



## The EC Drivers' Hours and Tachograph Rules for Goods Vehicles (Regulation 561/2006)

### **Fire and Rescue Service Survey and Advice**



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Goods Vehicles (Regulation 561/2006)  
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**The findings and recommendations in this report are those of the authors and do not necessarily represent the view of the Department for Communities and Local Government.**

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## Summary

The EC Drivers' Hours and Tachograph Rules for Goods Vehicles (Regulation 561/2006) limit driving time and ensure that proper break and rest periods are taken so that road traffic accidents are prevented.

Concerns have been raised from within the Fire and Rescue Service that these regulations potentially impact on the recruitment and retention of firefighters employed on the Retained Duty System who drive vehicles that fall within the scope of the legislation.

Communities and Local Government and the Chief Fire Officers' Association have surveyed Fire and Rescue Services to identify the impact of the EU Rules. This report analyses the survey findings for England and provides advice to the Fire and Rescue Service on meeting the provisions of the EU Rules.

# Section 1

## Introduction

- 1.1 The EC Drivers' Hours and Tachograph Rules for Goods Vehicles (Regulation 561/2006) came into effect on 11th April 2007. These replace Council Regulation 3820/85 on drivers' hours and aim to clarify the rules on driving. The purpose of the EC Drivers' Hours and Tachograph Rules ("the EU Rules") is to limit driving time and ensure that proper break and rest periods are taken so that road traffic accidents are prevented.
- 1.2 The EU Rules do not provide an exemption from the daily and weekly rest requirements for firefighters employed on the Retained Duty System (RDS), or other duty systems, who drive vehicles which fall within the scope of the legislation in their primary employment (mainly applicable to RDS personnel) or their secondary employment (for example, wholetime duty system firefighters who may have a second job involving driving in-scope vehicles).
- 1.3 Concerns have been raised from within the Fire and Rescue Service that the EU Rules (mainly the daily and weekly rest requirements) have the potential to impact adversely, and significantly, on the recruitment and retention of firefighters employed on the Retained Duty System who drive in-scope vehicles.
- 1.4 In response, Communities and Local Government and the Chief Fire Officers' Association jointly prepared a questionnaire to identify the impact of the EU Rules, particularly on the RDS but also on other duty systems. The questionnaire was issued to every Fire and Rescue Service in the United Kingdom. The analysis in Section Two of this report reflects the findings of the survey returns for England.
- 1.5 The following key provisions of the EU Rules should be borne in mind:
  - the Rules apply to anyone who drives an "in-scope" vehicle. "In-scope" describes a goods vehicle over 3.5 tonnes, or a passenger vehicle with nine or more passenger seats
  - there is a maximum daily driving limit of nine hours (extendable to ten hours twice a week)
  - there is a maximum weekly driving limit of 56 hours (and 90 hours during any two consecutive weeks)
  - a driver must take a break of at least 45 minutes after no more than four and a half hours of driving

- a driver must have 11 hours' uninterrupted daily rest. This may be reduced to a minimum of nine hours no more than three times between any two weekly rest periods. The daily rest can be taken in two periods but the first period must then be at least three hours and the last at least nine hours.

## Section 2

### Summary of survey findings

2.1 The survey questionnaire was sent by the Chief Fire Officers' Association to all Fire and Rescue Services (FRSs) in the United Kingdom (see Annex 4 for a sample of the questionnaire). This section summarises the questionnaire returns from 42 English FRSs that employ RDS firefighters (a 93% response rate).

#### Awareness of the EU Rules

2.2 Of the 42 FRSs that responded to the questionnaire, 40 were aware of the EU Rules and their requirements, one Fire and Rescue Service was unaware of the EU Rules and one no longer employed RDS crewing arrangements. The 40 FRSs that were aware of the EU Rules were used as the baseline number for the responses analysed below, except where otherwise stated.

#### Advice sought/issued

2.3 Of the 40 FRSs that were aware of the EU Rules, 15 had either:

- taken legal advice on the implications of the EU Rules, and/or
- received advice/guidance from the Vehicle and Operator Services Agency (VOSA), and/or
- were aware of legal advice that Leicestershire FRS had received about the impact of the legislation on the RDS and had shared with other FRSs.

#### Data provision

2.4 Twenty two FRSs were able to provide data on the number of their RDS personnel qualified/trained/able to drive in-scope vehicles in their primary employment.

2.5 These twenty two FRSs employed between them a total of 7,196 RDS firefighters. The total number of RDS firefighters they employed who were qualified/trained/able to drive in-scope vehicles was estimated to be 1,235 (i.e. 17.2 per cent of all RDS firefighters employed across the 22 FRSs).

- 2.6 Twenty-five FRSs said they recruited RDS personnel who drove in-scope vehicles in their primary employment. Of these, 11 FRS were able to supply the number of their RDS staff that drove in-scope vehicles.
- 2.7 Five FRSs were aware that their RDS staff had accepted a different role with their primary employer (in order to comply with the rest and break requirements of the EU Rules and continue in their employment with the FRS).
- 2.8 Eighteen FRSs had informed their RDS personnel of the impact of the EU Rules on their employment (both with their primary employer and with the FRS) and the need to comply with the EU Rules' requirements. Fifteen of these 18 FRSs had also imparted this information to their wholetime duty system personnel.

## Record keeping/compliance with the EU Rules

- 2.9 One FRS monitored the number of hours of driving undertaken by its RDS personnel as part of their primary employment.
- 2.10 Seven FRSs had developed special arrangements to assist their RDS personnel in complying with the rest and break requirements of the EU Rules (for example, by providing bespoke contracts to people with reduced availability; making reasonable adjustments to accommodate an individual's availability based on the requirements of the Rules; piloting a RDS availability system compliant with the EU Rules and the Working Time Regulations).
- 2.11 Two FRSs said that the EU Rules had resulted in the resignation or termination of contracts of RDS personnel (two RDS staff left the Service, one from each FRS).
- 2.12 Eight FRSs had received representations from their RDS firefighters or from the primary employers relating to compliance with the EU Rules.

# Section 3

## Survey conclusions

- 3.1 The overall response to the survey (in terms of completed and returned questionnaires) from those Fire and Rescue Services (FRSs) in England that employ Retained Duty System (RDS) firefighters was extremely high. However, the responses to the questions indicated that few FRSs could provide all the data requested.
- 3.2 The findings indicated a need for improved communication between FRSs and the personnel they employed on RDS contracts, notably with regard to FRSs' awareness of the nature of the primary employment undertaken by their RDS firefighters (and whether driving is a component of that employment), and the understanding by all parties (i.e. the firefighters and their primary and secondary employers) about their individual responsibilities in complying with the rest and break requirements of the EU Rules.
- 3.3 The questionnaire returns suggested that a number of FRSs were not aware that as a secondary employer they also had a duty to ensure staff comply with the rest and break requirements of the EU Rules.<sup>1</sup>
- 3.4 The responses indicated that a number of FRSs were not recording sufficient information on the hours spent driving in-scope vehicles, particularly of staff employed on the Retained Duty System. The responses provided also indicated that for many FRSs the information requested in the survey was not readily available and could only be supplied with the commitment of considerable resources and effort.
- 3.5 In the light of the survey findings, it was clear that advice on these matters would assist Fire and Rescue Services in complying with the rest and break requirements of the EU Rules. This advice includes putting in place "due diligence" monitoring procedures to ensure RDS firefighters are safe to work and developing special/flexible arrangements to assist personnel in complying with the rest and break requirements of the Rules. The advice is provided in Section 4 of this report.

<sup>1</sup> Under the requirements of Section 96.11(a) of the Transport Act 1968. See **Annex 2**

# Section 4

## Meeting the Provisions of the EU Rules: Advice

### The EU Rules

4.1 The EU Rules (Regulation (EC) 561/2006) [see **Annex 1**] do not provide an exemption from the daily and weekly rest requirements for RDS firefighters, or firefighters on other duty systems, who drive in-scope vehicles as part of their primary or secondary employment (i.e. when they are not engaged in Fire and Rescue Service activity). All duties carried out by RDS firefighters, and by firefighters on other duty systems, who drive in-scope vehicles during their primary or secondary employment will be regarded as work activity rather than rest. Therefore they must abide by the rest and break requirements set by the EU Rules, imposed through their primary and secondary employment.

### Emergency situations

4.2 The Department for Transport (DfT) has interpreted the EU legislation in a way which allows a driver (in this case a RDS firefighter but it could equally apply to others – for example, a driver of a road gritting vehicle) to interrupt his or her daily or weekly rest period in order to deal with an emergency situation.

4.3 An “emergency” is not defined within the EU Rules, so for these purposes the DfT uses the same definition as in the domestic rules. An emergency is defined as the need to take immediate preventative action to avoid danger to the life or health of people or animals, or damage to property [Regulation 2(1) of the Drivers’ Hours (Passenger Vehicles) (Exemptions) Regulations 1970 (S.I. 1970/145) The Statutory Instrument can be found at: <http://www.tsoshop.co.uk>].

4.4 During the life of an emergency the rules on driving time and rest are suspended. It would therefore be possible for a RDS Firefighter to carry out work for the FRS during a rest period, as long as the situation was an emergency (this definition, however, would not cover general duties carried out at the fire station or any training). This means that a RDS firefighter would be allowed to interrupt their rest period to attend an emergency, but on their return they would be required to commence/complete a qualifying rest period before being allowed to start work again for their primary employer.

## Exemptions for emergencies

- 4.5 The EU Rules make some provision for emergencies on a limited basis. Article 12 of the Rules states that, in the event of an emergency, the driver is permitted to depart from the EU Rules in order to safeguard people, the vehicle or its load to reach a safe stopping place.
- 4.6 The Vehicle and Operator Services Agency (VOSA) guidance (Rules on Drivers' Hours and Tacographs. Passenger-carrying vehicles in the UK and Europe) [see: [www.dft.gov.uk/pgr/roadsafety/drs/drivingforwork/drivershoursandtachographrules](http://www.dft.gov.uk/pgr/roadsafety/drs/drivingforwork/drivershoursandtachographrules)] emphasises that this does not mean the planned journey can be completed; drivers are expected to reschedule any disrupted work so that it complies with the EU Rules.
- 4.7 Article 14 of the EU Rules also deals with emergency situations and is drafted in similarly limited terms. A departure from the EU Rules may be justified where there is an urgent case, for a period not exceeding 30 days

## Application of the EU Rules

- 4.8 Article 2 of the EU Rules applies to the carriage by road of:
- a) goods where the maximum permissible mass of the vehicle, including any trailer, or semi-trailer, exceeds 3.5 tonnes, or
  - b) passengers by vehicles which are constructed or permanently adapted for carrying more than nine persons including the driver, and are intended for that purpose.

## Automatic exemption

- 4.9 FRS vehicles are automatically exempted from the EU Rules by means of Article 3(c) *which applies to "vehicles owned or hired in without a driver by the FRSs (amongst other things) when the carriage is undertaken as a consequence of the tasks assigned to these services and is under their control"*.

## Definition of driving time

- 4.10 Article 4(i) of the EU Rules defines "driving time" as meaning the duration of driving activity recorded:
- automatically or semi-automatically by the recording equipment as defined in Annex 1 and Annex 1B of Regulation (EEC) No 3821/85, or
  - manually as required by Article 16(2) of Regulation (EEC) No 3821/85.<sup>2</sup>

<sup>2</sup> Council Regulation (EEC) No 3821/85 of 20 December 1985

Any driving of an in-scope vehicle, (as in Article 2 above), on a particular day which is not excluded brings a worker within the scope of the EU Rules. This means rest and break requirements must be complied with for that day. This will also apply to the weekly rest requirements during the week that an individual has driven an in-scope vehicle.

## Definition of rest

4.11 The EU Rules define “rest” as “any uninterrupted period during which a driver may freely dispose of his time”. If a RDS firefighter can freely dispose of his or her time (subject to, for example, being free to go to the local shops) then this would count towards the rest requirement. Furthermore, when on call, if a RDS firefighter is called out, they would need to ensure that they comply with the rest requirements of the EU Rules upon return.

## Break and rest requirements

4.12 The EU Rules require that :

- (a) a driver must take a break of at least 45 minutes after no more than four and a half hours of driving
- (b) there is a maximum daily driving limit of nine hours (extendable to ten hours twice a week)
- (c) there is a maximum weekly driving limit of 56 hours (and 90 hours during any two consecutive weeks)
- (d) a driver must have 11 hours uninterrupted daily rest. This may be reduced to nine hours no more than three times between any two weekly rest periods. Alternatively this can be taken in two periods, the first must be at least three hours and the second must be at least nine hours
- (e) in any two consecutive weeks, a driver should take two regular weekly rest periods of at least 45 hours each, or one regular weekly rest period and one reduced weekly rest period of at least 24 hours
- (f) a reduced weekly rest must be compensated by an equivalent period of rest taken before the end of the third week following the week in which the reduction occurred. This means that a driver must have a weekly rest period of at least 24 hours, which must be increased to at least 45 hours, once a fortnight after no more than six days driving (for example, 45 + 24 + 45 + 24 etc). When taking a weekly rest period of 24 hours, the driver must take 21 hours compensatory rest within three weeks (i.e.  $45 - 24 = 21$  hours).

- 4.13 When considering the suitability for RDS positions of personnel who drive in-scope vehicles under the EU Rules, the total available hours in which they can legally provide cover should be considered by Fire and Rescue Services.
- 4.14 To ensure compliance, in-scope drivers must accurately record their daily and weekly rest periods which should be provided to their primary employer and the Fire and Rescue Service.
- 4.15 In establishing the availability of RDS personnel who fall within the scope of the EU Rules, FRSs should consider plotting working time, daily and weekly rest periods using the VOSA guidance revised in 2007 (see paragraph 4.6).
- 4.16 **Annex 3** to this report provides a simple illustration of how the hours of an in-scope driver can be plotted to determine availability. The illustration is for guidance only and should not be used generically for establishing the suitability of individuals for employment as RDS firefighters, as each case should be determined on an individual basis.

## Recording all work

- 4.17 One of the key requirements of the EU Rules is the need for a driver to record all work undertaken, whether driving or not, either manually or on a digital tachograph. Drivers have to be able to produce these records if stopped by VOSA when driving an in-scope vehicle. The aim of the requirement to record all other work, including non-driving work, is to ensure compliance with the rest and break requirements.
- 4.18 The VOSA guidance gives the example of a driver who works in a warehouse on Monday, Tuesday and Wednesday and wishes to drive a vehicle falling within the scope of the EU Rules on Thursday of the same week; in this case he/she must complete records for Monday, Tuesday and Wednesday.

## Impact of the EU Rules on RDS Firefighters

- 4.19 There is no exemption in the EU Rules for RDS firefighters, therefore any activity they carry out for the Fire and Rescue Service will count as "other work", and must be recorded. This triggers the requirements of the Rules regarding rest and break times.
- 4.20 This is a central issue where a RDS firefighter drives an in-scope vehicle during the day and then needs to go on duty. If the vehicle driven during primary employment fits the definition in Article 2 of the EU Rules, then there must be compliance with the rest and break requirements.

## Liability – breaching the EU Rules

- 4.21 The legislation imposes a liability for breaches of the EU rules on the driver, his employer or a person to whose orders the driver was subject who caused or permitted the contravention, to a fine (Section 96(11A) of the Transport Act 1968 refers). In the case of a falsification of the tachograph records employers can be imprisoned for up to two years as well as fined. They must organise work schedules in order to comply with the requirements.
- 4.22 There is a defence for the employer or a person to whose orders the driver was subject, if they can claim to have respected the requirements of the EU Rules and taken all reasonable steps to ensure compliance. This would include carrying out checks on hours recorded by its drivers and ensuring that there are no distance related bonuses or other schemes which would encourage the working of longer hours.
- 4.23 The EU Rules are likely to increase the number of checks carried out by primary employers on employees who work as RDS firefighters. In order to avoid liability for any breaches they are likely to check hours worked and ensure that workers' rest and break requirements are met.
- 4.24 There are additional duties, set out in Section 96 of the Transport Act 1968, which could bring the FRS within the scope of liability, namely:

*“Where, in the case of a driver of a motor vehicle, there is a contravention of any requirement of the applicable rules as to periods of driving, or distance driven, or periods on or off duty, then the offender and any other person (being the offender's employer or a person to whose orders the offender was subject) who caused or permitted the contravention shall be liable on summary conviction of a fine not exceeding level 4 on the standard scale.”*

- 4.25 Therefore FRSs must monitor and be aware of the work being carried out by individual drivers as they have responsibility for compliance with the EU Rules in a broad sense. This includes driving in-scope vehicles for primary employers and time spent “on-call”.

## Health and safety

- 4.26 FRSs must also be aware that RDS firefighters or firefighters on other duty systems breaching the EU Rules may also be infringing the Health and Safety at Work Act 1974. This places a general duty on all employers “to ensure as far as is reasonably practicable the health, safety and welfare at work of all their employees.”

- 4.27 FRSs should remind their RDS firefighters, and firefighters on other duty systems who fall within scope, of their obligations under the EU Rules, and should require them to confirm in writing that they are compliant.

## Monitoring

- 4.28 FRSs should have in place "due diligence" monitoring procedures to ensure RDS firefighters and firefighters on other duty systems are safe to work. They should monitor the number of hours worked for the primary and secondary employer, and rest and break requirements, are complied with.

## Flexible arrangements

- 4.29 FRSs may wish to consider developing special/flexible arrangements to assist personnel in complying with the rest and break requirements of the EU Rules. For example, providing flexible contracts to suit the individual's requirements; liaising with primary employers about flexible working patterns to meet the rest and break requirements; developing an availability system that captures the requirements of EU legislation (Drivers' Hours, Working Time etc).

## Legal advice

- 4.30 Communities and Local Government legal advice is that there are no applicable exemptions from the daily and weekly rest requirements for firefighters who fall within the scope of the EU Rules. Each Fire and Rescue Authority will wish to seek its own legal advice on the statutory requirements of the EU Rules (and any other relevant EU or UK legislation).

# Annex 1

## **The EC Drivers' Hours and Tachograph Rules for Goods Vehicles (Regulation 561/2006)**

## I

*(Acts whose publication is obligatory)*

**REGULATION (EC) No 561/2006 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL  
of 15 March 2006**

**on the harmonisation of certain social legislation relating to road transport and amending  
Council Regulations (EEC) No 3821/85 and (EC) No 2135/98 and repealing Council Regulation  
(EEC) No 3820/85**

**(Text with EEA relevance)**

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE  
EUROPEAN UNION,

Whereas:

Having regard to the Treaty establishing the European  
Community, and in particular Article 71 thereof,

- (1) In the field of road transport, Council Regulation (EEC) No 3820/85 of 20 December 1985 on the harmonisation of certain social legislation relating to road transport<sup>(4)</sup> sought to harmonise the conditions of competition between modes of inland transport, especially with regard to the road transport sector, and to improve working conditions and road safety. Progress in these areas should be safeguarded and extended.

Having regard to the proposal from the Commission<sup>(1)</sup>,

- (2) Directive 2002/15/EC of the European Parliament and of the Council of 11 March 2002 on the organisation of the working time of persons performing mobile road transport activities<sup>(2)</sup> requires Member States to adopt measures which limit the maximum weekly working time of mobile workers.

Having regard to the opinion of the European Economic and  
Social Committee<sup>(3)</sup>,

- (3) Difficulties have been experienced in interpreting, applying, enforcing and monitoring certain provisions of Regulation (EEC) No 3820/85 relating to driving time, break and rest period rules for drivers engaged in national and international road transport within the Community in a uniform manner in all Member States, because of the broad terms in which they are drafted.

After consulting the Committee of the Regions,

- (4) Effective and uniform enforcement of those provisions is desirable if their objectives are to be achieved and the application of the rules is not to be brought into disrepute. Therefore, a clearer and simpler set of rules is needed, which will be more easily understood, interpreted and applied by the road transport industry and the enforcement authorities.

Acting in accordance with the procedure laid down in  
Article 251 of the Treaty<sup>(3)</sup>, in the light of the joint text  
approved by the Conciliation Committee on 8 December  
2005,

<sup>(1)</sup> OJ C 51 E, 26.2.2002, p. 234.

<sup>(2)</sup> OJ C 221, 17.9.2002, p. 19.

<sup>(3)</sup> Opinion of the European Parliament of 14 January 2003 (OJ C 38 E, 12.2.2004, p. 152), Council Common Position of 9 December 2004 (OJ C 63 E, 15.3.2005, p. 11) and Position of the European Parliament of 13 April 2005 (OJ C 33 E, 9.2.2006, p. 425). Legislative resolution of the European Parliament of 2 February 2006 and Decision of the Council of 2 February 2006.

<sup>(4)</sup> OJ L 370, 31.12.1985, p. 1. Regulation as amended by Directive 2003/59/EC of the European Parliament and of the Council (OJ L 226, 10.9.2003, p. 4).

<sup>(5)</sup> OJ L 80, 23.3.2002, p. 35.

- (5) Measures provided for in this Regulation regarding working conditions should not prejudice the right of the two sides of industry to lay down, by collective bargaining or otherwise, provisions more favourable to workers.
- (6) It is desirable to define clearly the scope of this Regulation by specifying the main categories of vehicle which it covers.
- (7) This Regulation should apply to carriage by road undertaken either exclusively within the Community or between the Community, Switzerland and the countries party to the Agreement on the European Economic Area.
- (8) The European Agreement concerning the Work of Crews of Vehicles engaged in International Road Transport of 1 July 1970 (the AETR), as amended, should continue to apply to the carriage by road of goods and passengers by vehicles registered in any Member State or any country which is a contracting party to the AETR, for the whole of the journey where that journey is between the Community and a third country other than Switzerland and the countries which are contracting parties to the Agreement on the European Economic Area or through such a country. It is essential to modify the AETR as soon as possible, ideally within two years of the entry into force of this Regulation, in order to align its provisions with this Regulation.
- (9) In the case of carriage by road using vehicles registered in a third country which is not a contracting party to the AETR, the provisions of the AETR should apply to that part of the journey effected within the Community or within countries which are contracting parties to the AETR.
- (10) Since the subject matter of the AETR falls within the scope of this Regulation, the power to negotiate and conclude the Agreement lies with the Community.
- (11) If an amendment to the internal Community rules in the field in question necessitates a corresponding amendment to the AETR, Member States should act together to bring about such an amendment to the AETR as soon as possible, in accordance with the procedure laid down therein.
- (12) The list of exemptions should be updated to reflect developments in the road transport sector over the past 19 years.
- (13) Full definitions of all key terms should be given in order to render interpretation easier and ensure that this Regulation is applied in a uniform manner. In addition, efforts should be made to ensure uniform interpretation and application of this Regulation by national supervisory authorities. The definition of 'week' provided in this Regulation should not prevent drivers from starting their working week on any day of the week.
- (14) To guarantee effective enforcement, it is essential that the competent authorities, when carrying out roadside checks, and after a transitional period, should be able to ascertain that driving times and rest periods have been properly observed on the day of the check and over the preceding 28 days.
- (15) The basic rules on driving times need to be clarified and simplified to allow effective and uniform enforcement by means of the digital tachograph, as provided for in Council Regulation (EEC) No 3821/85 of 20 December 1985 on recording equipment in road transport <sup>(1)</sup> and this Regulation. In addition, through a standing committee, Member State enforcement authorities should strive to reach a common understanding of the implementation of this Regulation.
- (16) It has proved possible under the rules of Regulation (EEC) No 3820/85 to schedule daily driving periods and breaks to enable a driver to drive for too long without a full break, leading to reduced road safety and a deterioration in the driver's working conditions. It is therefore appropriate to ensure that split breaks are so ordered as to prevent abuse.
- (17) This Regulation aims to improve social conditions for employees who are covered by it, as well as to improve general road safety. It does so mainly by means of the provisions pertaining to maximum driving times per day, per week and per period of two consecutive weeks, the provision which obliges drivers to take a regular weekly rest period at least once per two consecutive weeks and the provisions which prescribe that under no circumstances should a daily rest period be less than an uninterrupted period of nine hours. Since those provisions guarantee adequate rest, and also taking into account experience with enforcement practices during the past years, a system of compensation for reduced daily rest periods is no longer necessary.
- (18) Many road transport operations within the Community involve transport by ferry or by rail for part of the journey. Clear, appropriate provisions regarding daily rest periods and breaks should therefore be laid down for such operations.
- (19) In view of the increase in the cross-border carriage of goods and passengers, it is desirable, in the interests of road safety and enhanced enforcement, for roadside checks and checks at the premises of undertakings to cover driving times, rest periods and breaks undertaken within other Member States or third countries and to determine whether the relevant rules have been fully and properly observed.

<sup>(1)</sup> OJ L 370, 31.12.1985, p. 8. Regulation as last amended by Commission Regulation (EC) No 432/2004 (OJ L 71, 10.3.2004, p. 3).

- (20) The liability of transport undertakings should extend at least to transport undertakings that are legal or natural persons, and should not exclude proceedings against natural persons who are perpetrators, or instigators of, or accessories to, infringements of this Regulation.
- (21) It is necessary for drivers working for several transport undertakings to supply each of them with adequate information to enable it to fulfil its responsibilities under this Regulation.
- (22) In order to promote social progress and improve road safety, each Member State should retain the right to adopt certain appropriate measures.
- (23) National derogations should reflect changes in the road transport sector and be restricted to those elements not now subject to competitive pressures.
- (24) The Member States should lay down rules for vehicles used for the carriage of passengers on regular services where the route covered does not exceed 50 km. Those rules should provide adequate protection in terms of permitted driving times and mandatory breaks and rest periods.
- (25) It is desirable, in the interests of effective enforcement, that all regular national and international passenger transport services be checked using a standard recording device.
- (26) The Member States should lay down rules on penalties applicable to infringements of this Regulation and ensure that they are implemented. Those penalties must be effective, proportionate, dissuasive and non-discriminatory. The possibility of immobilising the vehicle where serious infringements are detected should also be included within the common range of measures open to Member States. The provisions contained in this Regulation pertaining to penalties or proceedings should not affect national rules concerning the burden of proof.
- (27) It is desirable in the interests of clear and effective enforcement to ensure uniform provisions on the liability of transport undertakings and drivers for infringements of this Regulation. This liability may result in penal, civil or administrative penalties as may be the case in the Member States.
- (28) Since the objective of this Regulation, namely the establishment of clear, common rules on driving times, breaks and rest periods cannot be sufficiently achieved by the Member States and can therefore, by reason of the need for coordinated action, be better achieved at Community level, the Community may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve that objective.
- (29) The measures necessary for the implementation of this Regulation should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission <sup>(1)</sup>.
- (30) Since provisions concerning the minimum ages of drivers have been laid down in Directive 2003/59/EC <sup>(2)</sup> and must be transposed by 2009, only transitional provisions concerning the minimum age of crews are required in this Regulation.
- (31) Regulation (EEC) No 3821/85 should be amended to clarify specific obligations on transport undertakings and drivers as well as to promote legal certainty and to facilitate enforcement of driving time and rest period limits during roadside checks.
- (32) Regulation (EEC) No 3821/85 should also be amended to ensure legal certainty as regards the new dates for the introduction of the digital tachograph and for the availability of driver cards.
- (33) The introduction of recording equipment pursuant to Regulation (EC) No 2135/98, enabling the activities of a driver over a 28-day period to be recorded electronically on his driver card and electronic records of vehicle operations to cover a 365-day period, will in future make for more rapid and comprehensive roadside checks.
- (34) Under Directive 88/599/EEC <sup>(3)</sup> roadside checks are confined to daily driving time, daily rest periods, and breaks. When digital recording equipment is introduced driver and vehicle data will be stored electronically and data will be able to be evaluated electronically on the spot. This should, over time, enable simple checks to be carried out on regular and reduced daily rest periods and on regular and reduced weekly rest periods and compensatory rest.

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<sup>(1)</sup> OJ L 184, 17.7.1999, p. 23.

<sup>(2)</sup> Directive 2003/59/EC of the European Parliament and of the Council of 15 July 2003 on the initial qualification and periodic training of drivers of certain road vehicles for the carriage of goods or passengers, amending Council Regulation (EEC) No 3820/85 and Council Directive 91/439/EEC and repealing Council Directive 76/914/EEC (OJ L 226, 10.9.2003, p. 4). Directive as amended by Council Directive 2004/66/EC (OJ L 168, 1.5.2004, p. 35).

<sup>(3)</sup> Council Directive 88/599/EEC of 23 November 1988 on standard checking procedures for the implementation of Regulation (EEC) No 3820/85 on harmonisation of certain social legislation relating to road transport and Regulation (EEC) No 3821/85 on recording equipment in road transport (OJ L 325, 29.11.1988, p. 55).

- (35) Experience indicates that compliance with the provisions of this Regulation, in particular the specified maximum driving time over a two-week period, cannot be enforced unless proper and effective supervision is brought to bear in roadside checks in relation to the whole of that period.
- (36) The application of the legal provisions regarding digital tachographs should be in line with this Regulation in order to achieve optimal effectiveness in monitoring and enforcing certain social provisions in road transport.
- (37) For reasons of clarity and rationalisation, Regulation (EEC) No 3820/85 should be repealed and replaced by this Regulation,

HAVE ADOPTED THIS REGULATION:

CHAPTER I

INTRODUCTORY PROVISIONS

Article 1

This Regulation lays down rules on driving times, breaks and rest periods for drivers engaged in the carriage of goods and passengers by road in order to harmonise the conditions of competition between modes of inland transport, especially with regard to the road sector, and to improve working conditions and road safety. This Regulation also aims to promote improved monitoring and enforcement practices by Member States and improved working practices in the road transport industry.

Article 2

- 1. This Regulation shall apply to the carriage by road:
  - (a) of goods where the maximum permissible mass of the vehicle, including any trailer, or semi-trailer, exceeds 3,5 tonnes, or
  - (b) of passengers by vehicles which are constructed or permanently adapted for carrying more than nine persons including the driver, and are intended for that purpose.
- 2. This Regulation shall apply, irrespective of the country of registration of the vehicle, to carriage by road undertaken:
  - (a) exclusively within the Community; or
  - (b) between the Community, Switzerland and the countries party to the Agreement on the European Economic Area.

3. The AETR shall apply, instead of this Regulation, to international road transport operations undertaken in part outside the areas mentioned in paragraph 2, to:

- (a) vehicles registered in the Community or in countries which are contracting parties to the AETR, for the whole journey;
- (b) vehicles registered in a third country which is not a contracting party to the AETR, only for the part of the journey on the territory of the Community or of countries which are contracting parties to the AETR.

The provisions of the AETR should be aligned with those of this Regulation, so that the main provisions in this Regulation apply, through the AETR, to such vehicles for any part of the journey made within the Community.

Article 3

This Regulation shall not apply to carriage by road by:

- (a) vehicles used for the carriage of passengers on regular services where the route covered by the service in question does not exceed 50 kilometres;
- (b) vehicles with a maximum authorised speed not exceeding 40 kilometres per hour;
- (c) vehicles owned or hired without a driver by the armed services, civil defence services, fire services, and forces responsible for maintaining public order when the carriage is undertaken as a consequence of the tasks assigned to these services and is under their control;
- (d) vehicles, including vehicles used in the non-commercial transport of humanitarian aid, used in emergencies or rescue operations;
- (e) specialised vehicles used for medical purposes;
- (f) specialised breakdown vehicles operating within a 100 km radius of their base;
- (g) vehicles undergoing road tests for technical development, repair or maintenance purposes, and new or rebuilt vehicles which have not yet been put into service;
- (h) vehicles or combinations of vehicles with a maximum permissible mass not exceeding 7,5 tonnes used for the non-commercial carriage of goods;
- (i) commercial vehicles, which have a historic status according to the legislation of the Member State in which they are being driven and which are used for the non-commercial carriage of passengers or goods.

## Article 4

For the purposes of this Regulation the following definitions shall apply:

- (a) 'carriage by road' means any journey made entirely or in part on roads open to the public by a vehicle, whether laden or not, used for the carriage of passengers or goods;
- (b) 'vehicle' means a motor vehicle, tractor, trailer or semi-trailer or a combination of these vehicles, defined as follows:
- 'motor vehicle': any self-propelled vehicle travelling on the road, other than a vehicle permanently running on rails, and normally used for carrying passengers or goods,
  - 'tractor': any self-propelled vehicle travelling on the road, other than a vehicle permanently running on rails, and specially designed to pull, push or move trailers, semi-trailers, implements or machines,
  - 'trailer': any vehicle designed to be coupled to a motor vehicle or tractor,
  - 'semi-trailer': a trailer without a front axle coupled in such a way that a substantial part of its weight and of the weight of its load is borne by the tractor or motor vehicle;
- (c) 'driver' means any person who drives the vehicle even for a short period, or who is carried in a vehicle as part of his duties to be available for driving if necessary;
- (d) 'break' means any period during which a driver may not carry out any driving or any other work and which is used exclusively for recuperation;
- (e) 'other work' means all activities which are defined as working time in Article 3(a) of Directive 2002/15/EC except 'driving', including any work for the same or another employer, within or outside of the transport sector;
- (f) 'rest' means any uninterrupted period during which a driver may freely dispose of his time;
- (g) 'daily rest period' means the daily period during which a driver may freely dispose of his time and covers a 'regular daily rest period' and a 'reduced daily rest period':
- 'regular daily rest period' means any period of rest of at least 11 hours. Alternatively, this regular daily rest period may be taken in two periods, the first of which must be an uninterrupted period of at least 3 hours and the second an uninterrupted period of at least nine hours,
  - 'reduced daily rest period' means any period of rest of at least nine hours but less than 11 hours;
- (h) 'weekly rest period' means the weekly period during which a driver may freely dispose of his time and covers a 'regular weekly rest period' and a 'reduced weekly rest period':
- 'regular weekly rest period' means any period of rest of at least 45 hours,
  - 'reduced weekly rest period' means any period of rest of less than 45 hours, which may, subject to the conditions laid down in Article 8(6), be shortened to a minimum of 24 consecutive hours;
- (i) 'a week' means the period of time between 00.00 on Monday and 24.00 on Sunday;
- (j) 'driving time' means the duration of driving activity recorded:
- automatically or semi-automatically by the recording equipment as defined in Annex I and Annex IB of Regulation (EEC) No 3821/85, or
  - manually as required by Article 16(2) of Regulation (EEC) No 3821/85;
- (k) 'daily driving time' means the total accumulated driving time between the end of one daily rest period and the beginning of the following daily rest period or between a daily rest period and a weekly rest period;
- (l) 'weekly driving time' means the total accumulated driving time during a week;
- (m) 'maximum permissible mass' means the maximum authorised operating mass of a vehicle when fully laden;
- (n) 'regular passenger services' means national and international services as defined in Article 2 of Council Regulation (EEC) No 684/92 of 16 March 1992 on common rules for the international carriage of passengers by coach and bus <sup>(1)</sup>;
- (o) 'multi-manning' means the situation where, during each period of driving between any two consecutive daily rest periods, or between a daily rest period and a weekly rest period, there are at least two drivers in the vehicle to do the driving. For the first hour of multi-manning the presence of another driver or drivers is optional but for the remainder of the period it is compulsory;

<sup>(1)</sup> OJ L 74, 20.3.1992, p. 1. Regulation as last amended by the 2003 Act of Accession.

(p) 'transport undertaking' means any natural person, any legal person, any association or group of persons without legal personality, whether profit-making or not, or any official body, whether having its own legal personality or being dependent upon an authority having such a personality, which engages in carriage by road, whether for hire or reward or for own account;

(q) 'driving period' means the accumulated driving time from when a driver commences driving following a rest period or a break until he takes a rest period or a break. The driving period may be continuous or broken.

## CHAPTER II

### CREWS, DRIVING TIMES, BREAKS AND REST PERIODS

#### Article 5

1. The minimum age for conductors shall be 18 years.
2. The minimum age for drivers' mates shall be 18 years. However, Member States may reduce the minimum age for drivers' mates to 16 years, provided that:
  - (a) the carriage by road is carried out within one Member State within a 50 kilometre radius of the place where the vehicle is based, including local administrative areas the centre of which is situated within that radius;
  - (b) the reduction is for the purposes of vocational training; and
  - (c) there is compliance with the limits imposed by the Member State's national rules on employment matters.

#### Article 6

1. The daily driving time shall not exceed nine hours.

However, the daily driving time may be extended to at most 10 hours not more than twice during the week.

2. The weekly driving time shall not exceed 56 hours and shall not result in the maximum weekly working time laid down in Directive 2002/15/EC being exceeded.
3. The total accumulated driving time during any two consecutive weeks shall not exceed 90 hours.
4. Daily and weekly driving times shall include all driving time on the territory of the Community or of a third country.

5. A driver shall record as other work any time spent as described in Article 4(e) as well as any time spent driving a vehicle used for commercial operations not falling within the scope of this Regulation, and shall record any periods of availability, as defined in Article 15(3)(c) of Regulation (EEC) No 3821/85, since his last daily or weekly rest period. This record shall be entered either manually on a record sheet, a printout or by use of manual input facilities on recording equipment.

#### Article 7

After a driving period of four and a half hours a driver shall take an uninterrupted break of not less than 45 minutes, unless he takes a rest period.

This break may be replaced by a break of at least 15 minutes followed by a break of at least 30 minutes each distributed over the period in such a way as to comply with the provisions of the first paragraph.

#### Article 8

1. A driver shall take daily and weekly rest periods.
2. Within each period of 24 hours after the end of the previous daily rest period or weekly rest period a driver shall have taken a new daily rest period.

If the portion of the daily rest period which falls within that 24 hour period is at least nine hours but less than 11 hours, then the daily rest period in question shall be regarded as a reduced daily rest period.

3. A daily rest period may be extended to make a regular weekly rest period or a reduced weekly rest period.
4. A driver may have at most three reduced daily rest periods between any two weekly rest periods.
5. By way of derogation from paragraph 2, within 30 hours of the end of a daily or weekly rest period, a driver engaged in multi-manning must have taken a new daily rest period of at least nine hours.

6. In any two consecutive weeks a driver shall take at least:
  - two regular weekly rest periods, or
  - one regular weekly rest period and one reduced weekly rest period of at least 24 hours. However, the reduction shall be compensated by an equivalent period of rest taken en bloc before the end of the third week following the week in question.

A weekly rest period shall start no later than at the end of six 24-hour periods from the end of the previous weekly rest period.

7. Any rest taken as compensation for a reduced weekly rest period shall be attached to another rest period of at least nine hours.

8. Where a driver chooses to do this, daily rest periods and reduced weekly rest periods away from base may be taken in a vehicle, as long as it has suitable sleeping facilities for each driver and the vehicle is stationary.

9. A weekly rest period that falls in two weeks may be counted in either week, but not in both.

#### Article 9

1. By way of derogation from Article 8, where a driver accompanies a vehicle which is transported by ferry or train, and takes a regular daily rest period, that period may be interrupted not more than twice by other activities not exceeding one hour in total. During that regular daily rest period the driver shall have access to a bunk or couchette.

2. Any time spent travelling to a location to take charge of a vehicle falling within the scope of this Regulation, or to return from that location, when the vehicle is neither at the driver's home nor at the employer's operational centre where the driver is normally based, shall not be counted as a rest or break unless the driver is on a ferry or train and has access to a bunk or couchette.

3. Any time spent by a driver driving a vehicle which falls outside the scope of this Regulation to or from a vehicle which falls within the scope of this Regulation, which is not at the driver's home or at the employer's operational centre where the driver is normally based, shall count as other work.

### CHAPTER III

#### LIABILITY OF TRANSPORT UNDERTAKINGS

#### Article 10

1. A transport undertaking shall not give drivers it employs or who are put at its disposal any payment, even in the form of a bonus or wage supplement, related to distances travelled and/or the amount of goods carried if that payment is of such a kind as to endanger road safety and/or encourages infringement of this Regulation.

2. A transport undertaking shall organise the work of drivers referred to in paragraph 1 in such a way that the drivers are able to comply with Regulation (EEC) No 3821/85 and Chapter II of this Regulation. The transport undertaking shall properly instruct the driver and shall make regular checks to ensure that Regulation (EEC) No 3821/85 and Chapter II of this Regulation are complied with.

3. A transport undertaking shall be liable for infringements committed by drivers of the undertaking, even if the infringement was committed on the territory of another Member State or a third country.

Without prejudice to the right of Member States to hold transport undertakings fully liable, Member States may make this liability conditional on the undertaking's infringement of paragraphs 1 and 2. Member States may consider any evidence that the transport undertaking cannot reasonably be held responsible for the infringement committed.

4. Undertakings, consignors, freight forwarders, tour operators, principal contractors, subcontractors and driver employment agencies shall ensure that contractually agreed transport time schedules respect this Regulation.

5. (a) A transport undertaking which uses vehicles that are fitted with recording equipment complying with Annex IB of Regulation (EEC) No 3821/85 and that fall within the scope of this Regulation, shall:

(i) ensure that all data are downloaded from the vehicle unit and driver card as regularly as is stipulated by the Member State and that relevant data are downloaded more frequently so as to ensure that all data concerning activities undertaken by or for that undertaking are downloaded;

(ii) ensure that all data downloaded from both the vehicle unit and driver card are kept for at least 12 months following recording and, should an inspecting officer request it, such data are accessible, either directly or remotely, from the premises of the undertaking;

(b) for the purposes of this paragraph 'downloaded' shall be interpreted in accordance with the definition laid down in Annex IB, Chapter I, point (s) of Regulation (EEC) No 3821/85;

(c) the maximum period within which the relevant data shall be downloaded under (a)(i) shall be decided by the Commission in accordance with the procedure referred to in Article 24(2).

### CHAPTER IV

#### EXCEPTIONS

#### Article 11

A Member State may provide for longer minimum breaks and rest periods or shorter maximum driving times than those laid down in Articles 6 to 9 in the case of carriage by road undertaken wholly within its territory. In so doing, Member States shall take account of relevant collective or other agreements between the social partners. Nevertheless, this Regulation shall remain applicable to drivers engaged in international transport operations.

*Article 12*

Provided that road safety is not thereby jeopardised and to enable the vehicle to reach a suitable stopping place, the driver may depart from Articles 6 to 9 to the extent necessary to ensure the safety of persons, of the vehicle or its load. The driver shall indicate the reason for such departure manually on the record sheet of the recording equipment or on a printout from the recording equipment or in the duty roster, at the latest on arrival at the suitable stopping place.

*Article 13*

1. Provided the objectives set out in Article 1 are not prejudiced, each Member State may grant exceptions from Articles 5 to 9 and make such exceptions subject to individual conditions on its own territory or, with the agreement of the States concerned, on the territory of another Member State, applicable to carriage by the following:

- (a) vehicles owned or hired, without a driver, by public authorities to undertake carriage by road which do not compete with private transport undertakings;
- (b) vehicles used or hired, without a driver, by agricultural, horticultural, forestry, farming or fishery undertakings for carrying goods as part of their own entrepreneurial activity within a radius of up to 100 km from the base of the undertaking;
- (c) agricultural tractors and forestry tractors used for agricultural or forestry activities, within a radius of up to 100 km from the base of the undertaking which owns, hires or leases the vehicle;
- (d) vehicles or combinations of vehicles with a maximum permissible mass not exceeding 7,5 tonnes used:
  - by universal service providers as defined in Article 2 (13) of Directive 97/67/EC of the European Parliament and of the Council of 15 December 1997 on common rules for the development of the internal market of Community postal services and the improvement of quality of service <sup>(1)</sup> to deliver items as part of the universal service, or
  - for carrying materials, equipment or machinery for the driver's use in the course of his work.

These vehicles shall be used only within a 50 kilometre radius from the base of the undertaking, and on condition that driving the vehicles does not constitute the driver's main activity;

- (e) vehicles operating exclusively on islands not exceeding 2 300 square kilometres in area which are not linked to the rest of the national territory by a bridge, ford or tunnel open for use by motor vehicles;
- (f) vehicles used for the carriage of goods within a 50 km radius from the base of the undertaking and propelled by means of natural or liquefied gas or electricity, the maximum permissible mass of which, including the mass of a trailer or semi-trailer, does not exceed 7,5 tonnes;
- (g) vehicles used for driving instruction and examination with a view to obtaining a driving licence or a certificate of professional competence, provided that they are not being used for the commercial carriage of goods or passengers;
- (h) vehicles used in connection with sewerage, flood protection, water, gas and electricity maintenance services, road maintenance and control, door-to-door household refuse collection and disposal, telegraph and telephone services, radio and television broadcasting, and the detection of radio or television transmitters or receivers;
- (i) vehicles with between 10 and 17 seats used exclusively for the non-commercial carriage of passengers;
- (j) specialised vehicles transporting circus and funfair equipment;
- (k) specially fitted mobile project vehicles, the primary purpose of which is use as an educational facility when stationary;
- (l) vehicles used for milk collection from farms and the return to farms of milk containers or milk products intended for animal feed;
- (m) specialised vehicles transporting money and/or valuables;
- (n) vehicles used for carrying animal waste or carcasses which are not intended for human consumption;
- (o) vehicles used exclusively on roads inside hub facilities such as ports, interports and railway terminals;
- (p) vehicles used for the carriage of live animals from farms to local markets and vice versa or from markets to local slaughterhouses within a radius of up to 50 km.

2. Member States shall inform the Commission of the exceptions granted under paragraph 1 and the Commission shall inform the other Member States thereof.

<sup>(1)</sup> OJ L 15, 21.1.1998, p. 14. Directive as last amended by Regulation (EC) No 1882/2003 (OJ L 284, 31.10.2003, p. 1).

3. Provided that the objectives set out in Article 1 are not prejudiced and adequate protection for drivers is provided, a Member State may, after approval by the Commission, grant on its own territory minor exemptions from this Regulation for vehicles used in predefined areas with a population density of less than five persons per square kilometre, in the following cases:

- regular domestic passenger services, where their schedule is confirmed by the authorities (in which case only exemptions relating to breaks may be permitted), and
- domestic road haulage operations for own account or for hire or reward, which have no impact on the single market and are needed to maintain certain sectors of industry in the territory concerned and where the exempting provisions of this Regulation impose a limiting radius of up to 100 km.

Carriage by road under this exemption may include a journey to an area with a population density of five persons or more per square kilometre only in order to end or start the journey. Any such measures shall be proportionate in nature and scope.

#### Article 14

1. Provided that the objectives set out in Article 1 are not prejudiced, Member States may, after authorisation by the Commission, grant exceptions from the application of Articles 6 to 9 to transport operations carried out in exceptional circumstances.

2. In urgent cases Member States may grant a temporary exception for a period not exceeding 30 days, which shall be notified immediately to the Commission.

3. The Commission shall inform the other Member States of any exception granted pursuant to this Article.

#### Article 15

Member States shall ensure that drivers of vehicles referred to in Article 3(a) are governed by national rules which provide adequate protection in terms of permitted driving times and mandatory breaks and rest periods.

### CHAPTER V

## CONTROL PROCEDURES AND SANCTIONS

#### Article 16

1. Where no recording equipment has been fitted to the vehicle in accordance with Regulation (EEC) No 3821/85, paragraphs 2 and 3 of this Article shall apply to:

- (a) regular national passenger services, and

- (b) regular international passenger services whose route terminals are located within a distance of 50 km as the crow flies from a border between two Member States and whose route length does not exceed 100 km.

2. A service timetable and a duty roster shall be drawn up by the transport undertaking and shall show, in respect of each driver, the name, place where he is based and the schedule laid down in advance for various periods of driving, other work, breaks and availability.

Each driver assigned to a service referred to in paragraph 1 shall carry an extract from the duty roster and a copy of the service timetable.

3. The duty roster shall:

- (a) include all the particulars specified in paragraph 2 for a minimum period covering the previous 28 days; these particulars must be updated on regular intervals, the duration of which may not exceed one month;
- (b) be signed by the head of the transport undertaking or by a person authorised to represent him;
- (c) be kept by the transport undertaking for one year after expiry of the period covered by it. The transport undertaking shall give an extract from the roster to the drivers concerned upon request; and
- (d) be produced and handed over at the request of an authorised inspecting officer.

#### Article 17

1. Member States, using the standard form set out in Decision 93/173/EEC<sup>(1)</sup>, shall communicate the necessary information to the Commission to enable it to draw up every two years a report on the application of this Regulation and Regulation (EEC) No 3821/85 and developments in the fields in question.

2. This information shall be communicated to the Commission not later than 30 September of the year following the end of the two-year period concerned.

3. The report shall state what use has been made of the exceptions provided for in Article 13.

4. The Commission shall forward the report to the European Parliament and to the Council within 13 months of the end of the two-year period concerned.

<sup>(1)</sup> OJ L 72, 25.3.1993, p. 33.

*Article 18*

Member States shall adopt such measures as may be necessary for the implementation of this Regulation.

*Article 19*

1. Member States shall lay down rules on penalties applicable to infringements of this Regulation and Regulation (EEC) No 3821/85 and shall take all measures necessary to ensure that they are implemented. Those penalties shall be effective, proportionate, dissuasive and non-discriminatory. No infringement of this Regulation and Regulation (EEC) No 3821/85 shall be subjected to more than one penalty or procedure. The Member States shall notify the Commission of these measures and the rules on penalties by the date specified in the second subparagraph of Article 29. The Commission shall inform Member States accordingly.

2. A Member State shall enable the competent authorities to impose a penalty on an undertaking and/or a driver for an infringement of this Regulation detected on its territory and for which a penalty has not already been imposed, even where that infringement has been committed on the territory of another Member State or of a third country.

By way of exception, where an infringement is detected:

- which was not committed on the territory of the Member State concerned, and
- which has been committed by an undertaking which is established in, or a driver whose place of employment is, in another Member State or a third country,

a Member State may, until 1 January 2009, instead of imposing a penalty, notify the facts of the infringement to the competent authority in the Member State or the third country where the undertaking is established or where the driver has his place of employment.

3. Whenever a Member State initiates proceedings or imposes a penalty for a particular infringement, it shall provide the driver with due evidence of this in writing.

4. Member States shall ensure that a system of proportionate penalties, which may include financial penalties, is in force for infringements of this Regulation or Regulation (EEC) No 3821/85 on the part of undertakings, or associated consignors, freight forwarders, tour operators, principal contractors, subcontractors and driver employment agencies.

*Article 20*

1. The driver shall keep any evidence provided by a Member State concerning penalties imposed or the initiation of proceedings until such time as the same infringement of this Regulation can no longer lead to a second proceeding or penalty pursuant to this Regulation.

2. The driver shall produce the evidence referred to in paragraph 1 upon request.

3. A driver who is employed or at the disposal of more than one transport undertaking shall provide sufficient information to each undertaking to enable it to comply with Chapter II.

*Article 21*

To address cases where a Member State considers that there has been an infringement of this Regulation which is of a kind that is clearly liable to endanger road safety, it shall empower the relevant competent authority to proceed with immobilisation of the vehicle concerned until such time as the cause of the infringement has been rectified. Member States may compel the driver to take a daily rest period. Member States shall, where appropriate also withdraw, suspend or restrict an undertaking's licence, if the undertaking is established in that Member State, or withdraw, suspend or restrict a driver's driving licence. The Commission, acting in accordance with the procedure in Article 24(2) shall develop guidelines with a view to promoting a harmonised application of this Article.

*Article 22*

1. Member States shall assist each other in applying this Regulation and in checking compliance herewith.

2. The competent authorities of the Member States shall regularly exchange all available information concerning:

- (a) infringements of the rules set out in Chapter II committed by non-residents and any penalties imposed for such infringements;
- (b) penalties imposed by a Member State on its residents for such infringements committed in other Member States.

3. The Member States shall regularly send relevant information concerning the national interpretation and application of this Regulation to the Commission, which will make this information available in electronic form to other Member States.

4. The Commission shall support dialogue between Member States concerning national interpretation and application of this Regulation through the Committee referred to in Article 24(1).

*Article 23*

The Community shall enter into any negotiations with third countries which may prove necessary for the purpose of implementing this Regulation.

*Article 24*

1. The Commission shall be assisted by the Committee set up under Article 18(1) of Regulation (EEC) No 3821/85.
2. Where reference is made to this paragraph, Articles 3 and 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.
3. The Committee shall adopt its rules of procedure.

*Article 25*

1. At the request of a Member State, or on its own initiative, the Commission shall:
  - (a) examine cases where differences in the application and enforcement of any of the provisions of this Regulation arise and particularly concerning driving times, breaks and rest periods;
  - (b) clarify the provisions of this Regulation, with a view to promoting a common approach.
2. In the cases referred to in paragraph 1 the Commission shall take a decision on a recommended approach in accordance with the procedure referred to in Article 24(2). The Commission shall communicate its decision to the European Parliament, the Council and to the Member States.

## CHAPTER VI

## FINAL PROVISIONS

*Article 26*

Regulation (EEC) No 3821/85 is hereby amended as follows:

1. Article 2 shall be replaced by the following:

*'Article 2*

For the purpose of this Regulation the definitions set out in Article 4 of Regulation (EC) No 561/2006 of the European Parliament and of the Council of 15 March 2006 on the harmonisation of certain social legislation relating to road transport and amending Council Regulations (EEC) No 3821/85 and (EC) No 2135/98 (\*) shall apply.

(\*) OJ L 102, 11.4.2006, p. 1'

2. Article 3(1), (2) and (3) shall be replaced as follows:

'1. Recording equipment shall be installed and used in vehicles registered in a Member State which are used for

the carriage of passengers or goods by road, except the vehicles referred to in Article 3 of Regulation (EC) No 561/2006. Vehicles referred to in Article 16(1) of Regulation (EC) No 561/2006 and vehicles, which were exempt from the scope of application of Regulation (EEC) No 3820/85, but which are no longer exempt under Regulation (EC) No 561/2006 shall have until 31 December 2007 to comply with this requirement.

2. Member States may exempt vehicles mentioned in Articles 13(1) and (3) of Regulation (EC) No 561/2006 from application of this Regulation.

3. Member States may, after authorisation by the Commission, exempt from application of this Regulation vehicles used for the transport operations referred to in Article 14 of Regulation (EC) No 561/2006.;

3. Article 14(2) shall be replaced as follows:

'2. The undertaking shall keep record sheets and printouts, whenever printouts have been made to comply with Article 15(1), in chronological order and in a legible form for at least a year after their use and shall give copies to the drivers concerned who request them. The undertaking shall also give copies of downloaded data from the driver cards to the drivers concerned who request them and the printed papers of these copies. The record sheets, printouts and downloaded data shall be produced or handed over at the request of any authorised inspecting officer.;

4. Article 15 shall be amended as follows:

— in paragraph 1, the following subparagraph shall be added:

'Where a driver card is damaged, malfunctions, or is not in the possession of the driver, the driver shall:

(a) at the start of his journey, print out the details of the vehicle the driver is driving, and shall enter onto that printout:

(i) details that enable the driver to be identified (name, driver card or driver's licence number), including his signature;

(ii) the periods referred to in paragraph 3, second indent (b), (c) and (d);

(b) at the end of his journey, print out the information relating to periods of time recorded by the recording equipment, record any periods of other work, availability and rest undertaken since the printout that was made at the start of the journey, where not recorded by the tachograph, and mark on that document details that enable the driver to be identified (name, driver card or driver's licence number), including the driver's signature.'

- paragraph 2, second subparagraph shall be replaced by the following:

'When as a result of being away from the vehicle, a driver is unable to use the equipment fitted to the vehicle, the periods of time referred to in paragraph 3, second indent (b), (c) and (d) shall:

- (a) if the vehicle is fitted with recording equipment in conformity with Annex I, be entered on the record sheet, either manually, by automatic recording or other means, legibly and without dirtying the sheet; or
- (b) if the vehicle is fitted with recording equipment in conformity with Annex IB, be entered onto the driver card using the manual entry facility provided in the recording equipment.

Where there is more than one driver on board the vehicle fitted with recording equipment in conformity with Annex IB, each driver shall ensure that his driver card is inserted into the correct slot in the tachograph.'

- paragraph 3(b) and (c) shall be replaced by the following:

'(b) "other work" means any activity other than driving, as defined in Article 3(a) of Directive 2002/15/EC of the European Parliament and of the Council of 11 March 2002 on the organisation of the working time of persons performing mobile road transport activities (\*), and also any work for the same or another employer within or outside of the transport sector, and must be recorded under this sign 

(c) "availability" defined in Article 3(b) of Directive 2002/15/EC must be recorded under this sign .

(\*) OJ L 80, 23.3.2002, p. 35.'

- paragraph 4 shall be deleted,
- paragraph 7 shall be replaced by the following:

'7. (a) Where the driver drives a vehicle fitted with recording equipment in conformity with Annex I, the driver must be able to produce, whenever an inspecting officer so requests:

- (i) the record sheets for the current week and those used by the driver in the previous 15 days;

- (ii) the driver card if he holds one, and
- (iii) any manual record and printout made during the current week and the previous 15 days as required under this Regulation and Regulation (EC) No 561/2006.

However, after 1 January 2008, the time periods referred to under (i) and (iii) shall cover the current day and the previous 28 days.

(b) Where the driver drives a vehicle fitted with recording equipment in conformity with Annex IB, the driver must be able to produce, whenever an inspecting officer so requests:

- (i) the driver card of which he is holder;
- (ii) any manual record and printout made during the current week and the previous 15 days as required under this Regulation and Regulation (EC) No 561/2006, and
- (iii) the record sheets corresponding to the same period as the one referred to in the previous subparagraph during which he drove a vehicle fitted with recording equipment in conformity with Annex I.

However, after 1 January 2008, the time periods referred to under (ii) shall cover the current day and the previous 28 days.

(c) An authorised inspecting officer may check compliance with Regulation (EC) No 561/2006 by analysis of the record sheets, of the displayed or printed data which have been recorded by the recording equipment or by the driver card or, failing this, by analysis of any other supporting document that justifies non-compliance with a provision, such as those laid down in Article 16(2) and (3).'

Article 27

Regulation (EC) No 2135/98 is hereby amended as follows:

- 1. Article 2(1)(a) shall be replaced by the following:

'1. (a) From the 20th day following the day of publication of Regulation (EC) No 561/2006 of the European Parliament and of the Council of 15 March 2006 on the harmonisation of certain social legislation relating to road transport and amending Council Regulations (EEC) No 3821/85 and (EC) No 2135/98 (\*) vehicles put into service for the first time shall be fitted with recording equipment in accordance with the requirements of Annex IB to Regulation (EEC) No 3821/85.

(\*) OJ L 102, 11.4.2006, p. 1';

2. Article 2(2) shall be replaced by the following:

'2. Member States shall take the necessary measures to ensure that they are able to issue driver cards at the latest on the 20th day following the day of publication of Regulation (EC) No 561/2006.'

*Article 28*

Regulation (EEC) No 3820/85 is hereby repealed and replaced by this Regulation.

Notwithstanding, paragraphs 1, 2 and 4 of Article 5 of Regulation (EEC) No 3820/85 shall continue to apply until the dates set out in Article 15(1) of Directive 2003/59/EC.

*Article 29*

This Regulation shall enter into force on 11 April 2007, with the exception of Articles 10(5), 26(3) and (4) and 27, which shall enter into force on 1 May 2006.

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

Done at Strasbourg, 15 March 2006.

*For the European Parliament*

*The President*

J. BORRELL FONTELLES

*For the Council*

*The President*

H. WINKLER

\_\_\_\_\_

# Annex 2

## Section 96, Transport Act 1968

### Transport Act 1968

#### Part VI. Section 96 : Permitted driving time and periods of duty

(1) Subject to the provisions of this section, a driver shall not on any working day drive a vehicle or vehicles to which this Part of this Act applies for periods amounting in the aggregate to more than ten hours.

(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) there has not been during that period, or during or between any of those periods, an interval of not less than half an hour 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,

there shall at the end of that period, or of the last of those periods, be such an interval as aforesaid.

(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) if during that day—

(i) all the time when he is driving vehicles to which this Part of this Act applies is spent in driving one or more express carriages or contract carriages; and

(ii) he is able for a period of not less than four hours to obtain rest and refreshment,

shall not exceed fourteen hours.

- (4) Subject to the provision of this section, there shall be, between any two successive working days of a driver, an interval for rest which—
- (a) subject to paragraph (b) of this subsection, shall not be of less than eleven hours;
  - (b) if during both those days all or the greater part of the time when he is driving vehicles to which this Part of this Act applies is spent in driving one or more passenger vehicles, may, on one occasion in each working week, be of less than eleven hours but not of less than nine and a half hours;

and for the purposes of this Part of this Act a period of time shall not be treated, in the case of an employee-driver, as not being an interval for rest by reason only that he may be called upon to report for duty if required.

- (5) Subject to the provisions of this section a driver shall not be on duty in any working week for periods amounting in the aggregate to more than sixty hours.
- (6) Subject to the provisions of this section, there shall be, in the case of each working week of a driver, a period of not less than twenty-four hours for which he is off duty, being a period either falling wholly in that week or beginning in that week and ending in the next week; but—
- (a) where the requirements of the foregoing provisions of this subsection have been satisfied in the case of any week by reference to a period ending in the next week, no part of that period (except any part after the expiration of the first twenty-four hours of it) shall be taken into account for the purpose of satisfying those requirements in the case of the next week; and
  - (b) those requirements need not be satisfied in the case of any working week of a driver who on each working day falling wholly or partly in that week drives one or more stage carriages if that week is immediately preceded by a week in the case of which those requirements have been satisfied as respects that driver or during which he has not at any time been on duty.

(7) If in the case of the working week of any driver the following requirement is satisfied, that is to say, that, in each of the periods of twenty-four hours beginning at midnight which make up that week, the driver does not drive a vehicle to which this Part of this Act applies for a period of, or periods amounting in the aggregate to, more than four hours, the foregoing provisions of this section shall not apply to him in that week, except that the provisions of subsections (1), (2) and (3) shall nevertheless have effect in relation to the whole of any working day falling partly in that week and partly in a working week in the case of which that requirement is not satisfied.

(8) If on any working day a driver does not drive any vehicle to which this Part of this Act applies—

- (a) subsections (2) and (3) of this section shall not apply to that day, and
- (b) the period or periods of duty attributable to that day for the purposes of subsection (5) of this section shall, if amounting to more than eleven hours, be treated as amounting to eleven hours only.

(9) For the purposes of subsections (1) and (7) of this section no account shall be taken of any time spent driving a vehicle elsewhere than on a road if the vehicle is being so driven in the course of operations of agriculture or forestry.

For the purposes of subsections (1) and (7) of section 96 no account shall be taken of any time spent in driving a goods vehicle elsewhere than on a road if the vehicle is being so driven in the course of operations of quarrying or of carrying out any work in the construction, reconstruction, alteration, extension or maintenance of, or of a part of, a building, or of any other fixed works of construction or civil engineering (including works for the construction, improvement or maintenance of a road) and, for the purposes of this exemption where the vehicle is being driven on, or on a part of a road in the course of carrying out any work for the improvement or maintenance of, or of that part of, that road, it shall be treated as if it were being driven elsewhere than on a road.

(10) For the purpose of enabling drivers to deal with cases of emergency or otherwise to meet a special need, the Minister may by regulations—

- (a) create exemptions from all or any of the requirements of subsections (1) to (6) of this section in such cases and subject to such conditions as may be specified in the regulations;
- (b) empower the traffic commissioner for any area, subject to the provisions of the regulations—
  - (i) to dispense with the observance of all or any of those requirements (either generally or in such circumstances or to such extent as the commissioner thinks fit) in any particular case for which provision is not made under paragraph (a) of this subsection;
  - (ii) to grant a certificate (which, for the purposes of any proceedings under this Part of this Act, shall be conclusive evidence of the facts therein stated) that any particular case falls or fell within any exemption created under the said paragraph (a);

and regulations under this subsection may enable any dispensation under paragraph (b)(i) of this subsection to be granted retrospectively and provide for a document purporting to be a certificate granted by virtue of paragraph (b)(ii) of this subsection to be accepted in evidence without further proof.

(11) If any of the requirements of [the domestic drivers' hours code], is contravened in the case of any driver—

- (a) that driver; and
- (b) any other person (being that driver's employer or a person to whose orders that driver was subject) who caused or permitted the contravention, shall be liable on summary conviction to a fine not exceeding level 4 on the standard scale; but a person shall not be liable to be convicted under this subsection if he proved to the court—
  - (i) that the contravention was due to unavoidable delay in the completion of a journey arising out of circumstances which he could not reasonably have foreseen; or
  - (ii) in the case of a person charged under paragraph (b) of this subsection, that the contravention was due to the fact that the driver had for any particular period or periods driven or been on duty otherwise than in the employment of that person or, as the case may be, otherwise than in the employment in which he is subject to the orders of that person, and that the person charged was not, and could not reasonably have become, aware of that fact.

(11A) Where, in the case of a driver of a motor vehicle, there is in Great Britain a contravention of any requirement of [the applicable Community rules] as to periods of driving, or distance driven, or periods on or off duty, then the offender and any other person (being the offender's employer or a person to whose orders the offender was subject) who caused or permitted the contravention shall be liable on summary conviction to a fine not exceeding level 4 on the standard scale

(11B) But a person shall not be liable to be convicted under subsection (11A) if—

- (a) he proves the matters specified in paragraph (i) of subsection (11); or
- (b) being charged as the offender's employer or a person to whose orders the offender was subject, he proves the matters specified in paragraph (ii) of that subsection

(12) The Minister may by order—

- (a) direct that subsection (1) of this section shall have effect with the substitution for the reference to ten hours of a reference to nine hours, either generally or with such exceptions as may be specified in the order;
- (b) direct that paragraph (a) of subsection (3) of this section shall have effect with the substitution for the reference to eleven hours of a reference to any shorter period, or remove, modify or add to the provisions of that subsection containing exceptions to the said paragraph (a);

(c) remove, modify or add to any of the requirements of subsections (2), (4), (5) or (6) of this section or any of the exemptions provided for by subsections (7), (8) and (9) thereof;

and any order under this subsection may contain such transitional and supplementary provisions as the Minister thinks necessary or expedient, including provisions amending any definition in section 103 of this Act which is relevant to any of the provisions affected by the order.

(13) In this Part of this Act “the domestic driver’s hours code” means the provisions of subsections (1) to (6) of this section as for the time being in force (and, in particular, as modified, added to or substituted by or under any instrument in force under section 95(1) of this Act or subsection (10) or (12) of this section)

### **Annotations:**

#### ***Amendments (Textual)***

Exemption added by S.I. 1970/257, art. 4

Words inserted by S.I. 1971/818, art. 5(b)

Words substituted by Transport Act 1985 (c. 67, SIF 126), s. 3, Sch. 2 Pt. II para. 1(2)

Words substituted by Road Traffic (Drivers’ Ages and Hours of Work) Act 1976 (c. 3), s. 2(1)(e)

Words substituted by virtue of (E.W.) Criminal Justice Act 1982 (c. 48, SIF 39:1), ss. 38, 46 and (S.) Criminal Procedure (Scotland) Act 1975 (c. 21, SIF 39:1), ss. 289F, 289G (as inserted by Criminal Justice Act 1982 (c. 48, SIF 39:1), s. 54)

S. 96(11A) inserted by European Communities Act 1972 (c. 68), Sch. 4 para. 9(2)(a)

Words repealed by S.I. 1986/1457, reg. 2

Words substituted by Road Traffic (Drivers’ Ages and Hours of Work) Act 1976 (c. 3), s. 2(1)(c)

S. 96(11B) inserted by Transport Act 1978 (c. 55), s. 10

S. 96(13) added by Road Traffic (Drivers’ Ages and Hours of Work) Act 1976 (c. 3), s. 2(1)(f)

***Modifications etc. (not altering text)***

Power to restrict s. 96 conferred by Energy Act 1976 (c. 76), s. 4(2), Sch. 1 para. 3

S. 96 applied (with modifications) (S.) (4.1.1995) by 1994 c. 39, s. 40(7) (with s. 7(2)); S.I. 1994/2850, art. 3(a), Sch. 2

S. 96(1)–(6) excluded by S.I. 1986/1458, art. 2(1)

# Annex 3 Illustration

	0-1	1-2	2-3	3-4	4-5	5-6	6-7	7-8	8-9	9-10	10-11	11-12	12-13	13-14	14-15	15-16	16-17	17-18	18-19	19-20	20-21	21-22	22-23	23-24
Mon	WR		DH			R		DH		WR	WR	WR	WR	WR	DR	DR								
Tues	DR		DH			R		DH		WR	WR	WR	WR	WR	DR	DR								
Weds	DR		DH			R		DH		WR	WR	WR	WR	WR	DR	DR								
Thurs	DR		DH			R		DH		WR	WR	WR	WR	WR	DR	DR								
Fri	DR		DH			R		DH		DR	DR	DR	DR	DR	DR	DR								
Sat	DR	DR	DR	DR					<b>RDS – 7hrs 15mins</b>						WR	WR	WR	WR	WR	WR	WR	WR	WR	WR
Sun	WR					WR	WR	WR	WR	WR	WR	WR	WR	WR	WR	WR								
Mon	DR		DH			R		DH		<b>RDS – 4hrs 15mins</b>	DR	DR												
Tues	DR		DH			R		DH		<b>RDS – 4hrs 15mins</b>	DR	DR												
Weds	DR		DH			R		DH		<b>RDS – 4hrs 15mins</b>	DR	DR												
Thurs	DR		DH			R		DH		<b>RDS – 4hrs 15mins</b>	DR	DR												
Fri	DR		DH			R		DH		DR	DR	DR	DR	DR	DR	DR								
Sat	DR	DR	DR	DR					<b>RDS – 7hrs 15mins</b>						WR	WR	WR	WR	WR	WR	WR	WR	WR	WR
Sun	WR					WR	WR	WR	WR	WR	WR	WR	WR	WR	WR	WR								

WR = Weekly Rest  
 DH = Drivers Hours  
 R = Rest Break  
 RDS = Available for Retained Duty  
 DR = Daily Res

# Annex 4

## Questionnaire Sample

### **The EC Drivers' Hours and Tachograph Rules for Goods Vehicles (Regulation 561/2006)**

#### Introduction

The EC Drivers' Hours and Tachograph Rules for Goods Vehicles (Regulation 561/2006) came into effect on 11th April 2007. These replace Council Regulation 3820/85 on drivers' hours and aim to clarify the rules on driving. The purpose of the rules is to limit driving time and ensure that proper break and rest periods are taken so that road traffic accidents are prevented.

The Rules apply to certain categories of mobile workers (the most common being drivers of Heavy Goods Vehicles with an overall weight over 3.5 tonnes and Passenger Service Vehicles with more than nine seats, or travelling more than 50 kilometers). These are called 'in-scope' vehicles. VOSA guidance on the Rules can be found at:

[www.vosa.gov.uk/vosacorp/repository/GV262%20Jan%202008.pdf](http://www.vosa.gov.uk/vosacorp/repository/GV262%20Jan%202008.pdf)

It has been brought to the attention of Communities and Local Government that the Drivers' Hours and Tachograph Rules for Goods Vehicles has the potential to impact adversely on the Fire and Rescue Service in particular the Retained Duty System recruitment and retention where RDS firefighters drive 'in-scope' vehicles in their primary employment.

CLG and CFOA have agreed to jointly scope the potential impact of the Drivers' Hours Rules on the RDS. To assist in this process it would be extremely helpful if Fire and Rescue Services could complete the questionnaire below and return it to:

Fire and Rescue Service Development Division  
Communities and Local Government

**Details of person completing questionnaire:**

Name of your Fire and Rescue Service: \_\_\_\_\_

Your name: \_\_\_\_\_

Your job title/role: \_\_\_\_\_

Your contact telephone number: \_\_\_\_\_

Your email address: \_\_\_\_\_

**SURVEY ON THE IMPACT OF THE E.C. DRIVERS' HOURS AND TACHOGRAPH RULES FOR GOODS VEHICLES (Regulation 561/2006)****Question 1.**

Is your Fire and Rescue Service (FRS) aware of the E.C. Drivers' Hours Rules (the Rules) and their implications?

No  please go to question 12

Yes

**Question 2.**

Has your FRS sought or received any legal advice, contacted the Vehicle & Operators Services Agency (VOSA) or the Department for Transport about the implications of the Rules?

No

Yes

If yes, then what were the main recommendations or advice?

**Question 3.**

How many Retained Duty System (RDS) personnel did your FRS employ as at 1st October 2008?

Number of RDS \_\_\_\_\_

**Question 4.**

Within your FRS, how many RDS personnel were qualified/trained/able to drive in-scope vehicles as a part of their primary employment (as specified under the E.C. Drivers' Hours Rules) as at 1st October 2008?

Number of RDS drivers \_\_\_\_\_

Not known

**Question 5.**

Does your FRS recruit RDS personnel who drive in-scope vehicles (as specified under the E.C. Drivers' Hours Rules) in their primary employment?

No

Yes

Do you know how many? Number \_\_\_\_\_

**Question 6.**

Relating to RDS personnel's primary employment, are you aware that the E.C. Drivers' Hours Rules resulted in any of the following ?

i) them accepting a different role with their primary employer? No  Yes

ii) them refusing to accept other primary employment? No  Yes

**Question 7.**

Has your FRS informed RDS personnel of the impact of the Rules on their employment (both with their primary employer and with the FRS) and the need to comply with the law?

No  please go to question 8

Yes

If yes, briefly how was this done ?

If yes, did this include wholetime duty system and other personnel?

No

Yes

**Question 8.**

Does your FRS monitor the number of hours driving being undertaken by RDS personnel as part of their primary employment?

No

Yes

If yes, briefly describe how this is done?

**Question 9.**

Has your FRS developed any special arrangements to assist RDS personnel with compliance with the legislation e.g. revised availability/cover?

No

Yes

If so, briefly describe what they are?

**Question 10.**

Within your FRS, have the E.C. Drivers' Hours Rules resulted in the resignation or termination of contracts of any RDS personnel?

No – we are not aware of any resignations for this reason

Yes – there have been such resignations but we are unsure of exactly how many

Yes – there have been such resignations and we know exactly how many

How many resignations have there been? – number resigning \_\_\_\_\_

**Question 11.**

Has your FRS received any representations from RDS firefighters or their primary employers on compliance with the Rules?

No

Yes

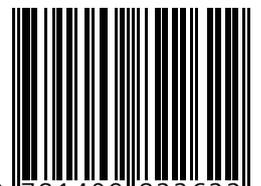
If so, briefly describe what?

**Question 12.**

Please use the space provided to make any further comments about any of the issues raised in this questionnaire.

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