



EUROPEAN COMMISSION

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2011/0196 (COD)

Proposal for a

**REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**

**amending Council Regulation (EEC) No 3821/85 on recording equipment in road transport and amending Regulation (EC) No 561/2006 of the European Parliament and the Council**

(Text with EEA relevance)

{SEC(2011) 947 final}

{SEC(2011) 948 final}

## EXPLANATORY MEMORANDUM

### **1. CONTEXT OF THE PROPOSAL**

#### **1.1. Grounds and objectives**

Tachographs play a crucial role in checking compliance by professional road transport drivers with the rules on driving time and rest periods. They contribute to improving road safety, drivers' working conditions and fair competition between road transport companies. Making tachographs more cost-effective is one of the key elements of the strategy of the Commission to further integrate the road freight transport market and render road transport safer, more efficient and competitive as outlined in the White Paper on transport of 28 March 2011<sup>1</sup>.

The EU has regulated the installation and use of tachographs since 1970. The current legislation in place for recording equipment is Council Regulation (EEC) No 3821/85 on recording equipment in road transport<sup>2</sup>. The Regulation sets technical standards and establishes the rules on the use, type approval, installation and inspection of tachographs. It creates a range of legal obligations for manufacturers and authorities but also for transport operators and drivers. This Regulation has already been adapted ten times to technological progress, by the comitology procedure.

At present, two types of tachograph are in use by some 900 000 transport undertakings and 6 million drivers. In addition to a digital tachograph introduced in vehicles registered after 1 May 2006, the analogue tachograph has been in use since 1985 and is still used in older vehicles.

The attached proposal aims at amending Council Regulation (EEC) No 3821/85 with a view to improve the tachograph system. This proposal is accompanied by a Communication which is transmitted in parallel to the European Parliament and to the Council and which outlines the other actions that are needed to make the measures of the attached proposal fully effective or to supplement them.

#### **1.2. Issue addressed**

A significant share of the vehicles checked by national police or enforcement officers are found to be breaching the social rules. Roughly one fourth of these are found to be breaching tachograph rules. At any point in time, several thousand heavy duty vehicles are driving on the trans-European network with a manipulated tachograph or a non-valid card. Such a non-compliance with obligations for minimum rest periods results in driver fatigue, which can be estimated to produce an increase in the societal cost of accidents of €2.8 billion per year. It also gives undue competitive advantage to those breaking the law, with negative impact on the functioning of the internal market and with severe health implications for the drivers.

Moreover, there is room to improve further the way in which the (digital) tachograph assists the drivers' work and supports transport efficiency. Although the introduction of the digital tachograph have already substantially reduced the administrative burden on the various

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<sup>1</sup> COM(2011)144 final

<sup>2</sup> OJ L 370, 31.12.1985, p. 8

stakeholders, the annual cost of compliance, estimated to be approximately €2.7 billion, is still too high.

The proposal therefore aims at better enforcement of the social rules and at reducing unnecessary administrative burden, by developing the technical aspects of the tachograph and increasing efficiency.

### **1.3. Consistency with other EU policies and objectives**

The proposal fits into the policy announced by the Commission in its White Paper 'Roadmap to a Single European Transport Area – Towards a competitive and resource efficient transport system'<sup>3</sup>. It is explicitly mentioned as part of Initiative 6 concerning Road Freight.<sup>4</sup>

The proposal also contributes to implementation of the Action Plan on Intelligent Transport Systems (ITS)<sup>5</sup> and Directive 2010/40/EU on the framework for the deployment of ITS in the field of road transport and for interfaces with other modes of transport.<sup>6</sup>

The proposal also takes into account the Charter of Fundamental Rights of the European Union, and in particular the right to respect for private and family life (Art. 7), the right to protection of personal data (Art. 8), the freedom to conduct a business (Art. 16) and the principles of legality and proportionality of criminal offences and penalties (Art. 49), and the right not to be tried or punished twice for the same offence (Art.50).

## **2. RESULTS OF CONSULTATIONS WITH THE INTERESTED PARTIES AND IMPACT ASSESSMENTS**

### **2.1. Consultation of interested parties**

The Commission carried out a public stakeholder consultation from December 2009 to March 2010. Given the technical nature of the topic, participation was relatively large: 73 contributions, mostly of high quality, were received from various stakeholders.

Most stakeholders wanted to see the digital tachograph improved, but not replaced by some different type of recording equipment. Nearly all stakeholders were of the opinion that harmonised criteria were necessary at EU level for the recording equipment. The type approval process for the tachograph was considered satisfactory. Almost all stakeholders also stated that the level of security should be maintained or even enhanced. Several ideas were expressed and subsequently examined in the Impact Assessment to reduce the cost of the recording equipment and/or make a better use of it – for example merging the driver card with the driving licence.

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<sup>3</sup> COM(2011)0144 final

<sup>4</sup> See section 1.1 "A Single European Transport Area" of Annex I to the White paper, COM(2011)0144 final

<sup>5</sup> Communication from the Commission: Action Plan for the Deployment of Intelligent Transport Systems in Europe [COM(2008)886], Action Area 4

<sup>6</sup> OJ L 207, 6.8.2010, p. 1–13

## **2.2. Collection and use of expertise**

The Commission has been in continuous contact with Member States and stakeholders through the Committee set up by Council Regulation (EEC) No 3821/85 for all issues related to recording equipment. The Committee normally meets once a year. The main stakeholders take part in this committee as observers. They include inspection and police organisations as well as manufacturers. In addition, the Commission has taken a number of initiatives to provide background for the proposal.

An extensive two year long consultation bringing together the main stakeholders was co-financed by the Commission.<sup>7</sup>

The Joint Research Centre (JRC) has assessed the present vulnerability and verifiability of the digital tachograph. The JRC also reported to the Commission on technical scenarios for further developing the digital tachograph.

The sectoral social dialogue committee on road transport was consulted on 26 May 2010. On 8 July 2010, the European social partners agreed on a joint statement on the review of the digital tachograph regulation, and this was taken into consideration when preparing this proposal.<sup>8</sup>

In order to prepare the Impact Assessment, the external contractor set up an Expert Panel including representatives of road transport associations, road transport unions, enforcement and type-approval authorities, card issuing authorities, vehicle manufacturers, and tachograph manufacturers. The Expert Panel reviewed the documents prepared by the contractor and attended a workshop at which the contractor's draft final report was reviewed and discussed.

## **2.3. Impact Assessment**

The stakeholder consultations and expert reports on the topic enabled the Commission to identify a broad set of individual measures likely to address the problems identified. This was followed by a pre-screening of possible measures.

Thereafter policy packages were established offering viable policy alternatives for achieving the objectives. Policy packages were needed because, in terms of security, the trustworthiness of the system depends on the security of many of its elements; and because different legislative procedures required (comitology vs co-decision). The policy packages can summarised as follows:

Policy Package 1 (PP1) is a technical package aiming simply at improvements of the current tachograph device and includes the following measures:

- Higher quality seals
- Better interface with the users
- More secure encryption technology

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<sup>7</sup> SMART study

<sup>8</sup> [http://ec.europa.eu/employment\\_social/dsw/public/actRetrieveText.do?id=8903](http://ec.europa.eu/employment_social/dsw/public/actRetrieveText.do?id=8903)

Policy Package 2 (PP2) is also a package of technical measures but which would substantially widen the functionalities of the digital tachograph, leading to a new type of digital tachographs.

- Improved tachograph functions (automatic and manual recording)
- Wireless communication for roadside checks
- Harmonised interface with other ITS applications

Policy Package 3 (PP3) includes only non-technical measures.

- More trustworthy workshops
- Make fraud with driver card more difficult
- Better training of control officers
- Minimum degree of harmonisation of sanctions
- Modernised rules on use

Policy Package 4 (PP4) is a combination of technical and system improvement measures (PP2+PP3).

From an effectiveness point of view, PP4 is by far the most attractive as it offers the highest potential level of achievement of the two specific goals. However, the coherence analysis shows that PP4 also presents the highest trade-offs between the positive economic and social impacts on the one hand, and the budgetary impacts on public authorities on the other. In terms of coherence, PP1 ranks highest. Finally, PP4 is also the most expensive in terms of investment needed, while PP1 is the cheapest and the easiest to implement, since it can be adopted without going through the normal legislative procedure.

Taking all these aspects into consideration, and in the absence of a full cost-benefit analysis, the positive effects of PP4 seem to far outweigh its costs. Indeed, the administrative burden reduction potential of PP4 is €15.5 million, well above the total costs of its full implementation. Therefore the analysis performed suggests that Policy Package 4 should be the preferred option.

### **3. LEGAL ELEMENTS OF THE PROPOSAL**

#### **3.1. Summary of the measures proposed**

The following main changes will be introduced through the proposed Regulation:

- Remote communication from the tachograph for control purposes (Article 5 of the future tachograph regulation): this measure will give control authorities some basic indications on compliance before stopping the vehicle for a roadside check. Compliant undertakings will avoid unnecessary roadside checks and could thereby benefit from a further reduction of administrative burden.

- Merge functionalities of driver cards with driving licence (Article 27 of the future tachograph regulation): by merging the driver card with the driving licence, this measure will increase the security of the system as drivers would be less inclined to use their driving licence under fraudulent circumstances. It will also significantly reduce administrative burden. This measure requires minor adaptations of Directive 2006/126/EC of the European Parliament and of the Council of 20 December 2006 on driving licences. The corresponding proposal is being developed in parallel to this Regulation. The Commission will transmit it to European Parliament and the Council as soon as possible.
- Automated recording of precise location through GNSS (Article 4 of the future tachograph regulation): this provision will give control authorities more information for checking compliance with social legislation. By using automated recording, it will also help to reduce administrative burden.
- Ensure integration of digital tachograph in Intelligent Transport Systems (ITS) (Article 6 of the future tachograph regulation): by providing for a harmonised and standardised interface of the tachograph, other ITS applications will have easier access to the data recorded and produced by the digital tachograph.
- Increase the trustworthiness of workshops (Chapter IV, in particular Article 19, of the future tachograph regulation): by strengthening the legal framework for the approval of workshops for example with a system of regular and unannounced audits and prevention of conflicts of interest, the trustworthiness of workshops will be increased and the risk of fraud and manipulation reduced.
- Minimum degree of harmonisation of sanctions (Article 37 of the future tachograph regulation): this minimum harmonisation ensures that infringements against the tachograph rules which are classified in EU legislation as ‘very serious infringements’<sup>9</sup> and as ‘most serious infringements’<sup>10</sup> will attract the highest category of penalties in national legislation.
- Training of control officers (Article 35 of the future tachograph regulation): the Regulation will require Member States to provide adequate training for their control officers in charge of checking the recording equipment.
- Scope of Regulation (EC) No 561/2006<sup>11</sup> (Article 2): this measure to exempt certain vehicles from the obligation to use the tachograph has been recommended by the High Level Group of Independent Stakeholders on Administrative Burdens chaired

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<sup>9</sup> Commission Directive 2009/5/EC of 30 January 2009 amending Annex III to Directive 2006/22/EC of the European Parliament and of the Council on minimum conditions for the implementation of Council Regulations (EEC) Nos 3820/85 and 3821/85 concerning social legislation relating to road transport activities, OJ L 29, 31.1.2009, p. 45–50

<sup>10</sup> Regulation (EC) No 1071/2009 establishing common rules concerning the conditions to be complied with to pursue the occupation of road transport operator and repealing Council Directive 96/26/EC, OJ L 300, 14.11.09, p. 51

<sup>11</sup> 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, OJ L 102, 11.04.2006, p.1

by Mr Stoiber. It will help to reduce the administrative burden for these undertakings which are mainly SMEs.

The revision of Council Regulation (EEC) No 3821/85 is also an opportunity to modernise and streamline the texts, for instance by providing clear definitions (Article 2 of the future tachograph regulation), making experts' work more efficient by including experts from non-EU countries using the digital tachograph (Article 41 of the future tachograph regulation), and inserting a direct reference to data protection legislation (Article 34 of the future tachograph regulation).

### **3.2. Legal basis**

The legal basis for this proposal is the same as for the existing Council Regulation (EEC) No 3821/85, namely Article 91 TFEU.

### **3.3. Subsidiarity principle**

The subsidiarity principle applies insofar as the proposal does not fall within the exclusive competence of the European Union.

The objectives of the proposal cannot be sufficiently achieved by the Member States for the following reasons. Road transport is becoming more and more transnational in nature. International road freight transport accounted for about one third (or 612 billion tkms) of total road freight transport in the EU in 2006. Social legislation in this field is harmonised at EU level through Regulation (EC) No 561/2006, and verifying compliance with this legislation requires recording equipment to be interoperable between Member States. Given the increasingly transnational nature of road freight transport in the EU and the harmonised nature of social legislation, it would be counterproductive to revert to regulating recording equipment at national level.

### **3.4. Proportionality principle**

The proposal complies with the proportionality principle for the following reasons.

The overall objectives of the proposal are to improve the efficiency and the effectiveness of the tachograph system. The measures proposed are proportionate to attain these objectives, as they will lead to reduction of administrative burden and costs related to the use of the tachograph by drivers, undertakings and control bodies. They do not exceed what is necessary to achieve the objectives.

### **3.5. Choice of instrument**

As the proposal modifies a regulation, the instrument chosen is also a regulation. For the time being, it is proposed to revise only the articles of Council Regulation (EEC) No 3821/85, not its technical annexes. After adoption of this amending Regulation, the legal text, including annexes, will be consolidated through a codification procedure.

### **3.6. European Economic Area**

The proposed act concerns an EEA matter and should therefore extend to the European Economic Area.

#### **4. BUDGETARY IMPLICATION**

The proposal will not entail any additional cost for the EU budget.

#### **5. SIMPLIFICATION**

This initiative contributes to achieve the aims of simplification. It falls within the scope of the Action Programme for Reducing Administrative Burdens in the European Union, and follows up on proposals supported by the High Level Group of Independent Stakeholders on Administrative Burdens chaired by Mr Stoiber. The proposal therefore allows national exemptions for certain companies from the obligation to use a tachograph for distances under 100 km, as announced by the Commission in its Communication 'Action Programme for Reducing Administrative Burdens in the EU - Sectoral Reduction Plans and 2009 Actions'<sup>12</sup>.

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<sup>12</sup> COM(2009) 544 final

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**amending Council Regulation (EEC) No 3821/85 on recording equipment in road transport and amending Regulation (EC) No 561/2006 of the European Parliament and the Council**

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 91 thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national Parliaments,

Having regard to the opinion of the European Economic and Social Committee<sup>13</sup>,

Having regard to the opinion of the Committee of the Regions<sup>14</sup>,

After consulting the European Data Protection Supervisor,

Acting in accordance with the ordinary legislative procedure,

Whereas:

- (1) Council Regulation (EEC) No 3821/85 of 20 December 1985 on recording equipment in road transport<sup>15</sup> lays down provisions concerning the construction, installation, use and testing of recording equipment. It has been substantially amended on several occasions, and in order to ensure greater clarity, its main provisions should therefore be simplified and re-structured.
- (2) Experience has shown that in order to ensure the effective application of Regulation (EEC) No 3821/85, certain technical elements and control procedures should be improved.
- (3) Certain vehicles are subject to an exemption from the provisions of Regulation (EC) No 561/2006 of the European Parliament and of the Council of 15 March 2006 on the

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<sup>13</sup> OJ C , , p. .

<sup>14</sup> OJ C , , p. .

<sup>15</sup> OJ L 370, 31.12.1985, p. 8

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<sup>16</sup>. In order to ensure coherence, it should also be possible to exempt such vehicles from the scope of Regulation (EEC) No 3821/85.

- (4) In order to ensure coherence between the different exemptions set out in Article 13 of Regulation (EC) No 561/2006, and to reduce the administrative burden on transport undertakings whilst respecting the objectives of that Regulation, the maximum permissible distances set out in its Articles 13(d), (f) and (p) should be revised.
- (5) The recording of location data facilitates the cross checking of driving times and rest periods in order to detect anomalies and fraud. The use of recording equipment connected to a global navigation satellite system is an appropriate and cost-efficient means of allowing the automatic recording of such data in order to support control officers during controls, and should therefore be introduced.
- (6) Directive 2006/22/EC of the European Parliament and of the Council of 15 March 2006 on minimum conditions for the implementation of Council Regulations (EEC) No 3820/85 and (EEC) 3821/85 concerning social legislation relating to road transport activities and repealing Council Directive 88/599/EEC<sup>17</sup> requires Member States to carry out a minimum number of checks at the roadside. Remote communication between the recording equipment and control authorities for roadside control purposes facilitates targeted roadside checks, making it possible to reduce the administrative burden created by random checks on transport undertakings, and should accordingly be introduced.
- (7) Intelligent transport systems (ITS) can help to meet the challenges faced by the European transport policy, such as increasing road transport volumes and congestion or rising energy consumption. Standardised interfaces should therefore be provided in recording equipment in order to ensure interoperability with ITS applications.
- (8) The security of the recording equipment and its system is essential to ensure that trustworthy data is produced. Manufacturers should therefore design, test and continuously review recording equipment throughout its life cycle in order to detect, prevent and mitigate security vulnerabilities.
- (9) Field tests of recording equipment that has not yet been type approved allow equipment to be tested in real life situations before it is widely introduced, thereby allowing faster improvements. Field tests should therefore be permitted, on condition that participation in such tests and compliance with Regulation (EC) No 561/2006 is effectively monitored and controlled.
- (10) Fitters and workshops play an important part in the security of recording equipment. It is therefore appropriate to lay down certain minimum requirements for their approval and audit, and to ensure that conflicts of interest between workshops and transport undertakings are prevented.

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<sup>16</sup> OJ L 102, 11.04.2006, p.1

<sup>17</sup> OJ L 102, 11.04.2006, p. 35

- (11) In order to ensure a more effective scrutiny and control of driver cards, and to facilitate the tasks of control officers, national electronic registers should be established, and provision made for the interconnection of those registers.
- (12) As fraud and misuse in relation to driving licences is less likely to occur than with driver cards, the recording equipment system would be more reliable and effective if driver cards were in future incorporated into driving licences. This approach would also reduce the administrative burden for drivers who would no longer need to apply for, receive and hold two different documents. An amendment to Directive 2006/126/EC should accordingly be envisaged.
- (13) In order to reduce the administrative burden on drivers and transport undertakings, it should be clarified that there is no need for written proof of daily or weekly rest periods. For control purposes, periods for which no activity has been recorded for the driver should accordingly be considered as rest periods.
- (14) Control officers face continuous challenges as a result of changes to the recording equipment and new manipulation techniques. In order to ensure more effective control, and to enhance the harmonisation of control approaches throughout the Union, a common methodology should be adopted for the initial and continuing training of control officers.
- (15) The recording of data by recording equipment, as well as developing technologies for the recording of location data, remote communication and the interface with Intelligent Transport Systems will entail the processing of personal data. Union legislation concerning the protection of individuals with regard to the processing of personal data and on the free movement of such data, in particular Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data<sup>18</sup> and Directive 2002/58/EC of the European Parliament and of the Council of 12 July 2002 concerning the processing of personal data and the protection of privacy in the electronic communications sector<sup>19</sup> should be applied.
- (16) To ensure fair competition in the internal road transport market and to give a clear message to drivers and transport undertakings, the Member States' highest category of sanctions should be imposed for 'very serious' infringements (as defined in Commission Directive 2009/5/EC of 30 January 2009 amending Annex III to Directive 2006/22/EC of the European Parliament and of the Council on minimum conditions for the implementation of Council Regulations (EEC) Nos 3820/85 and 3821/85 concerning social legislation relating to road transport activities<sup>20</sup>), without prejudice to the principle of subsidiarity.
- (17) Through the adaptations of the European agreement concerning the work of crews of vehicles engaged in international road transport, signed in Geneva on 1 July 1970, including its six amendments, deposited with the Secretary-General of the United Nations (AETR), the use of the recording equipment referred to in Annex IB has been made mandatory as regards vehicles registered in neighbouring third countries. As

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<sup>18</sup> OJ L 281, 23.11.1995, p. 31–50

<sup>19</sup> OJ L 201, 31.7.2002, p. 37–47

<sup>20</sup> OJ L 29, 31.1.2009, p. 45–50

these countries are directly affected by changes to the recording equipment introduced by the present Regulation, they should be able to participate in dialogue on technical matters. A Tachograph Forum should accordingly be set up.

- (18) In order to reflect technical developments, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission in respect of the adaptation of Annexes I, IB and II to technical progress and the supplementing of Annex IB with the technical specifications necessary for the automatic recording of the location data, for enabling remote communication and for ensuring an interface with Intelligent Transport Systems. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level. The Commission, when preparing and drawing-up delegated acts, should ensure a simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and Council.
- (19) In order to ensure uniform conditions for the implementation of this Regulation concerning field tests, the electronic exchange of information on driver cards between Member States and the training of control officers, implementing powers should be conferred on the Commission. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers<sup>21</sup>.
- (20) The advisory procedure should be used for the adoption of the procedures to be followed for carrying out field tests and the forms to be used for monitoring such tests, as well as the methodology for the initial and continuing training of control officers.
- (21) The examination procedure should be used for the adoption of the specifications for the electronic exchange of information on driver cards between Member States.
- (22) Regulation (EEC) No. 3821/85 should therefore be amended accordingly.

HAVE ADOPTED THIS REGULATION:

#### *Article 1*

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

- 1) Articles 1 to 21 are replaced by the following articles:

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<sup>21</sup> OJ L 55, 28.2.2011, p. 13–18.

# ‘CHAPTER I

## Principles and scope

### *Article 1*

#### *Subject matter and principle*

This Regulation sets out requirements for the construction, installation, use and testing of recording equipment used in road transport to control compliance with Regulation (EC) No 561/2006, Directive 2002/15/EC<sup>22</sup> and Directive 92/6/EEC<sup>23</sup>.

Recording equipment shall, as regards construction, installation, use and testing, comply with the requirements of this Regulation.

### *Article 2*

#### *Definitions*

1. For the purposes of this Regulation the definitions set out in Article 4 of Regulation (EC) No 561/2006 shall apply.
2. In addition to the definitions referred to in paragraph 1, for the purposes of this Regulation:
  - (a) ‘recording equipment’ means the equipment intended for installation in road vehicles to display, record, print, store and output automatically or semi-automatically details of the movement of such vehicles and of certain work periods of their drivers;
  - (b) ‘vehicle unit’ means the recording equipment excluding the motion sensor and the cables connecting the motion sensor. The vehicle unit may be a single unit or several units distributed in the vehicle, provided that it complies with the security requirements of this Regulation;
  - (c) ‘motion sensor’ means part of the recording equipment, providing a signal representative of vehicle speed and/or distance travelled;
  - (d) ‘tachograph card’ means a smart card intended for use with the recording equipment which allows identification by the recording equipment of the role of the cardholder and data transfer and storage;
  - (e) ‘record sheet’ means a sheet designed to accept and retain recorded data, to be placed in the recording equipment referred to in Annex I and on which the marking devices of the latter inscribe a continuous record of the information to be recorded;

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<sup>22</sup> OJ L 80, 23.3.2002, p. 35-39

<sup>23</sup> OJ L 57, 2.3.1992, p. 27.

- (f) 'driver card' means a tachograph card issued by the authorities of a Member State to a particular driver which identifies the driver and allows for storage of driver activity data;
- (g) 'control card' means a tachograph card issued by the authorities of a Member State to a national competent control authority which identifies the control body and optionally the control officer and allows access to the data stored in the data memory or in the driver cards for reading, printing and/or downloading;
- (h) 'company card' means a tachograph card issued by the authorities of a Member State to the owner or holder of vehicles fitted with recording equipment which identifies the owner or holder and allows for the displaying, downloading and printing of the data stored in the recording equipment which has been locked by that owner or holder;
- (i) 'workshop card' means a tachograph card issued by the authorities of a Member State to a recording equipment manufacturer, a fitter, a vehicle manufacturer or a workshop approved by that Member State which identifies the cardholder and allows for the testing, calibration and/or downloading of the recording equipment;
- (j) 'daily work period' means the period comprising the driving time, all other periods of work, the periods of availability, breaks in work and periods of rest not exceeding nine hours.

*Article 3*  
*Scope*

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 falling within the scope of Regulation (EC) No 561/2006.
2. Member States may exempt the vehicles mentioned in Articles 13(1) and 13(3) of Regulation (EC) No 561/2006 from the application of this Regulation.
3. Member States may, after authorisation by the Commission, exempt from the application of this Regulation vehicles used for the transport operations referred to in Article 14(1) of Regulation (EC) No 561/2006.

Member States may exempt from application of this Regulation vehicles used for the transport operations referred to in Article 14(2) of Regulation (EC) No 561/2006; they shall immediately notify the Commission thereof.

4. In the case of national transport operations, Member States may require the installation and use of recording equipment in accordance with this Regulation in any of the vehicles for which its installation and use are not required by paragraph 1.

## CHAPTER II

### Smart recording equipment

#### *Article 4 Recording of location data*

Location data shall be recorded to allow the identification of the starting and ending place of the daily work period. For that purpose, vehicles put into service for the first time [48 months after the entry into force of this Regulation] shall be fitted with recording equipment connected to a global navigation satellite system (GNSS).

The Commission shall be empowered to adopt delegated acts in accordance with Article 39 concerning the supplementing of Annex IB with the detailed technical specifications necessary to enable the processing of the location data received from the GNSS by the recording equipment.

#### *Article 5 Remote communication for control purposes*

1. In order to facilitate targeted roadside checks by the competent control authorities, the recording equipment installed in vehicles put into service for the first time [48 months after the entry into force of this Regulation] shall be able to communicate while the vehicle is in motion to those authorities.
2. Communication shall be established with the recording equipment only when so requested by the equipment of the control authorities. It shall be secured to ensure data integrity and authentication of the recording and control equipment.
3. The data exchanged during communication shall be limited to the data necessary for the purpose of targeted roadside checks. Data concerning the identity of the driver, driver activities and speed shall not be communicated.
4. The data exchanged shall be used for the sole purpose of controlling compliance with this Regulation and Regulation (EC) No 561/2006. It shall not be transmitted to entities other than control authorities.
5. The data may only be stored by the control authorities for the duration of a roadside check, and shall be deleted at the latest two hours after this has concluded.
6. The owner or holder of the vehicle shall be responsible for informing the driver of the possibility of remote communication.
7. The competent control authority, on the basis of the data exchanged, may decide to carry out a check on the vehicle and the recording equipment.
8. The Commission shall be empowered to adopt delegated acts in accordance with Article 39 concerning the supplementing of Annex IB with the detailed technical

specifications necessary to enable remote communication between the recording equipment and the competent control authorities as set out in this Article.

*Article 6*  
*Intelligent Transport Systems*

1. The recording equipment referred to in Annex IB shall be interoperable with the intelligent transport systems applications as defined in Article 4 of Directive 2010/40/EU of the European Parliament and of the Council on the framework for the deployment of Intelligent Transport Systems in the field of road transport and for interfaces with other modes of transport<sup>24</sup>.
2. For the purpose of paragraph 1, vehicles put into service for the first time [48 months after the entry into force of this Regulation] shall be fitted with recording equipment equipped with a harmonised interface allowing the data recorded or produced to be used for intelligent transport systems applications.
3. The Commission shall be empowered to adopt delegated acts in accordance with Article 39 concerning the supplementing of Annex IB with the specifications of the interface, access rights and the list of data which may be accessed.

## **CHAPTER III**

### **Type approval**

*Article 7*  
*Applications*

1. Manufacturers or their agents shall submit an application for EU approval of a type of vehicle unit, motion sensor, model record sheet or tachograph card to the type approval authorities designated to that effect by each Member State.
2. Member States shall communicate to the Commission the name and contact details of the authorities designated according to paragraph 1. The Commission shall publish the list of designated type approval authorities on its website.
3. An application for type approval shall be accompanied by the appropriate specifications and by the certificates referred to in Section VIII of Annex IB. The Commission shall appoint the independent evaluators who will deliver the security certificate.
4. No application in respect of any one type of vehicle unit, motion sensor, model record sheet or tachograph card may be submitted to more than one Member State.

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<sup>24</sup> OJ L 207, 6.8.2010, p. 1.

*Article 8*  
*Granting of type approval*

A Member State shall grant EU component type approval to any type of vehicle unit, motion sensor, model record sheet or tachograph card which complies with the requirements laid down in Annexes I or IB, provided the Member State is in a position to check that production models conform to the approved type.

Any modifications or additions to an approved model must receive additional EU type approval from the Member State which granted the original EU type approval.

*Article 9*  
*Type approval mark*

Member States shall issue to the applicant an EU type approval mark conforming to the model in Annex II, for each type of vehicle unit, motion sensor, model record sheet or tachograph card which they approve pursuant to Article 8.

*Article 10*  
*Approval or refusal*

The competent authorities of the Member State to which the application for type approval has been submitted shall, in respect of each type of vehicle unit, motion sensor, model record sheet or tachograph card which they approve, send within one month a copy of the approval certificate accompanied by copies of the relevant specifications to the authorities of the other Member States.

When the competent authorities do not approve the application for type approval, they shall notify the authorities of the other Member States that approval has been refused and shall communicate the reasons for their decision.

*Article 11*  
*Compliance of equipment with type approval*

1. If a Member State which has granted EU type-approval as provided for in Article 8 finds that any vehicle units, motion sensors, record sheets or tachograph cards bearing the EU type-approval mark issued by it do not conform to the prototype which it has approved, it shall take the necessary measures to ensure that production models conform to the approved prototype. The measures taken may, if necessary, extend to withdrawal of EU type approval.
2. A Member State which has granted EU type approval shall withdraw such approval if the vehicle unit, motion sensor, record sheet or tachograph card which has been approved is not in conformity with this Regulation or displays any general defect during use which makes it unsuitable for the purpose for which it is intended.
3. If a Member State which has granted EU type approval is notified by another Member State of one of the cases referred to in paragraphs 1 and 2, it shall, after

consulting the latter Member State, take the steps laid down in those paragraphs, subject to paragraph 5.

4. A Member State which ascertains that one of the cases referred to in paragraph 2 has arisen, may forbid until further notice the placing on the market and putting into service of the vehicle unit, motion sensor, record sheets or tachograph cards. The same applies in the cases mentioned in paragraph 1 with respect to vehicle units, motion sensors, record sheets or tachograph cards which have been exempted from EU initial verification, if the manufacturer, after due warning, does not bring the equipment into line with the approved model or with the requirements of this Regulation.

In any event, the competent authorities of the Member States shall notify one another and the Commission, within one month, of any withdrawal of EU type approval or of any other measures taken pursuant to paragraphs 1, 2 and 3 and shall specify the reasons for such action.

5. If a Member State which has granted an EU type approval disputes the existence of any of the cases specified in paragraphs 1 or 2 notified to it, the Member States concerned shall endeavour to settle the dispute and the Commission shall be kept informed.

If talks between the Member States have not resulted in agreement within four months of the date of the notification referred to in paragraph 3, the Commission, after consulting experts from all Member States and having considered all the relevant factors, such as economic and technical factors, shall within six months of the expiry of that four month period adopt a decision which shall be notified to the Member States concerned and communicated at the same time to the other Member States. The Commission shall in each case lay down the time limit for implementation of its decision.

#### *Article 12*

##### *Approval of record sheets*

1. An applicant for EU type approval of a model record sheet shall state on the application the type or types of recording equipment referred to in Annex I on which the sheet in question is designed to be used and shall provide suitable equipment of such type or types for the purpose of testing the sheet.
2. The competent authorities of each Member State shall indicate on the approval certificate for the model record sheet the type or types of recording equipment referred to in Annex I on which that model sheet may be used.

#### *Article 13*

##### *Justification of refusal decisions*

All decisions pursuant to this Regulation refusing or withdrawing approval of a type of vehicle unit, motion sensor, model record sheet or tachograph card shall specify in detail the reasons on which they are based. A decision shall be communicated to the party concerned,

who shall at the same time be informed of the remedies available to him under the laws of the Member States and of the time limits for the exercise of such remedies.

*Article 14*  
*Recognition of type-approved recording equipment*

No Member State may refuse to register any vehicle fitted with recording equipment, or prohibit the entry into service or use of such vehicle for any reason connected with the fact that the vehicle is fitted with such equipment, if the equipment bears the EU type approval mark referred to in Article 9 and the installation plaque referred to in Article 17(4).

*Article 15*  
*Security*

1. Manufacturers shall design, test and review vehicle units, motion sensors and tachograph cards put into production so as to detect vulnerabilities arising at all phases of the product life-cycle, and prevent or mitigate their possible exploitation.
2. For this purpose, manufacturers shall submit appropriate documentation to the independent evaluator referred to in Article 7(3) for vulnerability analysis.
3. Independent evaluators shall conduct penetration tests on vehicle units, motion sensors and tachograph cards to confirm that known vulnerabilities cannot be exploited by individuals in possession of publicly available knowledge.

*Article 16*  
*Field tests*

1. Member States may authorise field tests of recording equipment which has not yet been type approved. Member States shall mutually recognise authorisations for field tests granted by one Member State.
2. Drivers and transport undertakings participating in a field test shall comply with the requirements of Regulation (EC) No 561/2006. In order to demonstrate such compliance, drivers shall follow the procedure set out in Article 31(2).
3. The Commission may adopt implementing acts to lay down the procedures to be followed for carrying out field tests and the forms to be used in order to monitor these field tests. Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 40(2).

## CHAPTER IV

### Installation and inspection

#### *Article 17*

##### *Installation and repair*

1. Recording equipment may be installed or repaired only by fitters or workshops approved by the competent authorities of the Member States for that purpose in conformity with Article 19 .
2. Fitters or workshops shall seal the recording equipment after having verified that it is functioning properly, and in particular that no manipulation device can tamper with or alter the data recorded.
3. The approved fitter or workshop shall place a special mark on the seals which it affixes and, in addition, for the recording equipment referred to in Annex IB, shall enter the electronic security data for carrying out the authentication checks. The competent authorities of each Member State shall maintain a register of the marks and electronic security data used and of approved workshop and fitter cards issued.
4. For the purpose of certifying that the installation of the recording equipment took place in accordance with the requirements of this Regulation, an installation plaque affixed as provided in Annexes I and IB shall be used.
5. A seal shall be removed only by the fitters or workshops approved by the competent authorities under paragraph 1 or by control officers, or in the circumstances described in Annex I, Section V, point 4 or in Annex IB, Section V, point 3 .

#### *Article 18*

##### *Inspections of the recording equipment*

Recording equipment shall be subject to regular inspection by approved workshops. Regular inspection shall be carried out at least every two years.

Workshops shall draw up an inspection report in cases where irregularities in the functioning of the recording equipment had to be remedied, whether as a result of a periodic inspection, or an inspection carried out at the specific request of the national competent authority. Workshops shall keep a list of all inspection reports drawn up.

Inspection reports shall be retained by the workshop for a minimum period of two years from the time the report was made. Upon request from the competent authority, workshops shall make available the reports of inspections and calibrations carried out during that period.

*Article 19*  
*Approval of fitters and workshops*

1. The Member States shall approve, regularly control and certify the fitters and workshops which may carry out installations, checks, inspections and repairs of the recording equipment.
2. Member States shall ensure that fitters and workshops are competent and reliable. For that purpose, they shall establish and publish a set of clear national procedures and shall ensure that the following minimum criteria are met:
  - (a) the staff are properly trained;
  - (b) the equipment necessary to carry out the relevant tests and tasks is available;
  - (c) the fitters and workshops are of good repute.
3. Audits of approved fitters or workshops shall be carried out as follows:
  - (a) Approved fitters or workshops shall be subject to a yearly audit of the procedures applied by the workshop when handling the recording equipment. The audit shall focus in particular on the security measures taken and the handling of workshop cards.
  - (b) Unannounced technical audits of approved fitters or workshops shall also take place in order to control the calibrations and installations carried out. These controls shall cover at least 10% of the approved workshops per year.
4. Member States shall take appropriate measures to prevent conflicts of interests between fitters or workshops and road transport undertakings. In particular, if a transport undertaking is also operating as an approved fitter or workshop, it shall not be allowed to install and calibrate recording equipment in its own vehicles.
5. The competent authorities of the Member States shall forward to the Commission the lists of approved fitters and workshops and the cards issued to them, as well as copies of the marks and of the necessary information relating to the electronic security data used. The Commission shall publish the lists of approved fitters and workshops on its website.
6. Member States shall withdraw approval, either temporarily or permanently, from fitters and workshops failing to meet their obligations under this Regulation.

*Article 20*  
*Workshop cards*

1. The period of administrative validity of workshop cards shall not exceed one year.
2. If a workshop card is to be extended, is damaged, malfunctions, is lost or stolen, the authority shall supply a replacement card within five working days of receiving a detailed request to that effect. The authority issuing the card shall maintain a register of lost, stolen or defective cards.

3. When a Member State withdraws the approval of a fitter or workshop as set out in Article 19, it shall also withdraw the workshop cards issued to it.
4. Member States shall take all necessary measures to prevent the workshop cards distributed to approved fitters and workshops from being falsified.

## **CHAPTER V**

### **Driver cards**

#### *Article 21*

#### *Issuing of driver cards*

1. The driver card shall be issued, at the request of the driver by the competent authority of the Member State where the driver has his normal residence. It shall be issued within one month of the request being received by the competent authority.
2. For the purposes of this article, 'normal residence' means the place where a person usually lives, that is for at least 185 days in each calendar year, because of personal and occupational ties, or, in the case of a person with no occupational ties, because of personal ties which show close links between that person and the place where they are living; however, the normal residence of a person whose occupational ties are in a different place from their personal ties and who consequently lives in turn in different places situated in two or more Member States shall be regarded as being the place of their personal ties, provided that such person returns there regularly. This last condition need not be complied with where the person is living in a Member State in order to carry out a fixed-term assignment.
3. Drivers shall give proof of their normal residence by any appropriate means, such as their identity card or any other valid document. Where the competent authorities of the Member State issuing the driver card have doubts as to the validity of a statement as to normal residence, or for the purpose of certain specific controls, they may request any additional information or evidence.
4. The competent authorities of the issuing Member State shall take appropriate measures to ensure that an applicant does not already hold a valid driver card and shall personalise the driver card in accordance with the provisions of Annex IB.
5. For administrative purposes, the driver card shall not be valid for more than five years.
6. A valid driver card shall not be withdrawn or suspended unless the competent authorities of a Member State find that the card has been falsified, or the driver is using a card of which he is not the holder, or the card held has been obtained on the basis of false declarations and/or forged documents. If such suspension or withdrawal measures are taken by a Member State other than the issuing Member State, the former shall return the card to the authorities of the Member State which issued it, indicating the reasons for returning it.

7. Driver cards shall be issued only to applicants who are subject to the provisions of Regulation (EC) No 561/2006.
8. Member States shall take all necessary measures to prevent driver cards from being falsified.

*Article 22*  
*Use of driver cards*

1. The driver card is personal.
2. A driver may hold no more than one valid driver card, and is authorised to use only his own personalised driver card. A driver shall not use a driver card which is defective or which has expired.

*Article 23*  
*Renewal of driver cards*

1. Where a driver wishes to renew his driver card, he shall apply to the competent authorities of the Member State of normal residence not later than 15 working days before the expiry date of the card.
2. Where the authorities of the Member State of normal residence are different from those which issued the card and where the former are requested to renew the driver card, they shall inform the authorities which issued the old card of the reasons for its renewal.
3. In the event of a request for the renewal of a card whose expiry date is approaching, the competent authority shall supply a new card before the expiry date provided that the request was sent within the time limits laid down in paragraph 1.

*Article 24*  
*Stolen, lost or defective driver cards*

1. The issuing authority shall keep records of issued, stolen, lost or defective driver cards for a period at least equivalent to their period of administrative validity.
2. If a driver card is damaged or if it malfunctions, the driver shall return it to the competent authority of the Member of normal residence. Theft of the driver card must be formally declared to the competent authorities of the State where the theft occurred.
3. Loss of the driver card shall be reported in a formal declaration to the competent authorities of the issuing Member State and to the competent authorities of the Member State of normal residence if this is different.
4. If the driver card is damaged, malfunctions or is lost or stolen, the driver shall within seven calendar days apply for its replacement to the competent authorities of the Member of normal residence. These authorities shall supply a replacement card within five working days after receiving a detailed request to that effect.

5. In the circumstances set out in paragraph 4, the driver may continue to drive without a driver card for a maximum period of 15 calendar days or for a longer period if this is necessary for the vehicle to return to its premises, provided the driver can prove the impossibility of producing or using the card during this period.

#### *Article 25*

##### *Mutual recognition and exchange of driver cards*

1. Driver cards issued by Member States shall be mutually recognised.
2. Where the holder of a valid driver card issued by a Member State has established his normal residence in another Member State, he may ask for his card to be exchanged for an equivalent driver card. It shall be the responsibility of the Member State which carries out the exchange to verify whether the card produced is still valid.
3. Member States carrying out an exchange shall return the old card to the authorities of the issuing Member State and indicate the reasons for so doing.
4. Where a Member State replaces or exchanges a driver card, the replacement or exchange, and any subsequent replacement or exchange, shall be registered in that Member State.

#### *Article 26*

##### *Electronic exchange of information on driver cards*

1. In order to ensure that an applicant does not already hold a valid driver card as referred to in Article 21(4), Member States shall maintain national electronic registers containing the following information on driver cards for a period at least equivalent to their period of administrative validity:
  - Surname and first name of the driver
  - Birth date and place of birth of the driver
  - Driving licence number and country of issue of the driving licence (if applicable)
  - Status of the driver card
2. The Commission and the Member States shall take all necessary measures to ensure that the electronic registers are interconnected and accessible throughout the Union.
3. Whenever issuing, renewing or replacing a driver card, Member States shall verify through electronic data exchange that the driver does not already hold another valid driver card. The data exchanged shall be limited to the data necessary for the purpose of this verification.
4. Control officers may have access to the electronic register in order to control the status of a driver card.

5. The Commission shall adopt implementing acts to lay down the common procedures and specifications necessary for the interconnection referred to in paragraph 2, including the format for the data exchanged, the technical procedures for electronic consultation of the national electronic registers, access procedures and security mechanisms. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 40(3).

#### *Article 27*

#### *Integration of driver cards with driving licences*

Driver cards shall be issued in accordance with the provisions of this Chapter until 18 January 2018. With effect from 19 January 2018, driver cards shall be incorporated into driving licences and issued, renewed, exchanged and replaced in accordance with the provisions of Directive 2006/126/EC.

## **CHAPTER VI**

### **Use of equipment**

#### *Article 28*

#### *Correct use of recording equipment*

1. The transport undertaking, the vehicle owner and the drivers shall ensure the correct functioning and proper use of the recording equipment and the driver card where a driver is required to drive a vehicle fitted with the recording equipment referred to in Annex IB .
2. It shall be forbidden to falsify, conceal, suppress or destroy data recorded on the record sheet, stored in the recording equipment or on the driver card, or print-outs from the recording equipment referred to in Annex IB. Any manipulation of the recording equipment, record sheet or driver card which could result in data and/or printed information being falsified, suppressed or destroyed shall also be prohibited. No device which could be used to this effect shall be present on the vehicle.
3. Vehicles shall not be fitted with more than one set of recording equipment except for the purposes of the field tests referred to in Article 16.
4. Member States shall forbid the production, distribution, advertising and/or selling of devices constructed and/or intended for the manipulation of recording equipment.

#### *Article 29*

#### *Responsibility of the undertaking*

1. The transport undertaking shall issue a sufficient number of record sheets to drivers of vehicles fitted with the recording equipment referred to in Annex I taking into account the fact that these sheets are personal in character, the length of the period of service and the possible need to replace sheets which are damaged, or have been

taken by an authorised inspecting officer. The transport undertaking shall issue to drivers only record sheets of an approved model suitable for use in the equipment installed in the vehicle.

Where the vehicle is fitted with the recording equipment referred to in Annex IB the transport undertaking and the driver shall ensure that, taking into account the length of the period of service, the printing on request referred to in Annex IB can be carried out correctly in the event of an inspection.

2. The transport undertaking shall keep record sheets and printouts, whenever printouts have been made to comply with Article 31, 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 transport undertaking shall also give copies of downloaded data from the driver cards to the drivers concerned who request them and the printed paper versions of these copies. The record sheets, printouts and downloaded data shall be produced or handed over at the request of any authorised inspecting officer.
3. A transport undertaking shall be liable for infringements against this Regulation committed by drivers of the undertaking. Without prejudice to the right of Member States to hold transport undertakings fully liable, Member States may consider any evidence that the transport undertaking cannot reasonably be held responsible for the infringement committed.

#### *Article 30*

##### *Use of driver cards and record sheets*

1. Drivers shall use the record sheets or driver cards every day on which they are driving, starting from the moment they take over the vehicle. The record sheet or driver card shall not be withdrawn before the end of the daily working period unless its withdrawal is otherwise authorised. No record sheet or driver card may be used to cover a period longer than that for which it is intended.
2. Drivers shall adequately protect the record sheets or driver cards, and shall not use dirty or damaged sheets or cards.
3. When as a result of being away from the vehicle, a driver is unable to use the recording equipment fitted to the vehicle, the periods of time referred to in paragraph 5(b) (ii) and (iii) shall:
  - (a) if the vehicle is fitted with the recording equipment referred to in 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 the recording equipment referred to in Annex IB, be entered onto the driver card using the manual entry facility provided in the recording equipment.

For control purposes, periods of time for which no activity has been recorded shall be regarded as rest or break. Drivers are not obliged to record daily and weekly rest periods when having been away from the vehicle.

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

Where there is more than one driver on board a vehicle fitted with the recording equipment referred to in Annex IB, drivers shall amend the record sheets as necessary, so that the information referred to in Section II (a), (b) and (c) of Annex I is recorded on the record sheet of the driver who is actually driving.

5. Drivers shall:

- (a) ensure that the time recorded on the sheet corresponds to the official time in the country of registration of the vehicle;
- (b) operate the switch mechanisms enabling the following periods of time to be recorded separately and distinctly:
  - (i) under the sign : driving time,
  - (ii) under the sign : 'other work', which 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<sup>25</sup>, and also any work for the same or another employer within or outside of the transport sector,
  - (iii) under the sign : 'availability', as defined in Article 3(b) of Directive 2002/15/EC;
  - (iv) under the sign : breaks or rest.

6. Each driver shall enter the following information on his record sheet:

- (a) on beginning to use the sheet — this surname and first name;
- (b) the date and place where use of the sheet begins and the date and place where such use ends;
- (c) the registration number of each vehicle to which the driver is assigned, both at the start of the first journey recorded on the sheet and then, in the event of a change of vehicle, during use of the sheet;
- (d) the odometer reading:
  - (i) at the start of the first journey recorded on the sheet,
  - (ii) at the end of the last journey recorded on the sheet,

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<sup>25</sup> OJ L 80, 23.3.2002, p. 35.

- (iii) in the event of a change of vehicle during a working day, the reading on the first vehicle to which the driver was assigned and the reading on the next vehicle;
  - (e) the time of any change of vehicle.
7. The driver shall enter in the recording equipment referred to in Annex IB the symbols of the countries in which the daily work period was started and finished. However, a Member State may require drivers of vehicles engaged in transport operations inside its territory to add more detailed geographic specifications to the country symbol provided that the Member State notified them to the Commission before 1 April 1998.

It shall not be necessary for drivers to enter this information if the recording equipment is automatically recording location data in accordance with Article 4.

#### *Article 31*

##### *Damaged driver cards or record sheets*

1. In case of damage to a sheet bearing recordings or a driver card, drivers shall keep the damaged sheet or driver card together with the spare sheet used to replace it.
2. Where a driver card is damaged, malfunctions, or is lost or stolen, the driver shall:
  - (a) at the start of his journey, print out the details of the vehicle they are driving, and enter on that printout:
    - (i) details that enable the driver to be identified (name, driver card or driving licence number), including his signature;
    - (ii) the periods referred to in Article 30 (5) (b) (ii), (iii) and (iv);
  - (b) at the end of the 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 recording equipment, 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.

#### *Article 32*

##### *Records to be carried by the driver*

1. Where the driver drives a vehicle fitted with the recording equipment referred to in Annex I, the driver shall be able to produce, whenever an inspecting officer so requests:
  - (i) the record sheets for the current day and those used by the driver in the previous 28 days,
  - (ii) the driver card if one is held, and

- (iii) any manual record and printout made during the current day and the previous 28 days as required under this Regulation and Regulation (EC) No 561/2006.
2. Where the driver drives a vehicle fitted with the recording equipment referred to in Annex IB, he shall be able to produce, whenever an inspecting officer so requests:
- (i) his driver card ,
  - (ii) any manual record and printout made during the current day and the previous 28 days as required under this Regulation and Regulation (EC) No 561/2006,
  - (iii) the record sheets corresponding to the same period as the one referred to in point (ii) during which he drove a vehicle fitted with the recording equipment referred to in Annex I.
3. 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 Articles 24(2) and 33(2) of this Regulation.

### *Article 33*

#### *Procedures in case of malfunctioning equipment*

1. In the event of breakdown or faulty operation of the recording equipment, the transport undertaking shall have it repaired by an approved fitter or workshop, as soon as circumstances permit.

If the vehicle is unable to return to the premises within a period of one week calculated from the day of the breakdown or of the discovery of defective operation, the repair shall be carried out *en route*.

Measures taken by Member States pursuant to Article 37 may give the competent authorities power to prohibit the use of the vehicle in cases where breakdown or faulty operation has not been remedied as provided in the first and the second subparagraphs.

2. While the recording equipment is unserviceable or malfunctioning, drivers shall mark data enabling identification of the driver(name, driver card or driving licence number), including a signature, as well as the information for the various periods of time which are no longer recorded or printed out correctly by the recording equipment:
- (a) on the record sheet or sheets, or
  - (b) on a temporary sheet to be attached to the record sheet or to be kept together with the driver card.

## CHAPTER VII

### Data protection, enforcement and sanctions

#### *Article 34*

##### *Protection of personal data*

1. Member States shall ensure that the processing of personal data in the context of this Regulation is carried out in accordance with Directives 95/46/EC and 2002/58/EC and under the supervision of the public independent authority of the Member State referred to in Article 28 of Directive 95/46/EC.
2. Member States shall in particular ensure that personal data is protected in relation to:
  - the use of a global navigation satellite system (GNSS) for the recording of location data as referred to in Article 4,
  - the use of remote communication for control purposes as referred to in Article 5,
  - the use of recording equipment with a harmonised interface as referred to in Article 6,
  - the electronic exchange of information on driver cards as referred to in Article 26,
  - the keeping of records by transport undertakings as referred to Article 29.
3. The recording equipment referred to in Annex IB shall be designed in such a way as to ensure privacy. Only data strictly necessary for the purpose of the processing shall be processed.
4. The owners of vehicles and/or transport undertakings shall comply, where applicable, with the relevant provisions on the protection of personal data.

#### *Article 35*

##### *Training of control officers*

1. Member States shall ensure that control officers are appropriately trained for the analysis of the data recorded and the control of the recording equipment.
2. Member States shall inform the Commission about the training requirements for their control officers by [6 months after the date of application of this Regulation].
3. The Commission shall adopt decisions on the methodology for the initial and continuing training of control officers, including on techniques to target controls and to detect manipulation devices and fraud. Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 40(2).

*Article 36*  
*Mutual assistance*

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

Within the framework of this mutual assistance, the competent authorities of the Member States shall in particular regularly send to each other all available information concerning infringements to this Regulation related to fitters and workshops, and any penalties imposed for such infringements.

*Article 37*  
*Sanctions*

1. Member States shall lay down rules on penalties applicable to infringements of this Regulation and shall take all measures necessary to ensure that they are implemented. Those penalties shall be effective, proportionate, dissuasive and non-discriminatory. In the case of workshops which have infringed the provisions of this Regulation, this may include the cancellation of approval and withdrawal of the workshop card.
2. No infringement of this Regulation shall be subjected to more than one penalty or procedure.
3. The sanctions laid down by Member States for very serious infringements as defined in Directive 2009/5/EC shall be of the highest categories applicable in the Member State for infringements of road transport legislation.
4. The Member States shall notify the Commission of these measures and the rules on penalties and sanctions by [date of application of this Regulation]. They shall inform the Commission about any subsequent change to these measures.

## **CHAPTER VIII**

### **Final provisions**

*Article 38*  
*Adaptation to technical progress*

The Commission shall be empowered to adopt delegated acts in accordance with Article 39 for the purpose of adapting Annexes I, IB and II to technical progress.

*Article 39*  
*Exercise of the delegation*

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.

2. The delegation of power referred to in Articles 4, 5, 6 and 38 shall be conferred for an indeterminate period of time from the [date of entry into force of this Regulation].
3. The delegation of powers referred to in Articles 4, 5, 6 and 38 may be revoked at any time by the European Parliament or by the Council. A decision of revocation shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.
4. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.
5. A delegated act adopted pursuant to Articles 4, 5, 6 and 38 shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of 2 months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by [2 months] at the initiative of the European Parliament or the Council.

*Article 40*  
*Committee*

1. The Commission shall be assisted by a committee. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.
2. Where reference is made to this paragraph, Article 4 of Regulation (EU) No 182/2011 shall apply.

Where the opinion of the committee is to be obtained by written procedure, that procedure shall be terminated without result when, within the time-limit for delivery of the opinion, the chair of the committee so decides or a simple majority of committee members so request.

3. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.

Where the opinion of the committee is to be obtained by written procedure, that procedure shall be terminated without result when, within the time-limit for delivery of the opinion, the chair of the committee so decides or a simple majority of committee members so request.

*Article 41*  
*Tachograph Forum*

1. A Tachograph Forum shall be set up in order to support dialogue on technical matters concerning the recording equipment among Member States' experts, and experts from third countries which are using the recording equipment under the

European agreement concerning the work of crews of vehicles engaged in international road transport (AETR).

2. Member States shall delegate an expert to the Tachograph Forum.
3. The Tachograph Forum shall be open to participation by experts from interested non-EU Contracting Parties to the AETR.
4. Stakeholders, representatives of vehicle manufacturers, tachograph manufacturers and social partners, shall be invited to the Tachograph Forum.
5. The Tachograph Forum shall adopt its rules of procedure.
6. The Tachograph Forum shall meet at least once a year.

#### *Article 42*

#### *Communication of national measures*

Member States shall communicate to the Commission the text of the laws, regulations and administrative provisions which they adopt in the field governed by this Regulation no later than 30 days after their date of adoption and for the first time [12 months after the entry into force of this Regulation].

2) Annex I to Regulation (EEC) No 3821/85 is amended as follows:

- (a) In Chapter I Definitions, point (b) is deleted.
- (b) in Chapter III (c) , in point 4.1, the reference to "Article 15(3) , second indent (b), (c) and (d) of the Regulation" is replaced by "Article 30(5), second indent (b), (c) and (d) of the Regulation "
- (c) in Chapter III (c) , in point 4.2, the reference to "Article 15 of the Regulation" is replaced by "Article 30 of the Regulation"
- (d) in Chapter IV (a) point 1, third subparagraph, the reference to "Article 15(5) of the Regulation" is replaced by "Article 30(6) of the Regulation ".

3) Annex IB to Regulation (EEC) No 3821/85 is amended as follows:

- (a) In Chapter I Definitions, points (l), (o), (t), (y), (ee), (kk), (oo) and (qq) are deleted:
- (b) Chapter VI is amended as follows:
  - (1) in the first paragraph, the reference to "Article 12(5) of Regulation (EEC) No 3821/85 as last amended by Regulation (EC) No 2135/98" is replaced by "Article 24(5) of Regulation (EEC) No 3821/85".
  - (2) Section 1 "Approval of fitters or workshops" is deleted.

- (c) In Chapter VIII, point 271, the reference to "Article 5 of this Regulation" is replaced by a reference to "Article 8 of this Regulation".

*Article 2*

Regulation (EC) No 561/2006 is amended as follows:

The distance of '50 km' referred to in points (d), (f) and (p) of Article 13(1) is replaced by '100 km'.

*Article 3*

This Regulation shall enter into force on the day following that of its publication in the *Official Journal of the European Union*.

It shall apply with effect from [one year after entry into force].

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

Done at Brussels,

*For the European Parliament*  
*The President*

*For the Council*  
*The President*