

II

(Preparatory Acts)

COMMISSION

Proposal for a Council Regulation amending Regulation (EEC) No 543/69 on the harmonization of certain social legislation relating to road transport and Regulation (EEC) No 1463/70 on the introduction of recording equipment in road transport

*COM(84) 147 final**(Submitted by the Commission to the Council on 20 March 1984)**(84/C 100/03)*

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 the proposal from the Commission,

Having regard to the opinion of the European Parliament,

Having regard to the opinion of the Economic and Social Committee,

Whereas the aims of Council Regulation (EEC) No 543/69 on the harmonization of certain social legislation relating to road transport ⁽¹⁾ are the harmonization of competition within and between inland transport modes, and the improvement of road safety, living and working conditions;

Whereas the aim of Council Regulation (EEC) No 1463/70 on the introduction of recording equipment in road transport ⁽²⁾ is to improve the enforcement of the provisions on the working and rest activities of vehicle drivers;

Whereas the aforementioned aims must be safeguarded and promoted;

Whereas there is a need for greater flexibility in the provisions of the Regulations which can be obtained without detriment to their objectives;

Whereas it is simpler for undertakings and drivers to organize their work on the basis of a fixed week;

Whereas it is desirable to supplement and clarify certain definitions and to bring up to date and repeal some provisions;

Whereas in the interests of obtaining greater flexibility for transport undertakings and, at the same time, furthering social progress, it seems appropriate to increase the daily driving period whilst reducing weekly driving;

Whereas it is essential for road safety to limit the number of hours that a driver may work without a break on any day when he is also driving;

Whereas it will promote social progress and is beneficial for road safety to increase the duration of breaks in driving periods and the daily and weekly rest periods, whilst incorporating the possibility of reductions in the rest, provided that the driver may take the hours owed in a relatively limited time afterwards;

Whereas, for the purposes of this Regulation, it does not appear necessary to maintain the present ban on certain payments made according to distances travelled or the amount of goods carried;

Whereas exemptions from the provisions of the Regulations are justified for some categories of transport of relatively minor economic or social importance in the transport sector since the aims of the Regulations will not be affected;

Whereas the particular circumstances of the passenger transport sector justify increasing the size of vehicles that can be exempted by Member States for national journeys;

Whereas the Commission should have the power to grant exemptions from the Regulations in exceptional circumstances;

⁽¹⁾ OJ No L 77, 29. 3. 1969 (codified version — OJ No C 73, 17. 3. 1979, p. 1).

⁽²⁾ OJ No L 164, 20. 7. 1970 (amendments — OJ No L 181, 4. 7. 1973, p. 1; OJ No L 334, 24. 12. 1977, p. 5).

Whereas it is desirable to emphasize the importance and necessity to comply with and see that the Regulations are enforced by stating the duties of employers and employees in this respect and by re-affirming the obligation of Member States to provide each other with information on infringements;

Whereas in the interest of effective control, the exemption from the obligation to carry a tachograph on regular international passenger services should be stopped;

Whereas it is considered sufficient that the Commission draws up its report on implementation every two years, subject to certain time limits;

Whereas it will assist with enforcing the Regulations and preventing abuses, if the record sheets of tachographs are numbered and used in numerical order, if a register of sheets is kept by the undertaking, which is open to inspection by the enforcement authorities, if drivers may obtain copies of their sheets or extracts from the duty rosters on request, and if there is an obligation on employers to hold these documents for two years;

Whereas it is useful to specify precisely how periods of non-driving work and weekly rest are to be indicated on the record sheets;

Whereas the provisions governing the number of record sheets that a driver must keep with him have to be amended following the introduction of a fixed week;

HAS ADOPTED THIS REGULATION

Article 1

Amendments to Regulation (EEC) No 543/69

1. Article 1 is hereby amended as follows:

- (a) In paragraph 1 the word 'public' shall be inserted before the word 'road' the second time that the word is used;
- (b) paragraph 4 shall be deleted and the following text inserted:
 - '4. "week" means the period between 00,00 hours on Monday and 24,00 hours on Sunday;'
- (c) paragraph 5 shall be deleted and the following text inserted:
 - '5. "driving" means time which is spent behind the wheel of a vehicle;'
- (d) the following text shall replace former paragraph 5 and shall be inserted instead of the present paragraph 6:

'6. "rest" means any uninterrupted period of at least nine hours, other than a break, in which a crew member may freely dispose of his time;

(e) the following text shall be inserted instead of the present paragraph 7:

'7. "break" means any uninterrupted period which is shorter than a rest, in which a crew member may freely dispose of his time;'

(f) the following text shall replace former paragraph 6 and shall become paragraph 8:

'8. "regular passenger services" means national and international services as defined in Regulation No 117/66/EEC (⁽¹⁾), on the introduction of common rules for the international carriage of passengers by coach and bus;

(¹) OJ No 147, 9. 8. 1966, p. 2699/66.'

(g) the present paragraph 7 shall become paragraph 9.

2. Article 2 is hereby replaced by the following text:

Article 2

1. This Regulation applies to carriage by road within the Community as defined in Article 1 (1).

2. This Regulation does not apply to the following transport, to which the European Agreement concerning the work of crews of vehicles engaged in international road transport (AETR) applies:

- international road transport operations to and/or from third countries which are contracting parties to the Agreement, or in transit through such countries, for the whole of the journey where such operations are effected by vehicles registered in a Member State or in one of the said third countries,
- transport operations to and/or from a third country effected by vehicles registered in a third country which is not a contracting party to the Agreement for any journey made within the Community.'

3. Article 4 is hereby replaced by the following text:

Article 4

This Regulation shall not apply to carriage by:

- 1. vehicles used for the carriage of goods where the maximum permissible weight does not exceed 3,5 tonnes;

2. vehicles used for the carriage of passengers, with a seating capacity of less than nine persons, including the driver, unless such vehicles are carrying goods other than passengers' personal effects;
3. vehicles used for the carriage of passengers and operating on regular services within a 50-km radius of the vehicle base;
4. vehicles with a maximum authorized speed not exceeding 30 km per hour;
5. vehicles when used by the armed services, civil defence, police and fire services;
6. vehicles when used in temporary emergencies or in the course of rescue operations;
7. specialized vehicles for medical purposes;
8. vehicles used for circus or funfair equipment;
9. specialized breakdown vehicles;
10. vehicles used to transport goods for private purposes, including the use of hired vehicles without a driver.'
4. Article 5 is hereby amended as follows:
- (a) The second indent of paragraph 1 (b) shall be replaced by the following text:
- '— 18 years provided that the person concerned holds a certificate of professional competence recognized by one of the Member States confirming that he has completed a training course for drivers in conformity with Directive 76/914/EEC (*) on the minimum level of training for some road transport drivers, as it may be amended from time to time by the Council on a proposal from the Commission.
- (b) The last sentence of paragraph 1 (b) shall be deleted.
- (c) Paragraph 2 (c) shall be replaced by the following text:
- '(c) he must hold a certificate of professional competence recognized by one of the Member States confirming that he has completed a training course for drivers of vehicles in conformity with Directive 76/914/EEC on the minimum level of training for some road transport drivers, as it may be amended from time to time by the Council on a proposal from the Commission.'
- (d) Paragraph 4 shall be replaced by the following text:
- '4. A driver engaged in the carriage of passengers is exempt from the conditions laid down in paragraph 2 (a), (b) and (c) if he has carried on that occupation for at least one year prior to 1 October 1970.'
- (e) Paragraphs 5 and 6 shall be deleted.
- (f) Paragraph 7 shall become paragraph 5.
5. Article 6 is deleted and the following text inserted under the heading 'Section IV: Driving periods':
- 'Article 6*
1. The driving period between any two daily rest periods shall not exceed nine hours. It may be extended twice in any one week to 10 hours.
2. The driving time in any one week shall not exceed 45 hours.'
6. Article 7 is deleted and the following Article inserted:
- 'Article 7*
- On any day when a crew member is driving, no period of continuous work shall exceed 4½ hours, excluding waiting time.'
7. Article 8 is deleted and the following Article inserted:
- 'Article 8*
1. On any day when a crew member is driving, there shall be a break of either:
- (a) at least one hour after a period of continuous work, or
- (b) several periods of a minimum of 20 minutes or, in the case of regular passenger services a minimum of 15 minutes, amounting to at least one hour for every 4½ hours of work.'
8. The following text is hereby inserted under the heading 'Section V: Rest periods':

(*) OJ No L 357, 29. 12. 1976.'

'Article 9

1. Crew members shall have a minimum daily rest period of 12 consecutive hours in any period of 24 hours. The daily rest period may be reduced to nine hours not more than three times in any one week. Any reduction in the daily rest period shall be compensated by an equivalent amount of additional rest period, at the latest by the end of the following week.

2. Where a vehicle is manned by two drivers and has a bunk, they shall have a daily rest period of not less than nine consecutive hours in any 30-hour period.

3. The daily rest period shall be taken outside the vehicle, except where a vehicle has a bunk, when the rest period may be taken on that bunk provided that the vehicle is stationary.'

9. Article 11 is deleted and Article 11a becomes Article 10.

10. In the new Article 10, the last indent is deleted.

11. The following Article becomes Article 11:

'Article 11

1. Every crew member shall have a weekly rest period of 48 consecutive hours, which may include daily rest periods.

2. The weekly rest period may be reduced to a minimum of 36 consecutive hours if this has to be taken at home or to 24 consecutive hours when this has to be taken away from home, provided that the remaining hours of rest are taken en bloc, at the latest by the end of the following week.'

12. Articles 12 and 12a are deleted.

13. Article 13 becomes Article 12 under the heading 'Section VI: Exceptions' and is amended as follows:

(a) In paragraph 1, the figures '6 to 11' shall replace the figures '7 to 12' and the phrase 'and may refrain from applying Article 6 (2)' shall be deleted.

(b) In paragraph 2, the words 'five years' shall replace the words 'other year'.

14. Article 13a becomes Article 13 and is replaced by the following text:

'Article 13

Provided that there is no detriment to road safety, the driver may depart from the provisions of this Regulation in case of danger, in circumstances outside his control, to render aid, or as a result of a breakdown, and to the extent necessary to ensure the safety of persons, of the vehicle or its load, to enable him to reach a suitable stopping place or the end of his journey. The driver shall indicate on the sheet or his recording equipment the nature of, and reason for, his departure from those provisions.'

15. Article 14 is deleted and the following text inserted:

'Article 14

1. Member States may grant exemptions from any provisions of this Regulation for transport falling within any of the following categories and carried out on their own territory or between adjacent Member States in conformity with bilateral agreements:

- (a) vehicles used for the carriage of passengers, with a seating capacity of not more than 17 persons, including the driver;
- (b) vehicles used by, or under the control of, public authorities in connection with:
 - drainage, flood prevention, sewerage and water services, providing energy, refuse collection and disposal, transporting toxic waste,
 - regular highway maintenance and control,
 - telecommunications, broadcasting, the detection of radio and television, transmission or reception,
 - the carriage of mail,
 - other public services which are not in competition with professional road hauliers;
- (c) vehicles belonging to, or hired by, agricultural, horticultural or forestry undertakings, when travelling within a 50-km radius of and to or from such undertakings; and vehicles transporting fish within a 50-km radius of the port,
- (d) vehicles used for milk collection from farms and the return to farms of milk containers or of milk products for animal feed;
- (e) vehicles used for carrying animal carcasses or waste when these are not intended for human consumption;

- (f) vehicles used at markets, as mobile shops, for door-to-door selling, for mobile banking, exchange or saving transactions, worship, the lending of books, records or cassettes, cultural events or mobile exhibitions, and specially fitted for such uses;
- (g) vehicles undergoing road tests for the purpose of technical development, repair or maintenance, and journeys by new or rebuilt vehicles which have not entered service;
- (h) vehicles driven exclusively by electricity;
- (i) vehicles used for the transport of goods within a 50-km radius of the vehicle base where this transport is subsidiary to the main activity of the driver.

Member States shall send the Commission details of the exemptions granted under this paragraph.

2. Member States may, after authorization by the Commission, grant exemptions from any provisions of the Regulation for:

- (a) transport in exceptional circumstances, if the exemption does not jeopardize the objectives of the Regulation;
- (b) transport confined to islands not exceeding 2 200 square kilometres in area and which are not linked to any other part of a Member State by a ford, bridge or tunnel suitable for the passage of motor vehicles.'

16. Article 14a is deleted.

17. The following text is hereby inserted as Article 15 under the heading: 'Section VII: Control procedures and penalties':

'Article 15

1. Crew members shall use recording equipment in accordance with Article 3 of Regulation (EEC) No 1463/70 on the introduction of recording equipment in road transport.

2. The transport undertaking shall organize the work of crew members in such a way that they are able to comply with the provisions of the present Regulation and of Regulation (EEC) No 1463/70'.

18. Article 15 becomes Article 16 and is hereby amended as follows:

(a) Paragraph 1 shall be replaced by the following text:

'1. All operators of regular national passenger services shall draw up a service timetable and a duty roster.'

(b) Paragraph 2 shall be replaced by the following text:

'2. The duty roster shall show, in respect of each crew member, the name, place where based and the schedule which shall have been laid down in advance for the various periods of driving, other work and attendance at work.'

(c) Paragraph 5 shall be replaced by the following text:

'5. Each crew member assigned to a regular national passenger service shall carry an extract from the duty roster and a copy of the service timetable.'

(d) The following paragraph shall be inserted:

'6. The extracts from the duty roster shall be kept by the undertaking for two years after the expiry of the period which they cover. The undertaking shall give to the employee concerned copies of the extracts if so requested.

7. In cases where crew members use recording equipment conforming to the provisions of Annexes I and II to Regulation (EEC) No 1463/70, the provisions of this Article shall not apply.'

19. The present Article 16 is deleted.

20. Article 17 is deleted and the following text inserted:

'Article 17

1. The Commission shall produce a biennial report on the implementation of this Regulation by Member States, which shall be presented to the Council and the European Parliament within one year of the expiry of the two-year period covered by the report.

2. In order to enable the Commission to draw up the report referred to in paragraph 1, Member States shall communicate to the Commission the necessary information every two years, using a standard form. This information should reach the Commission by, at the latest, 31 July following the expiry of the two-year period covered by the report in question.

3. Before completing the standard form, each Member State shall consult their social partners.

4. The Commission shall draw up the standard form after consulting the Member States.'

21. Paragraph 3 of Article 18 is hereby amended as follows:

'3. Within the framework of this mutual assistance the competent authorities of the

Member States shall send each other, on a regular basis, all the information necessary concerning:

- the breaches of the provisions of this Regulation committed by non-residents and any penalties that they impose upon them for such breaches,
- any penalties imposed by a Member State on its residents for such breaches committed in other Member States.'

22. Article 19 is hereby amended as follows:

- (a) in paragraph 3, the figure '(1)' shall be inserted after 'Article 2';
- (b) paragraph 4 shall be deleted.

Article 2

Amendments to Regulation (EEC) No 1463/70

1. Article 3 is hereby replaced by the following text:

'Article 3

1. Recording equipment shall be installed and utilized in vehicles used for the carriage of passengers or goods by public road and registered in a Member State, with the exception of the vehicles referred to in Article 4 of Regulation (EEC) No 543/69 and all other vehicles used exclusively for the carriage of passengers on regular services for national journeys.

2. Member States may exempt from the application of this Regulation vehicles mentioned in Article 14 (1) of Regulation (EEC) No 543/69. Member States shall inform the Commission of any exemption granted under this paragraph.

3. Member States may, after authorization by the Commission, exempt from the application of this Regulation vehicles mentioned in Article 14 (2) of Regulation (EEC) No 543/69.'

2. Article 5 is deleted.

3. Article 16 is deleted and the following text inserted:

'Article 16

1. The employer shall issue sufficient record sheets to crew members, in numerical sequence, bearing in mind the fact that these sheets are personal in character, the length of the period of work and the possible need to replace sheets which are damaged, or have been taken by an authorized inspecting officer. The employer shall issue to crew members only sheets of an approved model suitable for use in the equipment installed in the vehicle.

2. The employer shall make periodical checks of the completed record sheets in order to ensure that the provisions of this Regulation and of Regulation (EEC) No 543/69 have been complied with. If the employer finds that there have been infringements of either Regulation, he shall take appropriate steps to prevent their repetition.

3. The undertaking shall retain the record sheets in an orderly manner for a period of at least two years after their use, the undertaking shall give the employee concerned copies of the sheets if so requested, the sheets shall be produced or handed over at the request of any authorized inspecting officer.'

4. Article 17 is hereby amended as follows:

(a) Paragraph 2 shall be replaced by the following text:

'2. Crew members shall use record sheets in numerical order for every day on which they are driving, starting from the beginning of their period of work. When the crew members are away from the vehicle and therefore unable to operate the equipment fitted to the vehicle themselves, the various periods of time indicated under (a) to (c) below shall, whether manually, by automatic recording or otherwise, be entered on the sheet in a legible manner and without the sheet being dirtied.

Where the preceding subparagraph applies, crew members shall ensure that the entry marking the beginning of a period of time is made on the sheet against the beginning of the period to which the entry relates. Crew members shall see that the equipment is kept running continuously from the time when they take over the vehicle until they are relieved from their responsibility for it. 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 under the symbol of a wheel  ;

(b) other periods of work under either the symbol  or  ;

(c) breaks and daily rest periods under the symbol .

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.'
- (b) After paragraph 3 the following text shall be inserted:
- '(f) on finishing work the time of beginning the weekly rest period and, on a new sheet when recommencing work, the time that the weekly rest period ended.'
- (c) Paragraphs 5 and 6 shall be deleted and are replaced by the following paragraph:
- '5. Crew members must be able to produce on request by any authorised inspecting officer a record sheet of that day and, where applicable, of the preceding day of that week giving full details of the period referred to under 2 (a) to (c).'
5. Articles 19 and 20 shall be deleted.
6. Article 22 is hereby amended as follows:
The penultimate sentence of paragraph 4 shall be replaced by the following text:
'Opinions shall be delivered by qualified majority of votes of the Member States in accordance with Article 148 (2) of the Treaty.'
7. Article 23 (3) is hereby replaced by the following text:
'3. Within the framework of this mutual assistance the competent authorities of the Member States shall send each other on a regular basis all the information necessary concerning:
- the breaches of the provisions of this Regulation committed by non-residents and any penalties that they impose upon them for such breaches,
 - any penalties imposed by a Member State on its residents for such breaches committed in other Member States.'
8. Annex I, Chapter II is hereby amended as follows:
The words in (4) 'or of attendance at work' shall be deleted.
9. Annex I, Chapter III is hereby amended as follows:
- (a) In paragraph (a), point 4.1, the words 'including a possible separation of category (b) into two periods of time' shall be deleted.
- (b) In paragraph (c), point 4.2, the words 'Regulation (EEC) No 543/69' shall be deleted and is replaced by the words 'Article 17'.
10. Annex I, Chapter IV is hereby amended as follows:
- (a) In paragraph (c), after the first indent, the following indent shall be inserted:
'— individual number of the record sheet'.
- (b) The following new paragraph (e) shall be inserted:
'(e) **Registering of the record sheets**
The transport undertaking shall keep a register of the numbers of all the record sheets. The register must contain the names of the crew members who have received sheets, their signatures confirming receipt and the date of receipt. The register must be kept by the undertaking for two years and must be produced at the request of any authorized inspecting officer.'

Article 3

This Regulation shall enter into force on 1 January 1986.

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

Draft Council recommendation on the implementation of the Social Regulations in road transport

COM(84) 147 final

(Submitted by the Commission to the Council on 20 March 1984)

(84/C 100/04)

THE COUNCIL OF THE EUROPEAN COMMUNITIES

Having regard to the Treaty establishing the European Economic Community,

Having regard to the draft recommendation submitted by the Commission,

Having regard to the opinion of the European Parliament,

Having regard to the opinion of the Economic and Social Committee,

Whereas the aims set by Council Regulation (EEC) No 543/69 on the harmonization of certain social legislation relating to road transport ⁽¹⁾ and Council

⁽¹⁾ OJ No L 77, 29. 3. 1969 (codified version — OJ No C 73, 17. 3. 1979, p. 1).