



Consultation - Government's proposals on the implementation of EU Regulation 165/2014 on tachographs in road transport, repealing Council Regulation (EEC) No 3821/85 on recording equipment in road transport and amending Regulation (EC) No 561/2006 of the European Parliament and of the Council on the harmonisation of certain social legislation relating to road transport

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## Background

1. This paper sets out how the Department for Transport (DfT) for Great Britain and the Department of Environment (DOE) for Northern Ireland plan to implement EU Regulation 165/2014 (referred to in this paper as ‘the new Regulation’). It seeks views on areas where there is flexibility on implementation which will be used to help us determine the way forward. It also looks to gather information which will be used to inform an impact assessment.

2. It is split into seven parts and asks questions throughout. The sections are:

- the main changes resulting from the new Regulation and their impact;
- our proposals to update the domestic legislative framework;
- changes that took effect from 2 March 2015 and their impact;
- areas where the UK has flexibility;
- other new requirements that take effect from 2 March 2016;
- other points to note; and
- the impact of the remainder of the new Regulation.

3. Although this paper covers our policy proposals, there is still significant work to be done to ensure that the new EU Regulation is properly implemented in a way that fits our domestic legislative framework. If we decide to provide further information concerning the ongoing development of the policy or the draft legislative changes and you are interested in seeing that information then please provide your details in response to question 3 and we will endeavour to send that information to you.

## Main changes resulting from the new Regulation and their impact

4. The new Regulation is aimed at helping to tackle fraud by making the tachograph more resistant to tampering as well as allowing for easier enforcement. It also aims to reduce administrative burdens. Furthermore, it strengthens standards that workshops must meet in order to install, check, inspect and repair the tachograph. It extends some exemptions and national derogations set out in EU drivers’ hours rules (Regulation (EC) 561/2006).

## The new generation tachograph

5. The new Regulation provides for a new technical specification for digital tachographs and cards, so a new generation of tachographs will enter the market around 2019<sup>1</sup> and will be required to be installed in new vehicles.

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<sup>1</sup> Regulation 165/2014 provides that three years following the entry into force of the detailed provisions vehicles registered for the first time shall be fitted with a new generation tachograph. These detailed provisions (the annexes) are expected to be published by 2 March 2016 – if they are not published by then the three years will start from their publication.

The development of detailed technical specifications is ongoing and we will continue to work with stakeholders where necessary to understand any impact.

6. The new generation of tachographs will include connection to a global navigation satellite systems (GNSS) which will automate the recording of the daily journey start and end location. They will also provide for a remote enforcement capability, which will allow an enforcement officer to interrogate a digital tachograph remotely at the roadside to assess whether to stop a vehicle. A harmonised interface with intelligent transport systems (ITS) may also be introduced in these new tachographs. It has been estimated by the European Commission that GNSS, remote communications facilities and ITS functions could add around £7 each to the cost of a new vehicle<sup>2</sup>. In addition, it has been estimated that GNSS will provide time-savings benefits of around 37.8 minutes per driver, per year<sup>3</sup>. Road safety benefits from improved compliance and easier enforcement have not been quantified.

### Tachograph connection to a GNSS device to automate the recording of the daily journey start and end location

7. The cost of the connection interface is estimated at £7 per tachograph, based on the Commission's impact assessment. With an estimated 45,296<sup>4</sup> new vehicles entering service in GB per year, the cost could be up to £317,072 (=£7x 45,296) per year.

8. The time-savings benefit is based upon the time saved by the driver from manual entry of location data via the automated recording. The UK estimated time for manual entry during negotiations was 5 seconds per entry, twice per day x 227 working days = 37.8 minutes per driver year. It will only be for those vehicles using the new generation tachograph (estimated at 45,296 per year in GB). Therefore any saving will not start until 2019 and the time saving will increase as more new generation tachographs enter the fleet each year. We propose that this change generates a time saving of £469,661 in 2019. These benefits would rise to £3,678,913 in 2025 as the new generation tachograph becomes more widespread in the fleet. This is based on the value of the driver time in the relevant year (source WebTAG<sup>5</sup>).

9. In Northern Ireland an estimated 1,232 new vehicles enter the fleet each year<sup>6</sup>. The cost of these vehicles being fitted with a new generation tachograph could be up to £8,624 per year.

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<sup>2</sup> It was estimated during the [Commissions Impact Assessment](#) (which was developed in 2011) that new technologies would add around €5 – 10 each. We have taken the highest estimate which (on 10 March 2015) is equivalent to around £7.

<sup>3</sup> This is lower than the Commission estimate from the Impact Assessment, which was 1 minute per day

<sup>4</sup> 37,271 new lorries and 8,025 new buses were newly registered in 2014 (source: DfT statistics).

<sup>5</sup> <https://www.gov.uk/transport-analysis-guidance-webtag>. In 2019 an OGV (other goods vehicle) driver has an estimated market value of time of £16.38 per hour. For PSV drivers in 2019 it is £16.74. In 2025 they are £18.33 and £18.73 respectively.

<sup>6</sup> According to DfT statistics in the last 6 months of 2014 there were 468 new HGVs and 148 new PSVs registered for the first time in NI – for this assessment we have doubled this to get a yearly

10. The time-savings benefit, using the same methodology as above<sup>7</sup> would be £12,792 in 2019 rising to £100,200 in 2025.

**A remote (wireless) communications function proposed to provide a signal, only on request, to allow an enforcement officer to assess whether to stop the vehicle for further checks.**

11. The cost of the wireless transmitter is estimated at £7 per tachograph, based on the Commission's impact assessment. Again, with an estimated 45,296 vehicles entering service per year, the cost could be up to £317,072 per year. As above, in NI it could be up to £8,624.

12. The use of this function is optional for enforcement officers (see paragraph 86) until around 2034 (15 years after newly registered vehicles are expected to have a new generation tachograph fitted). There will be costs to enforcement agencies as a result of this proposal.<sup>8</sup>

13. The benefits from this technology are likely to be zero until the facility is used by enforcement officers. However, from the date of use there are likely to be benefits resulting from enhanced and more effective enforcement.

**Harmonised interface proposed to allow the use of Intelligent Transport Systems (ITS) with the tachograph.**

14. The cost of the ITS interface is estimated at £7 per tachograph, based on the Commission's impact assessment. With an estimated 45,296 vehicles entering service per year the cost could be up to £317,072. As above, in NI it could be up to £8,624.

15. The use of ITS could provide benefits for operators' fleet management systems, although it has not been possible to quantify this and it will be modelled as a non-monetised benefit.

**Question 1: Do you agree with our assessment of the impacts from the new generation of digital tachograph? Please give your reasons and any further views relating to the impacts (including costs and benefits) of the new generation of digital tachographs.**

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estimate (previous years statistics did not separate out new and used vehicles registered for the first time in NI). Any final impact assessment will take account of latest figures available.

<sup>7</sup> The webtag values are primarily aimed at GB, however without a better estimate for NI these figures have been used.

<sup>8</sup> [The Joint Research Centre \(JRC\) Report on Short Range Communications](#) gives costs for the receiver units of €3,000 to €5,000 each and suggests Dedicated Short Range Communications (DSRC) as the appropriate technology.

## Our Proposals to Update the Legislative Framework

16. DfT will be updating the legislative framework governing tachograph rules in Great Britain to reflect the new Regulation. DOE will be responsible for making the necessary legislative amendments for Northern Ireland. This will include making sure that the necessary powers for enforcement agencies or card issuing authorities are updated as necessary. It will also ensure that references to the EU tachograph regulation are updated where in domestic legislation to reflect the introduction of the new Regulation and the repeal of the existing Regulation.

17. We have made reference throughout the document to the relevant pieces of legislation that will be amended to reflect the new requirements. However, we have identified the following legislation that will need to be amended with the implementation:

In GB this is:

- Part VI Transport Act 1968<sup>9</sup>
- Fixed Penalty Order 2000 (SI 2000/2792)
- Road Safety (Financial Penalty Deposit) (Appropriate Amount) Order 2009 (SI 2009/492)
- The Community Drivers' Hours and Recording Equipment Regulations 2007 (SI 1819/2007)
- The Passenger and Goods Vehicles (Recording Equipment) (Tachograph Card) Regulations 2006 (SI 1937/2006)
- The Passenger and Goods Vehicles (Recording Equipment) (Tachograph Card Fees) Regulations 2005 (SI 2005/1140)
- The Passenger and Goods Vehicles (Recording Equipment) Regulations 1979 (SI 1979/1746)
- Passenger and Goods Vehicles Recording Equipment) (Approval of Fitters and Workshops) (Fees) Regulations 1986
- Road Vehicles (Construction and Use) Regulations 1986 (as amended)
- Road Traffic Act 1988
- Motor Vehicles (Type Approval) Regulations 1980 (SI 1980/1182)

In NI this is:

- The Passenger and Goods Vehicles (Recording Equipment) Regulations (Northern Ireland) 1996 (as amended)
- Road Traffic (Fixed Penalty) Order (Northern Ireland) 2007 No.319

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<sup>9</sup>This will include the changes related to the clarity of 97D that were included in the Explanatory Memorandum accompanying The Passenger and Goods Vehicles (Recording Equipment) (Downloading of Data) 2015

- The Road Traffic (Financial Penalty Deposit) (Appropriate Amount) Order (Northern Ireland) 2012 No. 18
- Road Traffic Offenders (Northern Ireland) Order 1996 No.1320
- The Community Drivers' Hours and Recording Equipment (exemptions and supplementary provisions) Regulations (Northern Ireland) 2009 No 91
- The Passenger and Goods Vehicles (Recording Equipment) (Tachograph Card) Regulations (Northern Ireland) 2007 No 36
- The Motor Vehicles (Construction and Use) Regulations (Northern Ireland) 1989
- The Road Traffic (Northern Ireland) Order 1995

18. The domestic legislative framework will be updated by 2 March 2016, being the earliest date when the new Regulation can fully take effect. The new Regulation is intended to apply fully from that date. However, this date may be extended if, by that time, the Commission has failed to bring into effect “implementing acts” relating to the new Regulation that are currently outstanding. An example of an “implementing act” would be the provision of detailed measures needed to ensure that the next generation tachographs comply with the general principles currently set out in the new Regulation (the technical specification). The existing tachograph regulation (EC 3821/85) will not be fully repealed until 2 March 2016 at the earliest and therefore our current domestic legislative framework will remain in place until then. There are however some provisions of the new Regulation which took effect from 2 March 2015 and some DVSA and DVA practices have to change as a result. These are set out in more detail below in section 2.

19. Comprehensive guidance will be issued alongside new legislation in order to help drivers, operators, workshops and others understand the new framework and any changes.

20. We also understand that changes may result in costs for organisations, such as updating guidance or ensuring drivers are aware of any changes. However these have not been quantified and if we receive no further information then we will include it as a non-monetised cost.

**Question 2: Do you agree with the proposals for updating the legislative framework and guidance (including the costs and benefits we have identified)? Please explain your reasons.**

**Question 3: Are you interested in seeing information if we decide to provide further information concerning the ongoing development of the policy or the draft legislative changes? If so, please provide contact details.**

## Specific changes that took effect on 2 March 2015 and their impact

### Article 24 of new Regulation – Approving workshops, fitters and vehicle manufacturers

21. This Article is aimed at strengthening the provisions related to approving workshops (tachograph centres) and fitters (nominated technicians) and vehicle manufacturers.
22. All Member States must have a set of clear national procedures relating to the approvals of fitters and workshops and Member States will be required to meet obligations relating to audits of fitters and workshops.
23. The Driver and Vehicles Standards Agency (DVSA) in GB and the Driver and Vehicle Agency (DVA) in NI are the agencies which approve workshops, fitters and vehicle manufacturers. They already have guidelines for approving workshops, fitters and vehicle manufacturers – the Approved Tachograph Centre Manual (ATCM). These are currently being updated in consultation with industry to reflect the new Regulation and a number of other technical amendments. We do not anticipate that there will be significant changes to tachograph centres as a result of the new Regulation because we already consider that these centres operate within strict requirements which meet the new EU requirements. However, tachograph centres are urged to remain up to date with any changes that happen. The new generation of tachograph is likely to result in changes to practices within tachograph centres.
24. There are also changes to audit practices required following the new Regulation. DVSA and DVA already carry out audits of tachograph centres, however, since 2 March 2015 agencies have been required to audit tachograph centres every two years on the procedures they apply when handling tachographs. They are also required to carry out unannounced technical audits covering at least 10% of centres/fitters a year to check the calibrations, inspections and installations of tachographs. These changes will be introduced in the coming months to ensure compliance with the Regulation.
25. To meet the audit requirements, current plans for audits will include paper-based assessments for all workshops every two years. We anticipate this will take around an hour of time for each workshop to complete but will result in no additional impact on them because it will be part of their re-approval paperwork which they already have to complete. The completed desk based assessment will also qualify as one of the mandatory 3 monthly centre quality control checks required to be completed by the quality controller.
26. There will also be site-audits carried out on 10% of centres to check the information provided on the paper-based assessments. These are of the



same nature as the existing audits and we therefore do not consider these to result in any additional impact on the workshop in question.

27. The technical audits could involve an examiner asking for a recently calibrated vehicle to be calibrated again, and checking the two outcomes. We consider that this may have an impact on tachograph fitters, which is discussed in the following paragraphs.

28. A calibration has been estimated by DVSA to take an average of 45 minutes, however to be cautious we anticipate that it might take an hour for to carry out whilst an examiner is watching. This would result in the workshop being unable to use that piece of equipment for commercial calibration purposes.

29. It has been estimated by DVSA that an average calibration in GB has a commercial cost of £70 therefore an hours' worth of time would be equivalent to £93.33. At the time of publishing we understand that there are currently 2013 fitters approved in GB meaning a total cost of up to £18,853 per year ( $(2013/10) * 93.33$ ). We do not consider that this cost to centres is likely to be realised though because tachograph centres carry out other work that would not use calibration equipment and therefore an audit could take place without impacting on a workshop. It is estimated that around 500,000 calibrations take place in tachograph centres each year. At the time of publishing, with 546 tachograph centres approved in GB, this averages around 916 per year, per tachograph centre (or around four per day<sup>10</sup>), meaning that the equipment is not in constant use.

30. In NI the value of an hours' time would be £73.60<sup>11</sup>. At the time of publishing we understand that there are currently 85 fitters registered in NI and so the total cost could be up to £662 ( $(85/10) * 73.60$ ). As above, we do not consider the full cost is likely to be realised.

31. This could also mean that vehicles need to stay for an hour longer to allow for rechecking the calibration. However, we understand the majority of vehicles get dropped off and picked up at a later time and therefore, given the flexibility that examiners can choose any vehicle, we do not anticipate this will have any impact on drivers or operators. It is also proposed that in order to offset any additional burden on Approved Tachograph Centres created by this change in procedures, any technical audit check will also be counted as a qualifying quality assurance check required to be undertaken on the fitter. We therefore propose that it is unlikely that technical audits will incur a cost or burden on tachograph centres in most cases and this will be modelled as a zero or small cost in the impact assessment unless further evidence is provided.

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<sup>10</sup> Based on 252 working days in a year (=52 weeks in a year, 5 working days in a week, and 8 public holidays per year). It is assumed that the same level of calibrations per workshop happens in NI.

<sup>11</sup> The cost of a calibration is £46.00 (+ VAT at 20%). It is again assumed that a calibration takes 45 minutes.

32. The new Regulation also requires that measures are taken to prevent conflicts of interest between fitters and workshops and transport operators. The tachograph scheme framework and audits already take steps to ensure that this will not be the case and there are disciplinary procedures in place for workshops and fitters who contravene the rules. In addition audits will continue to consider the quality control procedures within tachograph centres in order to meet this requirement. We therefore consider that this will have no impact on workshops, as no new measures are proposed to be implemented.

**Question 4: Do you agree with the approach for meeting the requirements of the new Regulation for approval of fitters, workshops and vehicle manufacturers and our views on the impacts of article 24? Please explain your reasons.**

33. Should you have any comments on any part of the ATCM, including how audits could best be carried out – please contact [tachosection@vosa.gsi.gov.uk](mailto:tachosection@vosa.gsi.gov.uk)

### Article 34 of the new Regulation – Driver cards and record sheets

34. Article 34 covers drivers' cards and record sheets, which are currently provided for in Article 15 of Regulation 3821/85. There are no changes to responsibilities for drivers and/or operators, therefore we do not anticipate that there will be any impact on businesses as a result of these changes. Article 15 of Regulation 3821/85 will continue to be in effect until 2 March 2016 – when our domestic legislative framework will be updated.

35. Article 34 provides that Member States shall not require drivers to present a form of attestation to prove their activities whilst away from the vehicle. As currently set out in DVSA and DVA's drivers' hours and tachograph guidance the UK does not currently require drivers to demonstrate their activities whilst away from the vehicle, so we do not believe that this will have any impact on the ground for drivers/operators or enforcement officers and will reflect this in our impact assessment unless we hear otherwise.

36. However, this may change how other EU Member States view this issue, as some may currently require forms of attestation. Given that we do not yet know how other Member States will interpret this part of the new Regulation, we would encourage drivers to be aware of the requirements of countries they may be travelling through. We are aware that the EU have proposed to issue some enforcement guidance on this issue and we will seek views from industry to inform the UK position and disseminate any decisions reached.

**Question 5: Do you have any views related to driver cards and record sheets? Or do you have any concerns?**

## Article 45 of the new Regulation – Amendments to the drivers' hours rules

37. This Article amends Articles 3 (which covers exemptions) and Article 13 (which covers national derogations) of Regulation (EC) 561/2006 - drivers' hours rules in the following way.

### Now a directly applicable exemption:

- vehicles or combinations of vehicles with a maximum permissible mass not exceeding 7.5 tonnes used for carrying materials, equipment or machinery for the driver's use in the course of his work, and which are used only within a 100 km radius from the base of the undertaking and on the condition that driving the vehicle does not constitute the driver's main activity.

This was previously a national derogation with a 50km radius.

### Widening the following national derogations:

- 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 to deliver items as part of the universal service; these vehicles shall be used only within a 50 kilometre radius from the base of the undertaking, and on condition that driving the vehicle does not constitute the driver's main activity.
- 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;
- 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.

where 50km is mentioned in above three derogation references, this has been increased to 100km since 2 March 2015.

38. These changes will mean that more drivers may fall out of scope of EU drivers' hours rules. Guidance on drivers' hours and tachographs will be re-issued to ensure that these changes are widely-known about and enforcement practices adjusted accordingly. Domestic legislative frameworks will be updated by 2 March 2016<sup>12</sup>.

39. We consider these changes are likely to be deregulatory for the sectors involved since the exemptions/national derogations have previously been supported and these increases widen them. Any drivers now out of scope of the EU drivers' hours rules as a result of these changes will fall within the relevant domestic drivers' hours rules. Under domestic rules the drivers would still need to abide by certain driving and duty rules although they would not need to have a tachograph fitted to record their time. However, drivers of large goods vehicles, which would normally come under the EU drivers' hours rules and need an operator's licence, will need to keep a manual record of their time.

40. It is difficult to assess the benefits for drivers of being required to meet the relevant domestic drivers' hours rules rather than the EU drivers' hours rules. It is likely to differ for each transport operation, depending on whether they would benefit from more driving time and less duty time. The GB domestic rules allow 10 hours driving a day, whilst the EU rules allow 9 hours (which can be increased to 10 hours twice a week). The GB domestic rules also have a duty limit of 11 hours a day, whilst the EU rules have no duty limit, but have a minimum daily rest requirement of 11 continuous hours (which can be reduced to 9 hours three times a week). This means that under the EU rules a driver can be on duty for 13 hours; at most 15 hours, in one day. There are also different domestic rules in NI.

41. However, these drivers could see time savings as a result of not needing to use a tachograph (for example, the 37.8 minutes currently estimated for manual entry of location data or downloading of the data by operators (every 28 days for the cards and up to every 90 days (from 6 April 2015) for the vehicle unit).

42. For new vehicles or new operators entering the market they could also see a benefit from not having to have tachographs fitted and not needing to purchase various other equipment, such as that to enable downloading of data. We consider this would only benefit new companies or new vehicles, since those currently in existence would likely already have a tachograph and the necessary equipment.

43. We consider that the number of vehicles that are likely to be affected by these changes is likely to be relatively small and it is difficult to know how

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<sup>12</sup> Statutory Instrument 1819/2007 and Statutory Rule 2009/91 automatically incorporate amendments to EU Regulation 561/2006. However, it is not possible for references to EU legislation found in subordinate instruments to substitute a repealed piece of legislation with its replacement. We, therefore, need to update these instruments in order to reflect the repealed EU Regulation 3821/85 when the repeal takes effect.

many additional drivers this will include. This is because it will only include those which drive up to 100km, whenever these vehicles are driven further than 100km they will need to meet EU rules, including using a tachograph – and if they do this frequently they may opt to continue to use a tachograph to ensure they meet the requirements for mixed EU/domestic drivers' hours rules. Furthermore, most of the extending of the exemptions is for vehicles with a gross weight of no more than 7.5 tonnes, which it will be difficult to identify – it is likely to include vans with trailers or smaller lorries, but would depend on gross weight and consequently the cargo at any particular time.

44. Those likely to be able to take up the first directly applicable exemption would be tradesmen such as electrician or builders carrying tools or materials for their own use. For natural gas and electric vehicles, we do not have robust data on the number of these vehicles – although we expect it is a small number at the moment and we cannot estimate the distance they travel and we would not know the type of business undertaken. For vehicles carrying livestock again it is difficult to know how many are likely to be only travelling at distances of up to 100km. Finally, the only universal service provider (USP) in the UK is the Royal Mail. Although USPs are exempt from EU drivers' hours rules (up to 100km) they are not exempt from having a tachograph currently – we therefore consider there will be minimal benefits for these vehicles because they still need to have a tachograph.

45. We therefore propose that the extension of the exemptions will be modelled as a non-monetised benefit unless further evidence on the number of vehicles/drivers and operators that will fall into this widening of scope and possible savings they are likely to see can be provided.

46. We do not consider this extension would have an impact on road safety given the relatively small increase in the distance and the fact that the drivers in question would still need to comply with domestic drivers' hours rules, which are also in place to address road safety concerns.

**Question 6: Do you agree that we continue to apply the national derogations to EU drivers' hours (for USPs, vehicles using natural or liquefied gas or electricity and those carrying live animals to market,) with the extension to 100km radius? Please explain your reasons. Also, can you provide any further information on the costs or benefits of the extension of these exemptions/national derogations for any of the various sectors?**

47. In 2013 an exemption from the requirement for driver certificates of professional competence (CPC) was introduced in relation to vehicles which do not carry goods or passengers. It applies when driving is not the driver's principal activity and when the driving is within 50km of the driver's base. The exemption was intended to benefit people such as valets or mechanics, who drove empty vehicles. The 50km distance criterion was selected to be the same as the 50km criterion in the EU drivers' hours regulations. However, it applies to a different activity and different driving to the use of 50km in the drivers' hours regulations.

48. We do not plan to change the 50km criterion related to this exemption from driver CPC as part of the changes to implement the new Regulation. Nevertheless because the new Regulation amends the 50km threshold to 100km in several places where it appears in drivers' hours regulations, we would like views for future reference about whether it is appropriate to retain the 50km threshold for the different purpose related to driver CPC or to increase it to 100km.

**Question 7: Do you believe we should retain the 50km criterion for driver CPC or increase it to 100km? Please explain your reasons.**

## Areas where the UK has flexibility on the way forward

### Article 21 of the new Regulation - Field tests of pre-type approved tachographs

49. Under Article 21 Member States may authorise field tests of tachographs not yet type-approved, where they can be tested in real-life situations. Drivers will still be required to comply with drivers' hours rules in these cases. We do not think that tachograph manufacturers are likely to want to use the UK for field tests because we understand that no tachograph manufacturers have manufacturing facilities in the UK.

50. If there were manufacturers that wished to use the UK, and we did allow this, we do not consider that this will have any cost implications for drivers or operators who participate in field tests, and in any case it would be down to the operator in question to agree to participate. If it is taken up, it will allow tachograph manufacturers to test their tachographs in real-life situations, thus ensuring that any functionality problems later down the line could be avoided.

**Question 8: Do you agree with the views above? Please give your reasons. Also do you think the UK should allow for field tests of non-type approved tachographs? Could you provide us with any costs or benefits that may arise from this, as well as any practical issues you think there might be with this?**

### Article 26 of the new Regulation – Drivers' cards

51. Paragraph 4 of this Article provides that Member States may issue, in duly justified and exceptional cases, a temporary and non-renewable driver card which is valid for up to 185 days to a driver that does not have his normal residence in a Member State or AETR country provided the driver is working for an undertaking in a Member State. UK card issuing authorities do not intend to take up this option or issue temporary cards. Card issuing authorities would require significant changes to their systems to be able to issue temporary cards which would be lengthy and very costly and we do not consider that this would have any benefit to organisations in the UK.

**Question 9: Do you agree with the view that we should not take up the option of issuing temporary cards? If you do not agree, please provide comments – including any benefits, cost information and situations where this would occur to support your comments.**

### Article 33 of the new Regulation - Responsibility of transport undertakings

52. Article 33.3 makes a transport undertaking (operator) liable for infringements of the new Regulation committed by their drivers or by drivers at their disposal. However, it does give Member States the option of making operators' liability for drivers' infringements conditional upon their having failed to comply with one or more of their duties under Article 33.1 (sub-paragraph one) or Articles 10(1) and 10(2) of EU Regulation 561/2006.

53. If this option were taken then, in broad terms, operators would only be liable for drivers' infringements of the new Regulation if:-

1. they have offered drivers bonuses based on distance covered or weight carried where the availability of those bonuses prejudices road safety or encourages disregard for drivers' hours rules; or
2. they have offered other incentives that might encourage misuse of the tachograph; or
3. they have failed to organise drivers' work in a way that enables drivers to comply with tachograph regulations; or
4. they have failed to give proper instructions to their drivers regarding tachograph regulation and the correct functioning of tachographs; or
5. they have failed to regularly check that drivers are complying with tachograph regulations.

**Question 10: Do you agree that transport operators should only be liable for drivers' infringements if those operators have themselves infringed one or more of their own primary obligations (as listed above)?**

### Other new requirements that take effect from 2 March 2016

#### Article 3(4) of the new Regulation - Retrofitting of vehicles travelling abroad

54. There is a requirement for vehicles which travel abroad to be retrofitted with a tachograph which meets the criteria in the new technical annex (under development). However, this is unlikely to be a requirement until at least 2034 (15 years from the new generation tachograph being required to be installed). Likewise, it will not apply to vehicles that only travel domestically.

55. We consider the impact of this will be minimal on industry because only vehicles that are at least 15 years old and travel abroad will need to comply with this. However, for the vehicles in question there may be costs related to having to retrofit their vehicle with the new tachograph.

56. The estimated cost of retrofitting a vehicle was during negotiations estimated to be around £800 - £1500 per vehicle. However, we consider that international transport is generally carried out by newer vehicles, which means that in 15 years' time there should be no (or very few) vehicles which will need to be retrofitted. We therefore consider that any cost impact is likely to be minimal, if anything, as a result of this requirement unless we receive further evidence.

**Question 11: Do you agree with our views in relation to retrofitting vehicles with a new generation tachograph? If not, can you provide any further information?**

### Article 20 of the new Regulation - Security

57. As part of the type-approval process, manufacturers of tachographs and cards shall design, test and review vehicle units, motion sensors and tachograph cards put into production so as to detect vulnerabilities arising in all phases of the product life-cycle no less than once every two years, and shall prevent or mitigate their possible exploitation. The documentation necessary for vulnerability analysis shall be submitted to a certification body. This will provide benefits from ensuring equipment is tested for exploitation throughout its lifecycle, so weaknesses can be addressed. We have not quantified this benefit.

58. We are not aware of any tachograph manufacturers that use UK type-approval processes for tachographs because they do not have manufacturing facilities in the UK and, in any case, we would assume that tests of this sort are already carried out by manufacturers to ensure that the product is fit for purpose throughout its life-cycle currently. We therefore consider that there will be no additional costs from this requirements.

**Question 12: Can you provide views on any impact (including costs or benefits) that strengthening the security requirements of tachographs might have and anything that will need further consideration, including how often a test should be required?**

### Article 22 of the new Regulation – Sealing requirements

59. Article 22 relates to the installation and repair of tachographs by approved workshops, fitters and vehicle manufacturers. It places additional requirements around the sealing of tachographs. It provides that seals shall be used in accordance with the type-approval certificate. It further provides that where seals are broken, they shall be replaced within seven days, and a check and calibration of the tachograph must be carried out.



60. We consider this may result in a change from current practice and therefore may have cost implications for operators and/or drivers. A resealing involving a calibration could be more expensive than current practice. A calibration (as estimated in paragraphs 29 and 30) is around £70 per calibration (or £46 (+ VAT) in NI). It is difficult to determine how often a seal would be broken which would result in these costs and therefore we will model this as a non-monetised cost in the final impact assessment unless we receive further evidence. However, stronger requirements around sealing is likely to reduce the incidence of tachograph tampering.

**Question 13: Do you agree with the view that sealing practices may have to change as a result of the new Regulation? Please explain your reasons. Can you provide any further information including any costs or benefits?**

### Article 23 of the new Regulation – Inspections of tachographs

61. Article 23 provides that tachographs shall be subject to regular inspections - every two years. It also introduces a requirement that inspection reports must be drawn up and retained for a minimum of two years in cases where there are irregularities.

62. We consider that these requirements are already met by UK workshops under current practice. Therefore there will be no cost implications to these requirements.

**Question 14: Do you agree that the introduction of a requirement to keep inspection reports will not impact UK workshops? If not, please provide further information (including costs and benefits).**

### Article 32 of the new Regulation – Tachograph offences

63. Article 32 introduces some additional requirements related to the use of tachographs and we will need to consider what penalties should be introduced where these requirements are breached.

64. Article 32.2 introduces a requirement that tachographs shall not be set in such a way that they automatically switch to a specific category of activity when the vehicle's engine or ignition is switched off, unless the driver remains able to choose manually the appropriate category of activity. We do not consider that this requirement will have any impact on drivers and/or operators and will use this in the final impact assessment unless we hear otherwise.

**Question 15: Do you have views on how the new requirement that tachographs shall not be set to automatically switch to a specific category should be treated in our domestic legislative framework, including any appropriate level of penalty?**

65. Furthermore, Article 32.4 provides that, unless as part of an authorised field test, no vehicle should have more than one tachograph fitted. Whilst we do not consider this to be common in vehicles, we consider that having more than one tachograph fitted if not for authorised field tests, could be an indication of trying to hide tachograph records and therefore this requirement will offer a road safety benefit.

66. We do not consider there will be costs attached to complying with this requirement and will use this assumption in the impact assessment unless we hear otherwise.

**Question 16: Do you have views on the new requirement to not have more than one tachograph fitted in a vehicle? Do you consider there to be any valid reason that two tachographs might exist in a vehicle? Do you have any thoughts on the costs and benefits of these requirements? Should more than one tachograph in a vehicle (if not related to a field test) be designated as a fixed penalty offence and if so, what are your views on appropriate levels of penalties?**

67. Articles 32.3 and 32.5 provide for offences relating to falsification or manipulation of tachograph records. We will look at whether we need to amend our domestic legislative framework to ensure we meet the requirements of the new Regulation.

68. Offences in relation to the falsification of tachograph records already carry a range of penalties as set out in section 99ZE of the Transport Act 1968 and Regulation 7E of the Passenger and Goods Vehicles (Recording Equipment) Regulations (Northern Ireland) 1996 (as amended).

69. The falsification of tachograph records and data currently carry either a level 5 fine or a 2 year prison sentence in line with sections 99ZE(1) and (3) and Regulation 7E (1) and (3).

70. Article 32.5 provides offences related to the production, distribution, advertising and selling of devices. We will look to ensure our framework reflects these offences and, in line with the existing provisions of 99ZE(6) and Regulation 7E(6), suggest these carry a maximum of a level 5 fine (see paragraph 77).

71. We do not consider that there will be any costs relating to implementing these requirements because it is already an offence in the UK to produce, supply or install devices designed to interfere with the proper operation of tachographs. We will therefore use this assumption in the impact assessment.

**Question 17: Do you have any views on the above related to our existing legislative framework on false records and what needs to be amended?**

## Article 38 of the new Regulation – control officers

72. Article 38.3 provides that control officers shall be empowered to request authorised workshops to perform tests on a vehicle to determine whether a manipulation device is present. In the UK control officers will be DVSA and DVA.

73. DVSA and DVA currently rely on workshops to co-operate in order to carry out these requirements and is pleased to note that this has not posed a problem within the UK. However, in order to meet the requirements of the new Regulation changes will need to be made to domestic legislation to allow DVSA and DVA to require this to happen in any cases where a workshop may not assist and provide a penalty should a workshop decide not to assist.

74. As is current practice, we consider that DVSA and DVA will reimburse Approved Tachograph Centres for the use of their facilities, and assistance of their staff where this is requested and so we do not consider that this will have any impact on workshops and will reflect this in the impact assessment unless we hear otherwise.

**Question 18: Do you have views on control officers being empowered to request workshops to carry out tests, including on what the appropriate level of penalty for non-cooperation should be?**

## Article 41 of the new Regulation – Penalty framework

75. Article 41.1 provides that Member States shall, in accordance with national constitutional arrangements, lay down rules on penalties applicable for infringements of this new Regulation and shall take all measures necessary to ensure that they are implemented. Those penalties shall be effective, proportionate, dissuasive and non-discriminatory, and shall be in compliance with the categories of infringements set out in Directive 2006/22/EC.

76. Annex III, part 2, of Directive 2006/22/EC<sup>13</sup> provides a common range of infringements and categories of severity related to tachograph offences. These range from very serious infringements (VSI) to serious infringements (SI) to minor infringements (MI). This Annex is in the process of being updated by the Commission, which appears to be introducing a fourth category of severity (Most Serious Infringement (MSI)). A draft of the new Annex can be found appendix 1. It is not expected to be finalised until later in the year.

77. As this has not yet been finalised and published by the Commission, we consider there is a chance it may change from the draft at appendix 1. We will also discuss with the Commission what their views are on the meaning of

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<sup>13</sup> As amended by Directive 2009/5/EC. [The current annex III can be found here](#): It also covers other EU regulations (such as drivers' hours – 561/2006/EC) – for this purpose we are only looking at those related to EU regulation 3821/85.

the phrase “in compliance with” in the context of Article 41.1. We also intend to point out the difficulties with implementing the requirements of the new tachograph Regulation given that there are changes imminent to Annex III to 2006/22/EC. From the middle of March 2015, level 5 fines on the standard scale are due to increase from a maximum of £5,000 to a maximum of an unlimited amount in England and Wales. This will also need to be considered when determining appropriate penalties.

78. We have set down some thinking below on this although it is likely to need further consideration in light of the above.

79. The current penalty framework for tachographs is set out in Part VI of the Transport Act 1968 (as amended) and the Passenger and Goods Vehicles (Recording Equipment) Regulations (Northern Ireland) 1996 (as amended). Some offences are either way offences carrying either a level 5 fine or a two-year prison sentence, others are summary only and carry a maximum of level 5. We were not considering amending the maximum penalty for tachograph offences but imminent changes to the maximum level of level 5 fines in England and Wales forces further consideration of this issue. It will be down to the court in question to ensure that the severity of the offence is considered when issuing penalties in individual cases. Depending on the Commission’s view of the phrase “in compliance with” in the context of Article 41.1 (discussed above in 77) there may need to be revision of the sentencing guidelines to ensure that courts are mindful of our obligation to ensure that penalties imposed for individual offences comply with the scale of severity found in Annex III of Directive 2006/22/EC.

**Question 19: Do you have views on penalties for offences? If so, please explain them.**

**Question 20: When sentencing offenders for infringement of tachograph rules, do you agree that courts should tailor individual fines to the offender’s ability to pay, for example by reference to weekly pay (in the case of a driver) or turnover or profit (in the case of an operator)?**

80. In addition, a number of offences have been designated as fixed penalty or graduated fixed penalty offences (or financial deposits) under the Road Traffic Offenders Act 1988 (as amended) or Road Traffic Offenders (Northern Ireland) Order 1996 No.1320.

81. In GB the levels are set out in the Fixed Penalty Order 2000 (SI 2000/2792) and the Road Safety (Financial Penalty Deposit) (Appropriate Amount) Order 2009 (SI 2009/492). In NI these are set out in the Road Traffic (Fixed Penalty) Order (Northern Ireland) 2007 No.319 and the Road Traffic (Financial Penalty Deposit) (Appropriate Amount) Order (Northern Ireland) 2012 No. 18.

82. In order to align the fixed penalties and financial deposits with the level of severity set out in Directive 2006/22/EC we consider that we will need to amend some levels of fixed penalties and financial deposits. In considering

this we have looked at the existing framework and taken the view that MSI should have a £300 penalty (£200 in NI)<sup>14</sup>, VSI a £200 (£120 in NI) penalty, SI a £100 (£60 in NI) penalty and MI a £50 (£30 in NI) penalty.

83. However, our range of fixed penalties for offences currently designated as fixed-penalty offences does not dovetail neatly with the EU scale of severity for tachograph offences. If the four domestic fixed-penalty levels were brought into exact alignment with the EU scale of severity, we would have to increase the penalty for some fixed penalty offences and reduce the penalty for others. Whilst we do not anticipate significant opposition to modest increases in fixed-penalty fines for some offences, we do consider that reductions in levels could be considered to be watering down our existing penalty structure (which has been in place for some time.) To try and avoid having to reduce the level of penalty for some fixed penalty offences, it might be possible, to allow offences that fall within a single category on the EU scale of severity to overlap two different fixed penalty levels under existing domestic legislation. This could give the following result:-

- Current fixed-penalty/financial deposit offences falling within the EU's Most Serious Infringements category: £300 (£200 in NI)
- Current fixed-penalty/financial deposit offences falling within the EU's Very Serious Infringement category: either £200 or £300 (£120 or £200 in NI)
- Current fixed-penalty/financial deposit offences falling within the EU's Serious Infringement category: either £100 or £200 (£60 or £120 in NI)
- Current fixed-penalty/financial deposit offences falling within the EU's Minor Infringement category: either £50 or £100 (£30 or £60 in NI)

84. Or we could simply align all existing fixed penalty and financial deposit levels to the following:

- MSI - £300 (£200 in NI)
- VSI – £200 (£120 in NI)
- SI - £100 (£60 in NI)
- MI - £50 (£30 in NI)

**Question 21: Do you have views on the above related to fixed penalties? If so, please explain them.**

## Other points to note

### Article 7 of the new Regulation - Data protection

85. Article 7 requires that all owners of vehicles, transport undertakings and any other entities, shall comply with relevant data protection requirements. We do not consider that this is a new requirement, as all

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<sup>14</sup> In 2013 GB increased the level of fixed penalties, NI did not.

companies must already comply with domestic data protection requirements therefore there should be no additional costs related to complying with this requirement and we shall use this assumption in our impact assessment unless we hear otherwise.

### Article 9 of the new Regulation - Remote detection

86. The new Regulation provides that the new generation tachographs must be able to have a function that allows enforcement officers to use 'remote detection' equipment to identify whether the vehicle/driver in question is committing an offence. The officers' will still need to pull the vehicle in question over in order to enforce. Enforcement agencies must have the equipment to do this within 15 years from the introduction of the new generation tachograph (2034 at the earliest)– however, they may opt to have the equipment before then. This will form part of future enforcement strategy and there will be further consultation with the industry when this happens. We discuss the impact of this at paragraphs 11- 13.

### Article 29 of the new Regulation - Renewing drivers' cards

87. The timeframes for renewing drivers' cards as a result of stolen, lost or damaged cards will change as a result of Article 29 of the new Regulation. The timescale for card issuing authorities to issue the cards following an application has been increased from five working days to eight working days. The current timeframes are seven calendar days for a driver to re-apply and this will not change. It is already an offence for drivers' not to re-apply within seven days. It will still be an offence for a driver to drive for longer than 15 calendar days without a card.

88. We appreciate that this may cause concerns because there could be instances where, if all parties take the full time to apply for their cards, or if there are issues around delivery, that a driver does not have a replacement card within 15 days. Card issuing authorities will endeavour to issue replacements for lost, stolen or damaged cards as promptly as possible and currently meet the five day issuing timescale. However, it is important that drivers apply for replacement cards as soon as practicably possible. It could also mean that in exceptional circumstances a driver would be unable to drive whilst waiting for a new card and there could be a cost related to this. This could be up to three days. However, we do not know how often this would occur and therefore it would be modelled as a non-monetised cost unless we hear otherwise.

**Question 22: Do you have any comments on the data protection requirements, the early remote detection provision or the change in times for renewal of drivers' cards (including costs or benefits)?**

## The impact of the remainder of the new Regulation

89. Articles 1- 3 cover the scope of the new Regulation and definitions contained within it and we consider that they bring limited change. The UK does not intend to bring any extra vehicles in scope of the new Regulations than those which are already required. Other than discussed above on retrofitting (paragraph 54 – 56) we do not consider there are any other changes.

**Question 23: Do you consider there are any other impacts (including costs and benefits) from Articles 1-3? If so, please provide information.**

90. Articles 4 – 11 set out the technical requirements for new generation tachographs. We have discussed this at paragraphs 5 – 15. We do not consider there are any additional impacts.

**Question 24: Do you consider there are any other impacts (including costs and benefits) from Articles 4-11? If so, please provide information.**

91. Articles 12-21 set out the rules surrounding type-approval for tachographs and cards. We do not consider there are changes to this process from the current rules except for where we have sought views above on Articles 20 and 21 (57 – 58 and 49 – 50 respectively), and we believe that no additional costs will be imposed on industry.

**Question 25: Do you consider there are any other impacts (including costs and benefits) from Articles 12-21? If so, please provide information.**

92. Articles 22 - 25 cover the installation and inspection of tachographs. It provides that Member States must approve (or withdraw approval from if necessary) workshops and fitters and provides a requirement to audit these. We cover the impacts of these at paragraphs 21 – 32 and 59 – 62. Other than those discussed we do not consider there will be additional impacts.

**Question 26: Do you consider there are any other impacts (including costs and benefits) from Articles 22-25? If so, please provide information.**

93. Articles 26 - 31 cover the requirements around driver cards. Other than the changes mentioned above (paragraph 51 and 87 -88) we do not consider the new Regulation imposes any changes or costs on industry.

**Question 27: Do you consider there are any other impacts (including costs and benefits) from Articles 26-31? If so, please provide information.**

94. Articles 32 - 37 cover the use of equipment, including driver cards and

records sheets. We have discussed the impact at paragraphs 34 – 46, 52 – 53 and 63 – 71. Other than those already discussed we do not consider there are any other impacts or costs.

**Question 28: Do you consider there are any other impacts (including costs and benefits) from Articles 32-37? If so, please provide information.**

95. Articles 38 - 41 cover enforcement and sanctions including the training of enforcement officers. We have discussed this at paragraphs 72 – 84. The training of enforcement officers may have a cost impact on the public sector, however we do not consider that there will be any impact to industry as a result of these changes.

**Question 29: Do you consider there are any other impacts (including costs and benefits) from Articles 38-41? If so, please provide information.**

96. Articles 42 – 48 cover the final provisions, including the date the new Regulation takes effect and the process the Commission will use in order to update the technical requirements. Article 45 provides the amendments to the EU drivers' hours rules, which we have discussed at 37 – 46. Other than this we do not consider there are any impacts on industry as a result of these provisions.

**Question 30: Do you consider there are any other impacts (including costs and benefits) from Articles 42-48? If so, please provide information.**

**Department for Transport  
March 2014**



## Appendix 1:

For these purposes we have only included the relevant section of the amendment to Annex III of Directive 2006/22/EC which relates to tachograph offences.

The entire draft can be found on the European Commission's website<sup>15</sup>

### (1) GROUPS OF INFRINGEMENTS AGAINST REGULATION (CE) No 3821/85

No	LEGAL BASIS	TYPE OF INFRINGEMENTS	LEVEL OF SERIOUSNESS			
			MSI	VSI	SI	MI
<b>F</b>	<b>Installation of recording equipment</b>					
F1	Art. 3.1	No type approved recording equipment installed and used	X			
<b>G</b>	<b>Use of recording equipment, driver card or record sheet</b>					
G1	Art. 13	Recording equipment not correctly functioning (for example: recording equipment not properly inspected, calibrated and sealed )		X		
G2		Recording equipment improperly used (not using a valid driver card, voluntary abuse, ...)		X		
G3	Art. 14.1	Not carrying a sufficient number of record sheets			X	
G4		Model of record sheet not approved			X	
G5		Not carrying enough paper for printouts				X
G6	Art. 14.2	Undertaking not keeping record sheets, printouts and downloaded data		X		
G7	Art. 14.4	Driver holding more than one valid driver card		X		
G8	Art. 14.4	Use of driver card which is not the driver's own valid card	X			
G8(a)	Art. 14.4	Driving with a driver card which has been obtained on the basis of false declarations and/or forged documents	X			
G9	Art. 14.4	Use of defective or expired driver card		X		
G10	Art. 14.5	Recorded and stored data not available for at least 365 days		X		

<sup>15</sup>

[Amendment to Annex III of Directive 2006/22/EC](#)

G11	Art. 15.1	Use dirty or damaged sheets or driver cards and data legible				X
G12		Use dirty or damaged sheets or driver cards and data not legible		X		
G13		Failure to apply for replacement of damaged, malfunctioning, lost or stolen driver card within 7 calendar days			X	
G14	Art. 15.2	Incorrect use of record sheets/driver cards		X		
G15		Unauthorized withdrawal of sheets or driver card which has an impact on the record of relevant data		X		
G16		Unauthorized withdrawal of sheets or driver card without any impact on data recorded				X
G17		Record sheet or driver card used to cover a period longer than that for which it is intended but no data is lost				X
G18		Record sheet or driver card used to cover a period longer than that for which it is intended and data is lost		X		
G19		Not using manual input when required to do so			X	
G20		Not using correct sheet or driver card not in the correct slot (multi-manning)			X	
G21	Art. 15.3	Time recorded on the sheet does not agree with official time of country of registration of the vehicle			X	
G22		Incorrect use of switch mechanism			X	
<b>H</b>	<b>Fill in information</b>					
H1	Art. 15.5	Surname missing on record sheet		X		
H2		First name missing on record sheet		X		
H3		Date of begin or end of use of the sheet missing			X	
H4		Place of begin or end of use of the sheet missing				X
H5		Registration number missing on record sheet				X
H6		Odometer reading (start) missing on record sheet			X	
H7		Odometer reading (end) missing on record sheet				X
H8		Time of change of vehicle missing on record sheet				X
H9	Art. 15.5 a	Symbol of country not entered in recording equipment				X
<b>I</b>	<b>Producing information</b>					
I1	Art. 15.7	Refuse to be checked		X		

12	Art. 15.7	Unable to produce records of current day		X		
13		Unable to produce records of previous 28 days		X		
14		Unable to produce records of the driver card if the driver holds one		X		
15		Unable to produce manual records and printouts made during the current day and the previous 28 days		X		
16		Unable to produce driver card		X		
<b>J</b>	<b>Fraud</b>					
J1	Art 15.8	Falsify, suppress, destroy data recorded on record sheets, stored in the recording equipment or on the driver card or print-outs from the recording equipment	X			
J2		Manipulation of recording equipment, record sheet or driver card which may result in data and/or printouts information being falsified	X			
J3		Manipulation device that could be used to falsify data and/or printouts information present on vehicle (switch/wire...)	X			
<b>K</b>	<b>Breakdown</b>					
K1	Art. 16.1	Not repaired by an approved fitter or workshop		X		
K2		Not repaired en route			X	
<b>L</b>	<b>Manual input on printouts</b>					
L1	Art. 16.2	Driver not marking all information for the periods of time which are no longer recorded while recording equipment is unserviceable or malfunctioning		X		
L2		Driver card number and/or name and/or driving licence number missing on temporary sheet		X		
L3		Signature missing temporary sheet				X
L4	Art. 16.3	Lost or theft of driver card not formally declared to the competent authorities of the Member State where the theft occurred		X		