

Subsidiary Legislation made under s.61(f).

## **Traffic (Vehicle Registration Data Exchange) Regulations 2017**

### **LN.2017/075**

		<i>Commencement</i>	<b>6.5.2017</b>
Amending enactments	Relevant current provisions	Commencement date	
LN. 2018/124	r. 12(2), (3)(a), (4)		25.5.2018
2022/215	rr. 2, 4(2), 5, 6(1)-(4), 7(1)-(2), (4), 8(2), 10-11, 12(3)(a)-(b), (5)(a)-(c), Sch.		28.7.2022

**Transposing:**  
Directive (EU) 2015/413

**2005-26**

**Traffic**

**2017/075** **Traffic (Vehicle Registration Data Exchange) Regulations**  
**2017**

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**ARRANGEMENT OF REGULATIONS**

Regulation

1. Title.
2. Commencement.
3. Interpretation.
4. Contact point.
5. Scope.
6. Searches – incoming.
7. Searches – outgoing.
8. Searches – general.
9. Road-safety-related traffic offence.
10. Transmission of data via intermediary.
11. *Omitted.*
12. Data Protection.

**SCHEDULE**

List of designated countries and territories

**Traffic (Vehicle Registration Data Exchange) Regulations  
2017****2017/075**

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*In exercise of the powers conferred upon the Government by section 61(f) of the Traffic Act 2005 as read with section 23(g)(i) of the Interpretation and General Clauses Act, and all other enabling powers, and in order to transpose Directive (EU) 2015/413 of the European Parliament and of the Council of 11 March 2015 facilitating cross-border exchange of information on road-safety-related traffic offences, the Government has made the following Regulations-*

**Title.**

1. These Regulations may be cited as the Traffic (Vehicle Registration Data Exchange) Regulations 2017.

**Commencement.**

2. These Regulations come into operation on 6 May 2017.

**Interpretation.**

3. In these Regulations-

“automated search” means an online access procedure for consulting the databases of one, more than one, or all of the designated countries or territories;

“blocking” in relation to data means the marking of stored personal data so that it is not possible to process it for purposes in relation to which it is marked;

“data subject” has the same meaning as under section 2 of the Data Protection Act 2004;

“designated country or territory of the offence” means the country or territory where the offence was committed and which is listed in the Schedule;

“drink-driving” means driving while impaired by alcohol, as defined in the law of the designated country or territory of the offence;

“driving under the influence of drugs” means driving while impaired by drugs or other substances having a similar effect, as defined in the law of the Member State of the offence;

“failing to use a seat-belt” means not complying with the requirement to wear a seat-belt or to use a child restraint in accordance with the law of the designated country or territory of the offence;

**2005-26**

**Traffic**

**2017/075 Traffic (Vehicle Registration Data Exchange) Regulations  
2017**

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“failing to stop at a red traffic light” means driving through a red traffic light or any other relevant stop signal, as defined in the law of the designated country or territory of the offence;

“failing to wear a safety helmet” means not wearing a safety helmet, as defined in the law of the designated country or territory of the offence;

“Gibraltar contact point” means the body appointed under regulation 4;

“holder of the vehicle” means the person in whose name the vehicle is registered, as defined in the law of the designated country or territory of registration;

“illegally using a mobile telephone or any other communication devices while driving” means illegally using a mobile telephone or any other communications device while driving, as defined in the law of the designated country or territory of the offence;

“national contact point” means an authority that under the legislation under which it operates has competence for the exchange of vehicle registration data and in the case of Gibraltar means the body appointed under regulation 4;

“personal data” has the same meaning as under section 2 of the Data Protection Act 2004;

“processing of personal data” means an operation or set of operations which is performed upon personal data, whether or not by automatic means, such as collection, recording, organisation, storage, adaptation or alteration, sorting, retrieval, consultation, use, disclosure by supply, dissemination or otherwise making available, alignment, combination, blocking, erasure or destruction of data and shall also include notification of whether or not “a hit” exists;

“speeding” means exceeding speed limits in force in the designated country or territory of offence for the road or type of vehicle concerned;

“State of registration” means the designated country or territory where the vehicle with which the offence was committed is registered;

“use of a forbidden lane” means illegally using part of a road section, such as an emergency lane, public transport lane or temporary closed lane for reasons of congestion or road works, as defined in the law of the designated country or territory of the offence; and

“vehicle” means any power-driven vehicle, including motorcycles, which is normally used for carrying persons or goods by road.

**Contact point.**

4.(1) The Driver and Vehicle Licensing Department of the Government of Gibraltar is designated as the contact point for Gibraltar.

(2) The Driver and Vehicle Licensing Department is authorised to undertake any act which it may be required to take in order to comply with any obligation imposed on it under these Regulations or to comply with any international agreement or obligation.

**Scope.**

5.(1) These Regulations apply to the exchange of information, between the Gibraltar contact point and the national contact points of designated countries or territories, on the road-safety-related traffic offences listed in regulation 7(1) in order to facilitate the enforcement of sanctions for an offence which occurs in a jurisdiction separate from the jurisdiction of registration of the vehicle concerned.

(2) The Government may add to, amend or remove any entry in Schedule 1 by Notice in the Gazette.

**Searches - incoming.**

6.(1) The national contact point of a designated country or territory shall be allowed access to the vehicle registration data database held by the Gibraltar contact point in accordance with this regulation.

(2) Where access is in the form of an automated search, that search must relate to-

(a) data relating to the owner or holder of the vehicle; and

(b) data relating to vehicles.

(3) Where access is not in the form of an automated search, the information supplied must be provided in accordance with any requirements set out in the international agreement or convention or, in the absence of such procedures, as may be agreed between the national contact points.

(4) Searches by the national contact point of a designated country or territory must be conducted with a full chassis number or a full registration number.

**Searches - outgoing.**

7.(1) The national contact point designated under regulation 4 may initiate a search of the vehicle registration data database held by national contact point of a designated country or territory for any purpose connected with the investigation of a road-safety-related traffic offence.

(2) Where the national contact point designated under regulation 4 receives a request from the Royal Gibraltar Police under regulation 8(2) it shall initiate a search of the vehicle registration data database held by national contact point of a designated country or territory in accordance with subregulation (1).

(3) The national contact point designated under regulation 4 must only use the data obtained in relation to an investigation under subregulation (1) in order to establish who is personally liable for the road-safety-related traffic offence.

#### **Searches - general.**

8.(1) The Royal Gibraltar Police shall have access to the vehicle registration data database held by the Gibraltar contact point for any purpose connected with the investigation of a road-safety-related traffic offence.

(2) Where a person driving a vehicle registered in a designated country or territory commits a road-safety-related traffic offence in Gibraltar the Royal Gibraltar Police may request the Gibraltar contact point in regulation 4 initiate a search under regulation 7 to establish who is personally liable for the road-safety-related traffic offence in order to enable the commencement of proceedings against the person.

#### **Road-safety-related traffic offence.**

9. A “road-safety-related traffic offence”, for the purposes of these Regulations, is one of the following offences-

- (a) speeding;
- (b) failing to use a seat-belt;
- (c) failing to stop at a red traffic light;
- (d) drink-driving;
- (e) driving while under the influence of drugs;
- (f) failing to wear a safety helmet;

- (g) the use of a forbidden lane;
- (h) illegally using a mobile telephone or any other communication devices while driving.

**Transmission of data via intermediary.**

10.(1) Where it is necessary or expedient to do so, the Gibraltar contact point may share data with a national contact point (the intermediary contact point) for the purposes of that data being sent to one or more national contact points in other countries or territories (the destination contact points), but this is subject to subregulation (2).

(2) Subregulation (1) applies where the intermediary contact point and the destination contact points are all located in designated countries or territories.

11. *Omitted.*

**Data Protection.**

12.(1) The Data Protection Act 2004 applies to personal data processed under these Regulations.

- (2) Personal data processed under these Regulations must, within an appropriate time period-
- (a) be rectified if inaccurate; or
  - (b) erased or blocked when they are no longer required,

in accordance with the Data Protection Act 2004.

- (3) The Gibraltar contact point must ensure-
- (a) a time limit for storage is set, in accordance with the Data Protection Act 2004, for the processing of personal data referred to in subregulation (2).
  - (b) *Omitted.*

(4) *Deleted.*

(5) A data subject of personal data processed under these Regulations on written request to the Gibraltar contact point must be informed by the national authority as to-

**2005-26**

**Traffic**

**2017/075 Traffic (Vehicle Registration Data Exchange) Regulations  
2017**

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- (a) which of his personal data recorded in Gibraltar have been transmitted to a designated country or territory;
- (b) the date of such request from the designated country or territory; and
- (c) the competent authority of the designated country or territory which requested the personal data.



Traffic

**2005-26**

**Traffic (Vehicle Registration Data Exchange) Regulations  
2017**

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**2017/075**

**SCHEDULE**

*Regulation 5(2)*

**List of designated countries and territories**

United Kingdom  
Spain