STATUTORY INSTRUMENTS

1975 No. 485

ROAD TRAFFIC

The Foreign Passenger and Goods Vehicles (Recording Equipment) Regulations 1975

Made - - - -	*20th March* 1975
Laid before Parliament	*2nd April* 1975
Coming into Operation	*23rd April* 1975

The Secretary of State for the Environment, being a Minister designated **(a)** for the purposes of section 2(2) of the European Communities Act 1972**(b)** in relation to the international carriage of passengers and goods by road, in exercise of the powers conferred by that section, hereby makes the following Regulations:—

Commencement, citation, interpretation

1.—(1) These Regulations shall come into operation on 23rd April 1975 and may be cited as the Foreign Passenger and Goods Vehicles (Recording Equipment) Regulations 1975.

(2) In these Regulations—

"the Act of 1960" means the Road Traffic Act 1960**(c)**;

"the Act of 1968" means the Transport Act 1968**(d)**;

"the Act of 1972" means the Road Traffic Act 1972**(e)**;

"the Act of 1974" means the Road Traffic Act 1974**(f)**;

"goods vehicle" and "passenger vehicle" shall be construed in accordance with section 95(2) of the Act of 1968;

"licensing authority" and "traffic commissioners" shall be construed in accordance with section 59 of the Act of 1968 and Part III of the Act of 1960;

"officer" means a certifying officer appointed under Part III of the Act of 1960, a public service vehicle examiner, an examiner appointed under Part II of the Act of 1972 and any person authorised for the purposes of Regulation 4 of these Regulations by the traffic commissioners or licensing authority for any area;

"recording equipment" means equipment which is designed for recording information as to the use of a vehicle and which is installed in a vehicle for the purposes of the relevant Community instrument;

(a) S.I. 1972/1811 (1972 III, p. 5216).
(b) 1972 c. 68.
(c) 1960 c. 16.
(d) 1968 c. 73.
(e) 1972 c. 20.
(f) 1974 c. 50.

"the relevant Community instrument" means Council Regulation (EEC) No. 1463/70 of 20th July 1970**(a)**;

"road" has the meaning given in section 196 of the Act of 1972 as extended in section 14(7) of the Act of 1974.

(3) Any reference in these Regulations to any enactment is a reference to that enactment as amended, extended or applied by or under that or any other enactment.

(4) The Interpretation Act 1889**(b)** shall apply for the interpretation of these Regulations as it applies for the interpretation of an Act of Parliament.

Application of Regulations

2. These Regulations apply to passenger vehicles and goods vehicles—

(*a*) which are registered in any of the following Member States, namely—

the Kingdom of Belgium,

the Federal Republic of Germany,

the French Republic,

the Italian Republic,

the Grand Duchy of Luxembourg,

the Kingdom of the Netherlands, and

(*b*) in which recording equipment is installed for the purposes of the relevant Community instrument.

Use of recording equipment

3.—(1) Where recording equipment in a vehicle to which these Regulations apply is operated and used in accordance with Articles 15 and 17 of the relevant Community instrument any record produced by means of such equipment shall, in any proceedings under Part VI of the Act of 1968, be evidence of the matters appearing from the record.

(2) It shall be an offence for a person to use on a road in Great Britain a vehicle to which these Regulations apply unless—

(*a*) the recording equipment is operated and used in accordance with Articles 15 and 17 of the relevant Community instrument, or

(*b*) the appropriate entries are made on record sheets in accordance with Article 18 of that instrument, or

(*c*) the members of the crew of the vehicle comply with the provisions of Council Regulation (EEC) No. 543/69 of 25th March 1969(c) with respect to the keeping of, and the making of entries in, individual control books.

(3) A person guilty of an offence under paragraph (2) of this Regulation shall be liable, on summary conviction, to a fine not exceeding £200.

(a) O.J. No. L164/1 of 27.7.70 **(b)** 1889 c. 63.

(c) O.J. No. L77/49 of 29.3.69.

Inspection of recording equipment and records

4.—(1) In relation to any vehicle to which these Regulations apply an officer may, on production if so required of his authority:—

(*a*) require any person to produce, and permit him to inspect and copy, any record which is produced by the recording equipment, or on which entries are made in accordance with Article 18 of the relevant Community instrument, and which that person is required by Article 17(5) of that instrument to retain or have with him, and that record shall, if the officer so requires by notice in writing served on that person, be produced at the office of the traffic commissioners or licensing authority specified in the notice within such time (not being less than ten days) from the service of the notice as may be so specified;

(*b*) at any time, enter the vehicle and inspect the vehicle and the recording equipment, and inspect and copy any record on the vehicle which has been produced by means of that equipment or on which entries are made in accordance with Article 18 of the relevant Community instrument;

(*c*) at any time which is reasonable having regard to the circumstances of the case, enter any premises on which he has reason to believe that such a vehicle is kept or that any such records are to be found, and inspect any such vehicle and inspect and copy any such record which he finds there.

(2) For the purpose of exercising his powers under sub-paragraph (*b*) of paragraph (1) of this Regulation, an officer may detain the vehicle in question during such time as is required for the exercise of that power.

(3) Any person who—

(*a*) fails to comply with any requirement under paragraph (1)(*a*) of this Regulation; or

(*b*) obstructs an officer in the exercise of his powers under paragraph (1) or (2) of this Regulation

shall be liable on summary conviction to a fine not exceeding £100.

(4) Any person who makes, or causes to be made, any such record as is mentioned in paragraph (1) of this Regulation which he knows to be false or, with intent to deceive, alters or causes to be altered any such record shall be liable—

(*a*) on summary conviction, to a fine not exceeding £200;

(*b*) on conviction on indictment, to imprisonment for a term not exceeding two years.

(5) If an officer has reason to believe that an offence under paragraph (4) of this Regulation has been committed in respect of any record inspected by him under this Regulation, he may seize that record; and where a record is seized as aforesaid and within six months of the date on which it was seized no person has been charged since that date with an offence in relation to that record under that paragraph and the record has not been returned to the person from whom it was taken a magistrate's court shall, on application made for the purpose by that person, or by an officer, make such order respecting the disposal of the record and award such costs as the justice of the case may require.

(6) Any proceedings in Scotland under paragraph (5) of this Regulation shall be taken by way of summary application in the sheriff's court; and in the application of that paragraph to Scotland references to costs shall be construed as references to expenses.

(7) The powers conferred by this Regulation on an officer shall be exercisable also by a police constable, who shall not, if wearing uniform be required to produce any authority.

(8) In this Regulation references to the inspection and copying of any record produced by recording equipment include references to the application to the record of any process for eliciting the information recorded thereby and to taking down the information elicited from it.

5.—(1) The reference in Schedule 1 to the Road Traffic (Foreign Vehicles) Act 1972**(a)** to section 99 of the Act of 1968 shall be construed as including a reference to Regulation 4 of these Regulations.

(2) In Schedule 2 to the said Act of 1972 there shall be inserted at the end the following entry:—

"Regulation 3(2) of the Foreign Passenger and Goods Vehicles (Recording Equipment) Regulations 1975.	To require recording equipment in certain vehicles to be operated and used or control books to be kept by crew members of such vehicles.".

Fred Mulley,
Minister for Transport,
Department of the Environment.

Signed by authority of the
Secretary of State
20th March 1975.

(a) 1972 c. 27.

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

These Regulations apply to passenger and goods vehicles which are registered in any of the original six Member States of the European Economic Community and in which recording equipment (tachographs) is installed for the purposes of Council Regulation (EEC) No. 1463/70. Regulation 3 enables any records produced by the recording equipment, if used in accordance with that Council Regulation, to be treated as evidence for the purposes of proceedings under Part VI of the Transport Act 1968 which relates to drivers' hours. Regulation 3 also provides that it shall be an offence on summary conviction by a fine of up to £200 for a vehicle to which these Regulations apply to be used on a road in Great Britain unless the recording equipment is operated and used or other records are made in accordance with Council Regulation (EEC) No. 1463/70, or the provisions of Council Regulation (EEC) No. 543/69 with regard to the keeping and use of individual control books by the members of the crew are observed. Regulation 4 confers on police constables, certifying officers, vehicle examiners and persons authorised by a licensing authority or the traffic commissioners for any traffic area powers of inspecting vehicles to which these Regulations apply, the recording equipment installed in the vehicle and any records produced by such equipment. Under paragraph (2) of that Regulation failure to comply with a requirement under the Regulation to produce a record or the obstruction of an officer in the exercise of his powers is an offence punishable on summary conviction by a fine of up to £100. Under paragraph (4) of that Regulation forging of a record is punishable on summary conviction by a fine of up to £200, or on conviction on indictment, by imprisonment for up to two years. Regulation 5 extends the powers of vehicle examiners under section 1 of the Road Traffic (Foreign Vehicles) Act 1972 in connection with vehicles to which these Regulations apply.

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