
TRAFFIC (VEHICLE REGISTRATION DATA EXCHANGE)
REGULATIONS 2017

This version is out of date

Subsidiary
2017/075

Subsidiary Legislation made under s.61(f).

TRAFFIC (VEHICLE REGISTRATION DATA
EXCHANGE) REGULATIONS 2017

(LN. 2017/075)

Commencement 6.5.2017

Transposing:
Directive (EU) 2015/413

ARRANGEMENT OF REGULATIONS.

Regulation

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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 Member States or of the participating countries;

“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;

“Council Decision 2008/616/JHA” means Council Decision 2008/616 of 23 June 2008 on the implementation of Decision 2008/615/JHA on the stepping up of cross-border cooperation, particularly in combating terrorism and cross-border crime, as the same may be amended from time to time;

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

“Directive (EU) 2015/413” means 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, as the same may be amended from time to time;

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“drink-driving” means driving while impaired by alcohol, as defined in the law of the Member State 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 Council Directive 91/671/EEC and the law of the Member State of the offence;

“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 Member State of the offence;

“failing to wear a safety helmet” means not wearing a safety helmet, as defined in the law of the Member State 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 Member State 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 Member State of the offence;

“Member State of registration” means the Member State where the vehicle with which the offence was committed is registered;

“Member State of the offence” means the Member State where the offence was committed;

“national contact point” means a competent authority for the exchange of vehicle registration data designated pursuant to article 4(2) of Directive (EU) 2015/413, 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;

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“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 Member State of offence for the road or type of vehicle concerned;

“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 Member State 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 a provision of Directive (EU) 2015/413.

Scope.

5. These Regulations apply to the exchange of information, between the Gibraltar contact point and the national contact points of Member States, 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.

Searches - incoming.

6.(1) The national contact point of a Member State shall be allowed access to the vehicle registration data database held by the Gibraltar contact point in accordance with subsections (2) to (4).

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(2) The access must be in the form of an automated search which relates to-

- (a) data relating to the owner or holder of the vehicle; and
- (b) data relating to vehicles.

(3) Searches related to the investigation of road-safety-related traffic offences must be carried out in compliance with Annex I of Directive (EU) 2015/413 and points 2 and 3 of Chapter 3 of the Annex to Council Decision 2008/616/JHA.

(4) Searches by the national contact point of a Member State 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 Member State 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 Member State 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.

(4) Searches under this regulation related to the investigation of road-safety-related traffic offences must be carried out in compliance with Annex I of Directive (EU) 2015/413 and points 2 and 3 of Chapter 3 of the Annex to Council Decision 2008/616/JHA.

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.

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(2) Where a person driving a vehicle registered in a Member State 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.

Information letter.

10.(1) Where information has been obtained from a Member State under these Regulations, proceedings may not be commenced until an information letter has been sent to the person who is suspected of having committed an offence.

(2) The information letter referred to in subregulation (1) must be addressed to either-

- (a) the owner;
- (b) the holder of the vehicle; or
- (c) the identified person suspected of having committed an offence under regulation 9,

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of the information in subregulation (3).

- (3) The information referred to in subregulation (2) must include-
- (a) the legal consequences of the offence;
 - (b) nature of the offence;
 - (c) place, date and time of the offence;
 - (d) title of the legislation under which the offence appears;
 - (e) the penalty or sanction;
 - (f) if relevant, data concerning the device used for detecting the offence; and
 - (g) any other relevant information.
- (4) The information letter template at Annex II of Directive (EU) 2014/413 may be used for the purposes of subregulation (3)
- (5) The information letter referred to in this regulation must be in the language of the registration document of the vehicle, if available, or in one of the official languages of the Member State of registration.

Reporting to the Commission.

11. The Gibraltar contact point must ensure that the Commission is provided with the report required under article 6 of Directive (EU) 2015/413 and thereafter every two years.

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,

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in accordance with section 6 and sections 14 and 15 of the Data Protection Act 2004.

(3) The Gibraltar contact point must ensure-

- (a) a time limit for storage is set, in accordance with section 6 of the Data Protection Act 2004, for the processing of personal data referred to in subregulation (2); and
- (b) the processing of personal data referred to in subregulation (2) is only carried out for the purposes set out in article 1 of Directive (EU) 2015/413.

(4) The sections of the Data Protection Act 2004 set out in paragraphs (a) to (d) shall apply to a data subject of personal data processed under these Regulations-

- (a) section 14;
- (b) section 15;
- (c) section 25; and
- (d) section 32.

(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-

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