STATUTORY INSTRUMENTS

1978 No. 1157

ROAD TRAFFIC

The Drivers' Hours (Harmonisation with Community Rules) Regulations 1978

Laid before Parliament in draft

Made - - - - 2*nd August* 1978

Coming into Operation 17*th August* 1978

The Secretary of State for Transport, in exercise of the powers conferred by section 95(1) and (1A) of the Transport Act 1968**(a)**, as amended by section 2 of the Road Traffic (Drivers' Ages and Hours of Work) Act 1976**(b)**, and of all other enabling powers, and after consultation with representative organisations in accordance with section 101(6) of the said Act of 1968, hereby makes the following Regulations:—

Citation, commencement, revocation and interpretation

1.—(1) These Regulations may be cited as the Drivers' Hours (Harmonisation with Community Rules) Regulations 1978 and shall come into operation 15 days after the date on which they are made.

(2) The Drivers' Hours (Passenger and Goods Vehicles) (International Rules) Regulations 1973**(c)** are hereby revoked.

(3) In these Regulations—

"the Act" means the Transport Act 1968, as amended by paragraph 9 of Schedule 4 to the European Communities Act 1972**(d)** and by section 2 of the Road Traffic (Drivers' Ages and Hours of Work) Act 1976;

"the Community rules" means those provisions of Council Regulation (EEC) No. 543/69 of 25th March 1969 on the harmonisation of certain social legislation relating to road transport**(e)** (as last amended by Council Regulations (EEC) Nos. 2827/77**(f)** and 2829/77**(g)**, both of 12th December 1977) which regulate the driving and rest periods of drivers of goods and passenger vehicles and which apply in unmodified form to journeys or work in connection with international transport operations, but apply until 31st December 1980 in modified form, and thereafter in unmodified form, to journeys or work in connection with national transport operations in Great Britain;

"Community regulated journeys or work" means journeys or work to which the Community rules apply, whether in modified or unmodified form;

"domestic journeys or work" means journeys or work to which the Community rules do not apply but to which the provisions of Part VI of the Act do apply;

(a) 1968 c. 73. (b) 1976 c. 3. (c) S.I. 1973/379. (d) 1972 c. 68.
(e) O.J. No. L.77/49 of 29.3.69. (f) O.J. No. L.334/1 of 24.12.77.
(g) O.J. No. L.334/11 of 24.12.77.

"goods vehicle" and "passenger vehicle" mean, respectively, any goods vehicle and any passenger vehicle to which Part VI of the Act applies;

"international journeys or work" means those Community regulated journeys or work which are undertaken in connection with international transport operations and to which the Community rules apply in unmodified form;

"national journeys or work" means those Community regulated journeys or work which are undertaken in connection with national transport operations in Great Britain and to which, so long as the temporary modifications referred to in paragraph (4) below continue, the Community rules apply in modified form, and thereafter in unmodified form.

(4) The references in these Regulations to the Community rules as applying in modified form are references to those rules as temporarily modified by the Community Drivers' Hours Rules (Temporary Modifications) Regulations 1978**(a)** and the references in these Regulations to the Community rules as applying in unmodified form are references to those rules as they have effect without that modification.

(5) Subject to the provisions of these Regulations, any expression which is used in these Regulations and is defined in Part VI of the Act has the same meaning in these Regulations as in that Part.

(6) The references in these Regulations to sections 96 and 103 of the Act are references—

(*a*) so far as relating to passenger vehicles, to those sections as modified by Part II of the Drivers' Hours (Passenger and Goods Vehicles) (Modifications) Order 1971**(b)**, and

(*b*) so far as relating to goods vehicles, to those sections as modified by the Drivers' Hours (Goods Vehicles) (Modifications) Order 1970**(c)** and by Part III of the said Order of 1971.

(7) The Interpretation Act 1889**(d)** shall apply for the interpretation of these Regulations as it applies for the interpretation of an Act of Parliament, and as if for the purpose of section 38 of that Act these Regulations were an Act of Parliament and the Regulations revoked by paragraph (2) above were Acts of Parliament thereby repealed.

Section 96 of the Act not to apply in cases where the Community rules apply

2. Subject to Regulations 3, 4 and 5 below, the provisions of subsections (1) to (9) of section 96 of the Act (permitted driving time and periods of duty of drivers of passenger and goods vehicles) shall not apply in relation to the Community regulated journeys or work of the driver of a passenger vehicle or of a goods vehicle.

Adaptation of sections 96 and 103 of the Act to take account of the operation of the Community rules in relation to the driving of passenger and goods vehicles

3.—(1) Where a driver of a passenger or goods vehicle spends time in driving or on work partly on Community regulated journeys or work and partly on domestic journeys or work, then in applying, as respects the domestic journeys or work, the limits in subsections (1) to (9) of section 96 of the Act on periods of driving or duty or length of working day account shall be taken of the time spent by that driver in driving on the Community regulated journeys or in carrying out the Community regulated work and that time shall not be

(a) S.I. 1978/7. (b) S.I. 1971/818. (c) S.I. 1970/257. (d) 1889 c. 63.

regarded for the purposes of any of those subsections as constituting or forming part of an interval for rest or an interval for rest and refreshment.

(2) The definition of "the applicable Community rules" (inserted in section 103(1) of the Act by section 2(1)(*a*) of the Road Traffic (Drivers' Ages and Hours of Work) Act 1976) shall apply in relation to such of those rules as are embraced by the definition of 'the Community rules' in Regulation 1(3) above.

Additional provisions with respect to goods vehicle drivers undertaking national journeys or work but no international journeys or work

4.—(1) This Regulation applies to a goods vehicle driver who undertakes national journeys or work (whether with or without domestic journeys or work) but it does not apply to him in any seven consecutive days' period at the beginning of which he undertakes international journeys or work.

(2) The provisions of Regulation 2 above shall not have the effect of causing the following provisions of section 96 of the Act to cease to apply in relation to the national journeys or work of a driver to whom this Regulation applies:—

(i) subsection (2) (interval for rest between periods of duty),

(ii) subsection (3) (the working day of a driver),

(iii) subsection (5) (the working week of a driver), and

(iv) subsections (7), (8) and (9) (modifications of requirements in certain cases) so far as they are applicable for the purposes of subsection (2), (3) or (5).

(3) For the purpose of the application of—

(i) subsections (2), (3), (7) and (8) of section 96 of the Act in relation to the national journeys or work of a driver to whom this Regulation applies, and

(ii) subsections (1) to (9) of that section in relation to the domestic journeys or work of such a driver,

the definition of "working day" in section 103(1) of the Act shall be amended by substituting for the words "or (where permitted by virtue of section 96(4)(*b*) of this Act) of not less than nine and a half hours" the words "or, where permitted by Article 11(1), (3) or (4) of Council Regulation (EEC) No. 543/69 (daily rest) or by section 96(4) of this Act as amended by Regulation 4(6) of the Drivers' Hours (Harmonisation with Community Rules) Regulations 1978, of not less than ten, nine or, as the case may be, eight hours".

(4) For the purpose of the application of subsection (2) of section 96 of the Act (interval for rest between periods of duty) in relation to the national and domestic journeys or work of a driver to whom this Regulation applies, in a case where the vehicle in connection with which the journeys or work are undertaken is not a vehicle referred to in Article 6 of Council Regulation (EEC) No. 543/69 (heavy vehicles and vehicles with more than one trailer), that subsection shall be amended to read as follows:—

"(2) Subject to the provisions of this section, if on any working day a driver has been on duty for a period of, or for periods amounting in the aggregate to, five and a half hours and—

(*a*) during that period, or during or between any of those periods, the driver has not had—

(i) one interval of not less than half an hour, or

(ii) two intervals of not less than 20 minutes each, or

(iii) three intervals of not less than 15 minutes each,

in which he was able to obtain rest and refreshment; and

(*b*) the end of that period, or of the last of those periods, does not mark the end of that working day,

he shall at the end of that period, or of the last of those periods, have such an interval as aforesaid of not less than half an hour, but that interval may be reduced to—

(A) 20 minutes where during the period, or during or between any of the periods, mentioned above the driver has had one interval of at least 20 minutes in which he was able to obtain rest and refreshment, or

(B) 15 minutes where during that period, or during or between any of those periods, he has had two such intervals of at least 15 minutes each."

(5) For the purpose of the application of subsection (3) of section 96 of the Act (the working day of a driver) in relation to the national and domestic journeys or work of a driver to whom this Regulation applies that subsection shall be amended to read as follows:—

"(3) Subject to the provisions of this section, the working day of a driver—

(*a*) except where paragraph (*b*) or (*c*) of this subsection applies, shall not exceed eleven hours;

(*b*) if during that day he is off duty for a period which is, or periods which taken together are, not less than the time by which his working day exceeds eleven hours, shall not exceed twelve and a half hours;

(*c*) where the vehicle of which he is driver is one manned by two drivers—

(i) shall, in a case where the vehicle has no bunk enabling crew members who are not performing any activity to lie down comfortably, not exceed 17 hours if during that working day that driver is for a period of, or for periods amounting in the aggregate to, at least 6 hours not required to perform any activity in connection with the operation of the vehicle, and

(ii) shall, in a case where the vehicle has such a bunk as aforesaid, not exceed 22 hours if during that working day that driver is for a period of, or for periods amounting in the aggregate to, at least 11 hours not required to perform any activity in connection with the operation of the vehicle."

(6) For the purpose of the application of subsection (4) of section 96 of the Act (interval for rest) in relation to the domestic journeys or work of a driver to whom this Regulation applies that subsection shall be amended by substituting for paragraphs (*a*) and (*b*) thereof the following:—

"(*a*) subject to paragraphs (*b*) and (*c*) of this subsection, shall not be of less than eleven hours;

(*b*) may be reduced to nine hours not more than twice in any working week when such rest is taken at the place where the driver or the vehicle is based, or to eight hours not more than twice in any working week when such rest is taken elsewhere than at that place; and

(*c*) where the vehicle is manned by two drivers—

(i) may, if the vehicle has no bunk enabling crew members who are not performing any activity to lie down comfortably, be

reduced to ten hours during the 27 hour period preceding any time when the driver is on duty, or

(ii) may, if the vehicle has such a bunk as aforesaid, be reduced to eight hours during the 30 hour period preceding any time when the driver is on duty."

(7) For the purpose of the application of subsection (6) of section 96 of the Act (weekly off-duty periods) in relation to the domestic journeys or work of a driver to whom this Regulation applies that subsection shall be amended by substituting for the words "being a period either falling wholly in that week" onwards the words "being a period which is either immediately preceded or followed by such an interval for rest as is mentioned in subsection (4) above (as that subsection is amended by Regulation 4(6) of the Drivers' Hours (Harmonisation with Community Rules) Regulations 1978)."

(8) As from 1st January 1979 the following provisions of section 103 of the Act, so far (and only so far) as they are relevant for the interpretation of—

(i) subsections (1) to (9) of section 96 of the Act in their application to the domestic journeys or work of a driver to whom this Regulation applies who spends time in driving or on work partly on national journeys or work and partly on domestic journeys or work,

(ii) subsections (2), (3), (5), (7) and (8) of the said section 96 in their application to the national journeys or work of such a driver, and

(iii) paragraph (10) below,

shall be amended as follows, that is to say—

(*a*) in subsection (1) of the said section 103 the following shall be substituted for the definition of "working week", namely—

""working week" means any period of seven consecutive days"; and

(*b*) subsection (5) shall be omitted.

(9) Where a person drives both goods and passenger vehicles he shall not be regarded, in relation to the relevant period, as a goods vehicle driver for the purpose of this Regulation unless of the time which he spends in that period in driving, or on work in connection with, the goods and passenger vehicles (whether on national or domestic journeys or work) at least half is spent in driving, or on work in connection with, the goods vehicles.

(10) In paragraph (9) above "the relevant period" means—

(*a*) where the case concerns the application of subsection (1), (2) or (3) of section 96 of the Act with respect to a working day of the driver, that working day,

(*b*) where the case concerns the application of subsection (4) of the said section 96 with respect to an interval of rest following a working day of the driver, that working day, and

(*c*) where the case concerns the application of subsection (5), (6), (7) or (8) of the said section 96 with respect to a working week of the driver, that working week.

Additional provisions with respect to goods vehicle drivers undertaking international journeys or work

5.—(1) Where a goods vehicle driver undertakes international journeys or work and also domestic journeys or work (whether with or without national

journeys or work), this Regulation applies to him during any period of seven consecutive days at the beginning of which the international journeys or work are undertaken.

(2) In relation to the domestic journeys or work of a driver to whom this Regulation applies sections 96 and 103 of the Act shall have effect during the period mentioned in paragraph (1) above subject to the adaptations mentioned in paragraphs (3) to (6) below.

(3) The definition of "working day" in section 103(1) and subsections (2) (interval for rest between periods of duty), (4) (interval for daily rest) and (6) (weekly off-duty periods) of section 96 shall be amended in the same way as is provided in Regulation 4(3), (4), (6) and (7) above in relation to the domestic journeys or work of a driver to whom that Regulation applies.

(4) In subsection (2) (amended as mentioned in paragraph (3) above) of section 96 for the words "on duty" the word 'driving' shall be substituted.

(5) Subsections (3) (the working day of a driver) and (5) (the working week of a driver) of section 96 shall not apply.

(6) In subsection (1) of section 103 the following shall be substituted for the definition of 'working week', namely—

> ""working week" means any period of seven consecutive days;", and subsection (5) shall be omitted.

(7) Where in the period referred to in paragraph (1) above a person drives both goods and passenger vehicles, he shall not be regarded for the purposes of this Regulation as a goods vehicle driver unless of the time which he spends in that period in driving, or on work in connection with, the goods and passenger vehicles (both on the Community regulated and on the domestic journeys or work) at least half is spent in driving, or on work in connection with, the goods vehicles.

William Rodgers,
Secretary of State for Transport.

2nd August 1978.

EXPLANATORY NOTE

(Neither this Note nor the Summary which follows it is part of the Regulations.)

These Regulations make provision for adjusting the terms of section 96 of the Transport Act 1968 (which, as modified by the Drivers' Hours (Passenger and Goods Vehicles) (Modifications) Order 1971 regulates the permitted driving times and periods of duty of drivers of passenger and goods vehicles) so as to take account of the application of the rules of the European Economic Community ("the Community rules" – see Regulation 1(3)) with respect to such driving times and duty on international transport operations and on national transport operations in Great Britain.

Regulation 1 revokes the Drivers' Hours (Passenger and Goods Vehicles) (International Rules) Regulations 1973.

Regulation 2 provides, in general, for the removal from Community regulated journeys and work of the drivers of passenger and goods vehicles of the section 96 limits on permitted driving times and periods of duty.

Regulation 3 deals with the case where the driver of a passenger or goods vehicle spends part of his time on Community regulated journeys or work and part on domestic journeys or work to which section 96 applies and provides that in applying the section 96 limits to the latter journeys and work account must be taken of the time spent by the driver on the Community regulated journeys and work.

Regulation 4 makes special provision for goods vehicle drivers who undertake Community regulated journeys or work on national transport operations but who do not carry out international transport operations. The effect of Regulation 4 is to secure that Regulation 2 does not cause subsection (2) (interval for rest between periods of duty), subsection (3) (restriction on the working day of a driver), subsection (5) (restriction on the working week of a driver) or subsections (7) to (9) (modifications of requirements in certain cases) of section 96 to cease to apply to those Community regulated journeys and work of such a driver. The regulation amends in relation both to the Community regulated journeys and work and to the domestic journeys and work of such a goods vehicle driver section 96(2) (interval for rest between periods of duty) in certain cases only, and section 96(3) (length of working day) of the 1968 Act, so as to take account of the operation of the provisions of Article 11 of Council Regulation (EEC) No. 543/69 (daily rest period). It also amends in relation to the domestic journeys and work of such a goods vehicle driver section 96(4) (daily rest period), section 96(6) (weekly off-duty period) and the definition of "working day" in section 103(1) of the 1968 Act, so as to take account of the provisions of the same Article of the EEC Regulation. In addition Regulation 4 amends, as from 1st January 1979 in relation to the domestic journeys and work of such a goods vehicle driver who spends time on Community regulated journeys or work, the definition of "working week" in section 103(1) of the 1968 Act so as to reflect the fact that, as from that date, the Sunday to Saturday week (provided for in the 1968 Act) will be replaced by the any 7 consecutive days week ("the rolling week") in the Community rules as they apply to the national transport operations of a goods vehicle driver.

Regulation 5 provides for the case of the goods vehicle driver whose Community regulated journeys or work consist of or include such journeys or work on international transport operations and who at any time within 7 days after the international journeys or work also undertakes domestic journeys or work outside the scope of the Community rules altogether. It amends sections 96 and 103 of the 1968 Act in relation to the latter journeys and work but makes

no provision for applying any of the limits in section 96 of the 1968 Act to the Community regulated journeys or work of the driver. In the case of the domestic journeys or work of this driver the amendments to subsections (4) (daily rest period) and (6) (weekly off-duty period) of section 96, and to the definition of working day in section 103(1), of the 1968 Act provided for in Regulation 4 are applied but, in addition, section 96 is further modified by the exclusion of the limits on duty for the working day and the working week of such a driver, subsection (2) of section 96 (intervals for rest between periods of duty) is amended so as to apply the limit to driving (instead of duty), and the definition of 'working week' in section 103 is amended so as to apply the "rolling week" concept. These amendments preserve in relation to the international driver the substance of the modifications of Part VI of the 1968 Act provided for in the Drivers' Hours (Passenger and Goods Vehicles) (International Rules) Regulations 1973.

SUMMARY

The following is a summary of the general effect of the European Communities Act 1972, of these Regulations, and of the other instruments referred to in these Regulations, on the law relating to the hours of work for drivers of passenger and goods vehicles. The summary shows which set of rules (Community or domestic) applies, or does not apply, to the particular kinds of journey or work in connection with passenger and goods vehicles.

A. PASSENGER VEHICLES

(1) *International journeys and work*

The Community rules (unmodified) apply. The domestic rules do not apply (*Regulation 2*). If a person who undertakes international journeys or work also undertakes domestic journeys or work, account has to be taken of the time spent on the international journeys or work in applying the limits in the domestic rules to the domestic journeys or work (*Regulation 3*).

(2) *National journeys and work*

The Community rules apply in modified form until 31st December 1980 and thereafter in unmodified form. The domestic rules do not apply (*Regulation 2*). If a person who undertakes national journeys or work also undertakes domestic journeys or work, account has to be taken of the time spent on the national journeys or work in applying the limits in the domestic rules to the domestic journeys or work (*Regulation 3*).

(3) *Domestic journeys or work*

Where a person only undertakes domestic journeys or work, the domestic rules alone apply.

B. GOODS VEHICLES

(1) *International journeys and work*

The Community rules (unmodified) apply. The domestic rules do not apply (*Regulation 2*). If in any period of seven days at the beginning of which a person has undertaken international journeys or work—

(*a*) that person also undertakes national journeys or work, the domestic rules will not, during that period, apply to the national journeys or work (*Regulations 2 and 4(1)*),

(*b*) that person also undertakes domestic journeys or work, the domestic rules will during that period apply to those journeys or work without

the limits on duty (*Regulation 5*) but, insofar as the domestic rules do apply, the time spent on the international journeys or work (and the national journeys or work, if relevant), must be taken into account in applying the limits imposed by the domestic rules (*Regulation 3*).

(2) *National journeys or work*

The Community rules apply in modified form until 31st December 1980 and thereafter in unmodified form. Except in a case where the person undertaking the national journeys or work has at some time during the previous 7 days undertaken international journeys or work (for this case see (1) above)—

(*a*) the duty limits in the domestic rules apply in an amended form to the national journeys or work (*Regulation 4(2)–(5)*),

(*b*) if the person also undertakes domestic journeys or work, the domestic rules apply in an amended form to the domestic journeys or work (*Regulation 4(3)–(7)*) and any time spent by that person on the national journeys or work has to be taken into account in applying the limits in the domestic rules to the domestic journeys or work (*Regulation 3*).

(3) *Domestic journeys or work*

Where a person only undertakes domestic journeys or work, the domestic rules alone apply.

C. PASSENGER AND GOODS VEHICLES

Where a person on any working day or in any working week drives or carries out work in connection with both passenger and goods vehicles, he is not to be treated for the purposes of the domestic rules as a goods vehicle driver unless at least half the time he spends with the passenger and goods vehicles is spent with the goods vehicles (*Regulation 4(9) and (10) and Regulation 5(7)*).

D. NOTES

In this Summary—

"international journeys or work", "national journeys or work" and "domestic journeys or work" have the meanings given in Regulation 1(3);

"the Community rules" has the meaning given in Regulation 1(3) and the references to the Community rules as being modified or unmodified should be construed in accordance with Regulation 1(4);

"the domestic rules" means the provisions of section 96(1) to (9) of the Transport Act 1968 (these provisions applying in substantially altered form to passenger vehicles by virtue of the Drivers' Hours (Passenger and Goods Vehicles) (Modifications) Order.

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