

COUNCIL REGULATION (EEC) No 2828/77

of 12 December 1977

amending Regulation (EEC) No 1463/70 on the introduction of recording equipment in road transport

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

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

Having regard to Council Regulation (EEC) No 543/69 of 25 March 1969 on the harmonization of certain social legislation relating to road transport ⁽¹⁾, as last amended by Regulation (EEC) No 2827/77 ⁽²⁾,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament ⁽³⁾,

Having regard to the opinion of the Economic and Social Committee ⁽⁴⁾,

Whereas experience gained in the application of Council Regulation (EEC) No 1463/70 of 20 July 1970 on the introduction of recording equipment in road transport ⁽⁵⁾, as last amended by Regulation (EEC) No 1787/73 ⁽⁶⁾, as it applies to construction and operation indicates that some amendments should be made to this Regulation so as to render the text more precise and to take account of such experience;

Whereas, in the event of differences of opinion between Member States concerning cases of EEC type-approval, the Commission should be empowered to take a decision on a dispute within six months if the States concerned have been unable to reach a settlement;

Whereas it has been found desirable to postpone the date of application of Regulation (EEC) No 1463/70 to certain vehicles registered before 1 January 1975 and before 1 January 1976 for the new Member States;

Whereas technical progress necessitates rapid adaptation of the technical specifications set out in the Annexes to Regulation (EEC) No 1463/70; whereas, in order to facilitate the implementation of the measures necessary for this purpose, provision should be made for a procedure establishing close cooperation between the Member States and the Commission within a Committee for the adaptation to technical progress of Regulation (EEC) No 1463/70;

Whereas the English version of Chapter III (c) 1.2 of Annex I to Regulation (EEC) No 1463/70 should be altered so as to bring it fully into line with the other versions,

HAS ADOPTED THIS REGULATION:

Article 1

Article 3 of Regulation (EEC) No 1463/70 shall become paragraph 1 of that Article and the following paragraphs shall be added:

2. However, after consulting the Commission, Member States may exempt from the application of this Regulation vehicles mentioned in Article 14a (2) of Regulation (EEC) No 543/69.

3. Member States may, after authorization from the Commission, exempt from the application of this Regulation vehicles mentioned in Article 14a (3) (a) of Regulation (EEC) No 543/69.

Article 2

Article 4 of Regulation (EEC) No 1463/70 shall be replaced by the following text:

Article 4

1. Without prejudice to the provisions of Annex VII, Point III, paragraph 4 of the Act of Accession, with effect from 1 January 1975 the installation and use of recording equipment shall be compulsory:

(a) at the time of their entry into service for vehicles registered for the first time on or after that date;

⁽¹⁾ OJ No L 77, 29. 3. 1969, p. 49.

⁽²⁾ See page 1 of this Official Journal.

⁽³⁾ OJ No C 7, 12. 1. 1976, p. 68.

⁽⁴⁾ OJ No C 50, 4. 3. 1976, p. 5.

⁽⁵⁾ OJ No L 164, 27. 7. 1970, p. 1.

⁽⁶⁾ OJ No L 181, 4. 7. 1973, p. 1.

- (b) whatever the date of their registration, for vehicles used for the carriage of dangerous goods.
2. With effect from 1 January 1978 the installation and use of recording equipment shall be compulsory for other vehicles.
3. However the date referred to in paragraph 2 shall be deferred to 1 July 1979 for vehicles used exclusively for the domestic carriage of goods, other than dangerous goods,
- which are engaged in transport operations within a radius of 50 kilometres of the vehicle's depot, including local administrative areas the centres of which are within this radius, or
 - which have a maximum authorized weight, inclusive of trailers or semi-trailers, of not more than six tonnes or a payload of not more than 3.5 tonnes.'

Article 3

Article 5 of Regulation (EEC) No 1463/70 shall be replaced by the following:

'Article 5

Articles 14 and 15 of Regulation (EEC) No 543/69 shall not apply to crew members of vehicles using recording equipment conforming to the provisions of Annexes I and II to the present Regulation.'

Article 4

The following paragraph shall be added to Article 7 of Regulation (EEC) No 1463/70:

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

Article 5

Article 10 of Regulation (EEC) No 1463/70 shall be replaced by the following text:

'Article 10

1. If a Member State which has granted EEC type-approval as provided for in Article 7 finds that certain recording equipment or record sheets bearing the EEC type-approval mark which it has issued do not conform to the prototype which it has approved, it shall take the necessary measures to ensure that production models conform to the ap-

proved prototype. The measures taken may, if necessary, extend to withdrawal of EEC type-approval.

2. A Member State which has granted EEC type-approval shall withdraw such approval if the recording equipment or record sheet which has been approved is not in conformity with this Regulation or its Annexes or displays in use any general defect which makes it unsuitable for the purpose for which it is intended.

3. If a Member State which has granted EEC type-approval is notified by another Member State of one of the cases referred to in paragraphs 1 and 2, it shall also, after consulting the latter Member State, take the steps laid down in those paragraphs, subject to the implementation of paragraph 5.

4. A Member State which ascertains that one of the cases referred to in paragraph 2 has arisen may forbid the placing on the market and putting into service of the recording equipment or record sheets until further notice. The same applies in the cases mentioned in paragraph 1 with respect to recording equipment or record sheets which have been exempted from EEC 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 EEC 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 EEC 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 above, the Commission, after consulting experts from all Member States and having considered all the relevant factors, e.g. economic and technical factors, shall within six months adopt a decision which shall be communicated to the Member States concerned and at the same time to the other Member States. The Commission shall lay down in each instance the time limit for implementation of its decision.'

Article 6

Article 11 (1) of Regulation (EEC) No 1463/70 shall be replaced by the following text:

'1. An applicant for EEC type-approval of a model record sheet shall state on his application the type or types of recording equipment 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.'

Article 7

Article 14 (1) of Regulation (EEC) No 1463/70 shall be replaced by the following text:

'1. Recording equipment may be installed or repaired only by fitters or workshops approved by the competent authorities of Member States for that purpose after the latter, should they so desire, have heard the views of the manufacturers concerned.'

Article 8

Article 16 (2) of Regulation (EEC) No 1463/70 shall be replaced by the following text:

'2. The employer shall retain record sheets for a period of at least one year after their use; the sheets for each crew member shall be produced or handed over at the request of any authorized inspecting officer.'

Article 9

Article 17 of Regulation (EEC) No 1463/70 shall be amended as follows:

1. The second sentence of the first subparagraph of paragraph 2 shall be replaced as follows:

'In particular:

- they shall ensure that the time recorded on the sheet agrees with the official time in the country of registration of the vehicle;
- they shall operate the switch mechanisms enabling the following periods of time to be recorded separately and distinctly:
 - (a) driving time,
 - (b) other periods of work and of attendance at work,
 - (c) breaks from work and rest periods.

The periods of time referred to in (b) may be recorded separately on the record sheet;

- they shall make the necessary changes to the record sheets in the case of a crew of several members so that the information referred to in Chapter II (1), (2) and (3) of Annex I is recorded on the record sheet of the crew member who is actually driving.'

2. In paragraph (3) (d) the second and third indents shall be deleted.

3. Paragraph 4 shall be replaced by the following text:

'4. The equipment shall be so designed that it is possible for an authorized inspecting officer, if necessary after opening the equipment, to read the recordings relating to the nine hours preceding the time of the check without permanently deforming, damaging or soiling the sheet.

The equipment shall, furthermore, be so designed that it is possible, without opening the case, to verify that recordings are being made.'

4. In paragraph 5 'fourteen' shall be replaced by 'seven'.

Article 10

In Article 18 (1), third subparagraph, the reference to 'Article 21' shall be replaced by a reference to 'Article 23'.

Article 11

In Chapter VI of Regulation (EEC) No 1463/70, Article 21 shall become Article 23 and shall be preceded by the following provisions:

'Article 21

The amendments necessary to adapt the Annexes to this Regulation to technical progress shall be adopted in accordance with the procedure laid down in Article 22.

Article 22

1. A Committee for the adaptation of this Regulation to technical progress (hereinafter called "the Committee") is hereby set up; it shall consist of representatives of the Member States, and a representative of the Commission shall be chairman.

2. The Committee shall adopt its own rules of procedure.

3. Where the procedure laid down in this Article is to be followed, the matter shall be referred to the Committee by the chairman, either on his own initiative or at the request of the representative of a Member State.

4. The Commission representative shall submit to the Committee a draft of the measures to be taken. The Committee shall give its opinion on that draft within a time limit set by the chairman having

regard to the urgency of the matter. Opinions shall be delivered by a majority of 41 votes, the votes of the Member States being weighted as provided for in Article 148 (2) of the Treaty. The chairman shall not vote.

5. (a) The Commission shall adopt the envisaged measures where they are in accordance with the opinion of the Committee.
- (b) Where the measures envisaged are not in accordance with the opinion of the Committee or if no opinion is delivered, the Commission shall without delay submit to the Council a proposal on the measures to be taken. The Council shall act by a qualified majority.
- (c) If the Council has not acted within three months of the proposal being submitted to it, the proposed measures shall be adopted by the Commission.'

Article 12

In Chapter I (a) of Annex I to Regulation (EEC) No 1463/70, the phrase 'equipment installed in road vehicles' shall be replaced by the phrase 'equipment intended for installation in road vehicles'.

Article 13

In Chapter I (d) and (e) of Annex I to Regulation (EEC) No 1463/70, the heading 'Chapter VI (c)' shall be replaced by the heading 'Chapter VI (4)'.

Article 14

Chapter III of Annex I to Regulation (EEC) No 1463/70 shall be amended as follows:

1. The text under point (a) 3.2 shall be replaced by the following text:
 - '3.2. Any modification in a constituent part of the equipment or in the nature of the materials used for its manufacture must, before being generally applied in manufacture, be submitted for approval to the authority which granted type-approval for the equipment.'
2. The text under point (a) 6.3 shall be deleted.
3. The following sentence shall be added to point (b) 1.1:

'Figures showing hectometres must be clearly distinguishable from those showing whole kilometres.'

4. The text under point (b) 1.2 shall be replaced by the following:

'1.2. The figures on the distance recorder must be clearly legible and must have an apparent height of at least 4 mm.'

5. The following point shall be added to section (b):

'3. *Time indicator* (clock)

The time indicator must be visible from outside the equipment and give a clear, plain and unambiguous reading.'

6. In point (c) 1.1, the word 'exactly' shall be deleted.

7. The text under point (c) 1.2 shall be replaced by the following:

'1.2. The mechanism moving the record sheet must be such as to ensure that the latter moves without play and can be freely inserted and removed.'

8. Under point (c) 3.1 the second indent shall be replaced by the following:

'— the ratio between the radius of curvature of the trace drawn by the stylus and the width of the area reserved for speed recording must be not less than 2.4 to 1 whatever the form of the record sheet.'

9. The text under (c) 4.1 shall be replaced as follows:

'4.1. Recording equipment must be so constructed that it is possible, through the operation where necessary of a switch device, to record automatically and separately four periods of time as indicated in Article 17 including a possible separation of category (b) into two periods of time.'

10. The text under point (e) 1 shall be replaced as follows:

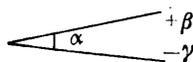
'1. The following markings must appear on the instrument face of the equipment:

- close to the figure shown by the distance recorder, the unit of measurement of distance, indicated by the abbreviation "km",
- near the speed scale, the marking "km/h",
- the measurement range of the speedometer in the form " V_{\min} ... km/h, V_{\max} ... km/h". This marking is not necessary if it is shown on the descriptive plaque of the equipment.

However, these requirements shall not apply to recording equipment approved before the entry into force of this Regulation.'

11. In paragraph (e) 2:

- in the fourth indent, the words 'given to not less than two decimal places and' shall be deleted;
- an additional indent shall be added as follows:
 - should the sensitivity of the instrument to the angle of inclination be capable of affecting the readings given by the equipment beyond the permitted tolerances, the permissible angle expressed as:



where α is the angle measured from the horizontal position of the front face (fitted the right way up) of the equipment for which the instrument is calibrated, while β and γ represent respectively the maximum permissible upward and downward deviations from the angle of calibration α .

12. (a) The text of point (f) 1 (a) shall be replaced as follows:
- '(a) distance travelled: 1% more or less than the real distance, where that distance is at least 1 kilometre'.
- (b) The text of point (f) 1 (b) shall be replaced as follows:
- '(b) speed: 3 km/h more or less than the real speed'.
- (c) The text of point (f) 2 (a) shall be replaced as follows:
- '(a) distance travelled: 2% more or less than the real distance, where that distance is at least 1 kilometre'.
- (d) The text of point (f) 2 (b) shall be replaced as follows:
- '(b) speed: 4 km/h more or less than the real speed'.
- (e) The text of point (f) 3 (a) shall be replaced as follows:
- '(a) distance travelled: 4% more or less than the real distance, where that distance is at least 1 kilometre'.
- (f) The text of point (f) 3 (b) shall be replaced as follows:
- '(b) speed: 6 km/h more or less than the real speed'.

Article 15

Chapter IV of Annex I to Regulation (EEC) No 1463/70 shall be amended as follows:

1. The first sentence of (a) (1) shall be replaced as follows:
 - '1. The record sheets must be such that they do not impede the normal functioning of the instrument and that the records which they contain are indelible and easily legible and identifiable.'
2. The second sentence of (a) (1) shall be replaced as follows:

'The record sheets must retain their dimensions and any records made on them under normal conditions of humidity and temperature.'

Article 16

Chapter V of Annex I to Regulation (EEC) No 1463/70 shall be amended as follows:

1. The second subparagraph of paragraph 3 shall be replaced as follows:

'After every inspection by an approved fitter or workshop requiring a change in the setting of the installation itself, a new plaque must be affixed in place of the previous one.'
2. The first line of the third subparagraph of paragraph 3 shall be amended to read as follows:

'The plaque must show at least the following details:'.
3. In the second indent of paragraph 3, the phrase 'to three decimal places' shall be deleted.
4. The text of paragraph 4 (a) shall be replaced as follows:

'(a) the installation plaque, unless it is attached in such a way that it cannot be removed without the markings thereon being destroyed.'

Article 17

In Annex I to Regulation (EEC) No 1463/70, Chapter VI shall be deleted and replaced by the following:

'VI. CHECKS AND INSPECTIONS

The Member States shall nominate the bodies which shall carry out the checks and inspections.

1. Certification of new or repaired instruments

Every individual device, whether new or repaired, shall be certified in respect of its correct operation and the accuracy of its readings and recordings, within the limits laid down in Chapter III (f) 1, by means of sealing in accordance with Chapter V (4) (f).

For this purpose the Member States may stipulate an initial verification, consisting of a check on and

confirmation of the conformity of a new or repaired device with the type-approved model and/or with the requirements of the Regulation and its Annexes, or may delegate the power to certify to the manufacturers or to their authorized agents.

2. Installation

When being fitted to a vehicle, the equipment and the whole installation must comply with the provisions relating to maximum tolerances laid down in Chapter III (f) 2.

The inspection tests shall be carried out by the approved fitter or workshop on his or its responsibility.

3. Periodic inspections

(a) Periodic inspections of the equipment fitted to vehicles shall take place at least every two years and may be carried out in conjunction with roadworthiness tests of vehicles.

These inspections shall include the following checks:

- that the equipment is working correctly,
- that the equipment carries the type-approval mark,
- that the installation plaque is affixed,
- that the seals on the equipment and on the other parts of the installation are intact,

— the actual circumference of the tyres.

(b) An inspection to ensure compliance with the provision of Chapter III (f) 3 on the maximum tolerances in use shall be carried out at least once every six years, although each Member State may stipulate a shorter interval for such inspections in respect of vehicles registered in its territory. Such inspections must include replacement of the installation plaque.

4. Measurement of errors

The measurement of errors on installation and during use shall be carried out under the following conditions, which are to be regarded as constituting standard test conditions:

- vehicle unladen, in normal running order,
- tyre pressures in accordance with the manufacturer's instructions,
- tyre wear within the limits allowed by law,
- movement of the vehicle: the vehicle must proceed, driven by its own engine, in a straight line and on a level surface, at a speed of 50 ± 5 km/h; provided that it is of comparable accuracy, the test may also be carried out on an appropriate test bench.

Article 18

This Regulation shall enter into force on 1 January 1978.

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

Done at Brussels, 12 December 1977.

For the Council

The President

L. DHOORE