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(Acts whose publication is obligatory)

COUNCIL REGULATION (EEC) No 2827/77

of 12 December 1977

amending Regulation (EEC) No 543/69 on the harmonization of certain social legislation relating to road transport

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 75 thereof,

Having regard to Council Regulation (EEC) No 543/69 of 25 March 1969 on the harmonization of certain social legislation relating to road transport (1), as amended by Regulations (EEC) No 514/72 (2) and (EEC) No 515/72 (3),

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament (4),

Having regard to the opinion of the Economic and Social Committee (5),

Whereas experience has shown that a number of the difficulties encountered in implementing Regulation (EEC) No 543/69 need to be remedied by making amendments which do not jeopardize the aims of social progress, road safety and the harmonization of conditions of competition pursued in the field of road transport;

Whereas in the case of vehicles using recording equipment as provided for in Articles 1 and 20 of Council Regulation (EEC) No 1463/70 of 20 July 1970 on the introduction of recording equipment in road transport (6) there is no need to supplement the checks on daily driving time by a restriction on the daily distance which may be covered by such vehicles;

Whereas many road transport operations within the Community involve transport by ferryboat or by rail for part of the journey; whereas provisions regarding daily rest periods and breaks which are appropriate to such operations should therefore be inserted into Regulation (EEC) No 543/69;

Whereas, in the interests of road safety, the payment of bonuses for distance travelled and/or tonnage carried which might endanger road safety must be prohibited;

Whereas it is desirable to provide by means of a Community procedure that exemptions may be made from the provisions of the Regulation for certain national transport operations with special characteristics; whereas in the event of exemptions Member States should be obliged to organize an effective check on the transport operations in question and to ensure that the standard of social protection and road safety is not jeopardized;

Whereas, if serious difficulties in the field of transport or difficulties which could lead to a serious deterioration in the national or regional economic situation arise before 1 January 1981, it is proper that Member States should be able to be authorized to adopt measures derogating from certain provisions of Regulation (EEC) No 543/69; whereas, however, derogations granted under this Regulation should not apply after 1 January 1981,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EEC) No 543/69 shall be amended as follows:

(1) OJ No L 77, 29. 3. 1969, p. 49.
(2) OJ No L 67, 20. 3. 1972, p. 1.
(3) OJ No L 67, 20. 3. 1972, p. 11.
(4) OJ No C 6, 10. 1. 1977, p. 150.
(5) OJ No C 297, 16. 12. 1976, p. 12.
(6) OJ No L 164, 27. 7. 1970, p. 1.

1. Article 4 shall be amended as follows:

— point 4 shall read as follows:

'4. vehicles used by the police, gendarmerie, armed forces, fire brigades, civil defence, drainage or flood prevention authorities, water, gas or electricity services, highway authorities and refuse collection, telegraph or telephone services, by the postal authorities for the carriage of mail, by radio or television services or for the detection of radio or television transmitters or receivers, or vehicles which are used by other public authorities for public services and which are not in competition with professional road hauliers;'

— point 5 shall be amended as follows:

'5. vehicles used for the carriage of sick or injured persons and for carrying rescue material, and any other specialized vehicles used for medical purposes;'

— point 7 shall read as follows:

'7. tractors and other machines used exclusively for local agricultural and forestry work;'

— the following points shall be added;

'8. vehicles used to transport circus and fun-fair equipment;

9. specialized breakdown vehicles.'.

2. The following paragraph 2 shall be added to Article 6, which original text shall become paragraph 1 of Article 6:

'2. Paragraph 1 shall not apply where in these vehicles there is in use recording equipment as provided for in Article 1 or in Article 20 (1) of Council Regulation (EEC) No 1463/70 of 20 July 1970 on the introduction of recording equipment in road transport (1), as last amended by Regulation (EEC) No 2828/77 (2).

(1) OJ No L 164, 27. 7. 1970, p. 1.
(2) OJ No L 334, 24. 12. 1977, p. 5.'.

3. Articles 9 and 10 shall be deleted.

4. The following Article shall be inserted:

'*Article 11a*

Where a crew member engaged in the carriage of goods or passengers accompanies a vehicle which is transported by ferryboat or train, the daily rest period may be interrupted not more than once, provided the following conditions are fulfilled:

— that part of the daily rest period spent on land may be taken before or after the portion of the daily rest period taken on board the ferryboat or the train,

— the period between the two portions of the daily rest period must be as short as possible and may on no account exceed one hour before embarkation or after disembarkation, customs formalities being included in the embarkation or disembarkation operations,

— during both portions of the rest period the crew member must have access to a bunk or couchette,

— where a daily rest period is interrupted in this way, it shall be increased by two hours,

— any time spent on board a ferryboat or a train and not counted as part of the daily rest period shall be regarded as a break as defined in Article 8.'.

5. Article 12 shall be replaced by the following Article:

'*Article 12*

1. In addition to the daily rest periods referred to in Article 11, every crew member shall have a weekly rest period of not less than 29 consecutive hours, which shall be immediately preceded or followed by a daily rest period.

2. The rest period referred to in paragraph 1 may be reduced to not less than 24 consecutive hours provided that a rest period equivalent to the reduction is granted to the crew member concerned during the same week.

3. However, during the period between 1 April and 30 September, the weekly rest period referred to in paragraph 1 hereof may be replaced, for crew members of vehicles used for the international road transport of passengers, by a rest period of not less than 60 consecutive hours to be taken in full before the expiry of a period not exceeding 14 consecutive days. This rest period must be immediately preceded or followed by a daily rest period conforming to the provisions of Article 11.

Subparagraph 1 shall not apply to crew members of vehicles assigned to regular passenger services.'.

6. The following section shall be inserted:

'SECTION Va

Prohibition of certain types of payment

Article 12a

Payments to wage-earning crew members, even in the form of bonuses or wage supplements, related to distances travelled and/or the amount of goods

carried shall be prohibited, unless these payments are of such a kind as not to endanger road safety.'.

7. The first sentence of Article 13 (1) shall be replaced by the following:

'1. Each Member State may apply higher minima or lower maxima than those laid down in Article 5 and Articles 7 to 12 and may refrain from applying Article 6 (2).'.

8. (a) The text of Article 14a shall become paragraph 1 of that Article and is amended as follows:

the words 'and vice versa' shall be added to the phrase 'in respect of the transport of milk from farm to dairy' in subparagraph (a) (iii);

(b) The following paragraphs shall be added to Article 14 (a):

'2. Member States may, after consulting the Commission, grant exemptions from this Regulation for the following national transport operations and uses:

(a) use of vehicles which are constructed and equipped to carry not more than 15 persons including the driver;

(b) use of vehicles undergoing local road tests for purposes of repair or maintenance;

(c) transport of live animals from farms to local markets and vice versa, and transport of animal carcases or waste not intended for human consumption.

3. Member States may, after authorization by the Commission, grant exemptions from this Regulation for the following national transport operations and uses:

(a) use of specialized vehicles at local markets, for door-to-door selling, for mobile banking, exchange or savings transactions, for purposes of worship, for the lending of books, records or cassettes, for cultural events or mobile exhibitions;

(b) transport of milk from the farm to the dairy and vice versa.

In adopting these measures the Commission may specify the conditions and arrangements for their application which it deems necessary.

4. To enable transport services to provide assistance to the population of particular areas during temporary emergencies, Member States may grant temporary exemptions from Sections IV and V for national transport. They shall forthwith notify the measures they have taken to the Commission, which may amend or annul them.

5. Where an exemption from this Regulation is granted, Member States shall take appropriate measures at the same time to keep an effective check on such transport so as to ensure that standards of social protection and road safety are not impaired.'.

Article 2

1. If in the first three years after entry into force of this Regulation, application of Articles 7 to 12 of Regulation (EEC) No 543/69 would cause serious difficulties in the field of transport or difficulties which could lead to a serious deterioration in the national or regional economic situation, a Member State may request an authorization from the Commission to adopt protective measures involving exemptions from these Articles for national transport operations on its territory.

2. At the request of the Member State concerned, the Commission shall at once prescribe the exemptions which it considers necessary and specify the conditions and special procedure for their application, which must include a programme for a progressive return by regular stages to the provisions of Regulation (EEC) No 543/69. It shall take care to ensure that there is no regression by comparison with what has already been achieved in practice in terms of social protection and road safety under the rules existing at the time of entry into force of this Regulation.

3. The Commission shall without delay inform the other Member States of the exemptions which it has granted and of the detailed rules for their application. It shall report to the Council every six months on the progress made and the measures taken to ensure that at the end of the period referred to in paragraph 1 all provisions of Regulation (EEC) No 543/69 are in force in all the Member States.

4. All exemptions granted under this Article shall cease to apply from 1 January 1981.

Article 3

This Regulation shall enter into force on 1 January 1978.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 12 December 1977.

For the Council

The President

L. DHOORE