
**TACHOGRAPHS (MISCELLANEOUS PROVISIONS)
REGULATIONS 2015****Subsidiary
2015/030**

Subsidiary Legislation made under s. 69.

**TACHOGRAPHS (MISCELLANEOUS PROVISIONS)
REGULATIONS 2015****(LN. 2015/030)***Commencement* **2.3.2015**Amending
enactmentsRelevant current
provisionsCommencement
date**Transposing:**

Regulation (EEC) No 3821/85

Regulation (EC) No 561/2006

Regulation (EU) No 165/2014

EU Legislation/International Agreements involved:

ARRANGEMENT OF REGULATIONS

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In exercise of the powers conferred upon him by section 69 of the Transport Act 1998, and for the purpose of partly implementing Regulation (EU) No 165/2014 of the European Parliament and of the Council of 4 February 2014 on tachographs in road transport, repealing Council Regulation (EEC) No 3821/85 on recording equipment in road transport and amending Regulation (EC) No 561/2006 of the European Parliament and of the Council on the harmonisation of certain social legislation relating to road transport, the Minister has made the following Regulations—

Title.

1. These Regulations may be cited as the Tachographs (Miscellaneous Provisions) Regulations 2015.

Commencement.

2. These Regulations come into operation on the day of publication.

Scope.

3. These Regulations apply to tachographs that are installed and used in vehicles registered in Gibraltar which are used for the carriage of passengers or goods by road and to which Regulation (EC) No. 561/2006 applies, but the following are exempt—

- (a) vehicles mentioned in Article 13(1) and (3) of Regulation (EC) No 561/2006; and
- (b) vehicles used for transport operations which have been granted an exception in accordance with Article 14(1) of Regulation (EC) No 561/2006.

Interpretation.

4. In these Regulations—

“Article”, without more, means an Article of the EU Regulation;

“competent authority” means the competent authority appointed for the purposes of the Transport (Recording Equipment) (Minimum Conditions) Regulations 2008;

“EU Regulation” means Regulation (EU) No 165/2014 of the European Parliament and of the Council of 4 February 2014 on tachographs in road transport, repealing Council Regulation (EEC) No 3821/85 on recording equipment in road transport and amending Regulation (EC) No 561/2006 of the European Parliament and of the Council on the harmonisation of certain social legislation relating to road transport, as the same may be amended from time to time;

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“Regulation (EC) 561/2006” means 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, as the same may be amended from time to time;

“tachograph” has the meaning given to it in Article 2 of the EU Regulation.

Permits: fitters, workshops and vehicle manufacturers.

5.(1) No person shall—

- (a) install;
- (b) check;
- (c) inspect; or
- (d) repair,

a tachograph to which these Regulations apply unless that person is authorised by a permit issued by the competent authority under this regulation.

(2) A permit may be issued to a fitter, a workshop or to a vehicle manufacturer and in the case of a workshop or vehicle manufacturer such a permit shall cover all persons employed in that workshop or vehicle manufacturer.

(3) Before issuing a permit under this regulation the Competent authority shall establish and publish a set of clear procedures in accordance with Article 24(2).

Audits.

6. The Competent authority shall ensure that audits of fitters or workshops which have been granted a permit under these Regulations are carried out in accordance with Article 24(3).

Conflicts.

7.(1) Where a conflict of interest arises or is likely to arise, in the circumstances set out in Article 24(4), the Competent authority must take appropriate measures, including by imposing conditions on a permit, to prevent such conflicts from arising, or where it has occurred, from continuing.

Reporting.

8. Where permits are issued under these Regulations, the competent authority shall ensure that the Commission is notified in accordance with the requirements of Article 24(5).

Failure to meet obligations.

9.(1) The Competent authority may suspend or revoke a permit where there is a breach of any condition contained in the permit or for a breach of the EU Regulation.

(2) The suspension or revocation of a permit shall be addressed to the permit holder in writing.

(3) A person who is aggrieved by the suspension or revocation of a permit may appeal to the Magistrates' Court within 21 days from the date of suspension or revocation and, unless the court orders otherwise, the suspension or revocation shall have effect pending the determination of the appeal.

Activities away from vehicle.

10. No person may require a driver to present forms attesting to that driver's activity whilst that driver is away from the vehicle.

Offences.

11.(1) A person who—

- (a) breaches the provisions of regulation 5(1); or
- (b) contravenes the provisions of Article 34;

commits an offence and is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(2) Where a body corporate is guilty of an offence under these Regulations and that offence is proved to have been committed with the consent or connivance of, or to have been attributable to any neglect on the part of—

- (a) any director, manager, secretary or other similar person of the body corporate; or
- (b) any person who was purporting to act in any such capacity, that person is guilty of the offence as well as the body corporate.

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(3) For the purposes of sub-regulation (2), “director”, in relation to a body corporate whose affairs are managed by its members, means a member of the body corporate.

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