' hours and tachographs policy is a transferred matter for Northern Ireland ("NI") under the Northern Ireland Act 1998.[14] However, all the domestic regulations made to amend the assimilated regulations since 2019 have also included NI. This approach was agreed at that time with the relevant NI Department due to the absence of a NI Executive, to ensure a functioning statute book across the UK, including in Northern Ireland, from 31 December 2020.

7.9 Although NI now have a sitting Executive, the Department has agreed with the NI Department for Infrastructure that it would make practical sense for this instrument,

[14] The Northern Ireland Act 1998: https://www.legislation.gov.uk/ukpga/1998/47/contents.

which will amend the assimilated regulations, to also include NI. This will ensure a consistent regime throughout the United Kingdom.

8. Applicable Guidance

8.1 Detailed guidance on the drivers' hours and tachograph rules applicable to drivers of passenger vehicles and goods vehicles is published on the gov.uk website.[15] The guidance on the drivers' hours and tachograph rules which is applicable to drivers of passenger vehicles will be updated once this instrument comes into force.

Part Two: Impact and the Better Regulation Framework

9. Impact Assessment

9.1 A full Impact Assessment has not been prepared for this instrument because there will be no substantive changes to the requirements on drivers and operators as a consequence of this instrument. It is estimated that the direct impacts on business will be under £10M per year, so an internal De Minimis Assessment ("DMA") has been conducted. Please see the DMA published alongside this instrument.

Impact on businesses, charities and voluntary bodies

9.2 There will be no, or no significant, impact on business, charities or voluntary bodies because of the changes being made in this instrument. This is because the assimilated and AETR rules are largely aligned and would only affect a small number of PSV operators who undertake international transport journeys.

9.3 The legislation does not specifically impact small or micro businesses, as this instrument will not modify the substantive requirements for UK drivers and operators.

9.4 There will be no, or no significant, impact on the public sector. This is because the assimilated regulations being amended by this instrument do not apply to the public sector.

10. Monitoring and review

What is the approach to monitoring and reviewing this legislation?

10.1 The approach to monitoring this legislation is that it will be monitored alongside the FRA 2020, together with the TCA and Interbus.

10.2 As this instrument is made under the FRA 2020, no review clause is required.

Part Three: Statements and Matters of Particular Interest to Parliament

11. Matters of special interest to Parliament

11.1 This statutory instrument will not create any new offences and is not considered to be significant or controversial and its practical effects have been assessed as being limited.

11.2 Lilian Greenwood MP, Parliamentary Under Secretary of State at the Department for Transport, has therefore decided, further to Schedule 5 to the FRA 2020, that the

[15] Gov.uk guidance on drivers' hours for passenger transport: https://www.gov.uk/guidance/drivers-hours-passenger-vehicles. Guidance on drivers' hours for goods transport: https://www.gov.uk/guidance/drivers-hours-goods-vehicles.

instrument is made subject to annulment in pursuance of a resolution of either House of Parliament.

11.3 This instrument includes a provision correcting the change in applicable drivers' hours and tachograph regulations for PSVs used on international journeys between the UK and EU made by the Drivers' Hours and Tachographs (Amendment) Regulations 2020 (S.I. 2020/1658). Accordingly, this instrument is being issued free of charge to all known recipients of that instrument.

11.4 The Department recognises that a portion of the 21-day laying period falls in parliamentary recess, but this was necessary to ensure the law correctly reflected international obligations at the earliest opportunity.

12. European Convention on Human Rights

12.1 Lilian Greenwood MP, Parliamentary Under Secretary of State at the Department for Transport, has made the following statement regarding Human Rights:

"In my view the provisions of the Drivers' Hours and Tachograph (Amendment and Modification) Regulations 2025 are compatible with the Convention rights."

13. The Relevant European Union Acts

13.1 This instrument is made under section 31 of, and paragraph 27 of Schedule 5 to, the FRA 2020 and therefore relates to the UK's future relationship with the European Union.