

**SECOND SUPPLEMENT TO THE GIBRALTAR
GAZETTE**

No. 3955 of 4 October, 2012

LEGAL NOTICE NO. 132 OF 2012.

TRANSPORT ACT 1998

**TRANSPORT (RECORDING EQUIPMENT) (MINIMUM
CONDITIONS) (AMENDMENT) REGULATIONS 2012**

In exercise of the powers conferred on him by section 69 of the Transport Act 2008, and in order to transpose into the law of Gibraltar Commission Directive 2009/4/EC and Commission Directive 2009/5/EC, both on counter measures to prevent and detect manipulation of records of tachographs, the Minister has made the following Regulations—

Title and commencement.

1. These Regulations may be cited as the Transport (Recording Equipment) (Minimum Conditions) (Amendment) Regulations 2012 and come into operation on publication.

Amendment of the Transport (Recording Equipment) (Minimum Conditions) Regulations 2008

2. The Transport (Recording Equipment) (Minimum Conditions) Regulations 2008 are amended—

- (a) in regulation 2, by substituting the following definition for the definition of “Minister”—

““Minister” means the Minister with responsibility for Traffic or the Minister with responsibility for public transport, as the case may be;”;

- (b) in Part A of Schedule 1, by—

- (i) substituting a semi-colon for the full-stop at the end of paragraph (4), and
- (ii) inserting the following paragraph after paragraph (4)—

“(5) Where appropriate, and with due regard to safety considerations, a verification of the recording equipment installed in vehicles in order to detect the installation and/or the use of any device, or devices, intended to destroy, suppress, manipulate or alter any data, or which is intended to interfere with any part of the electronic data exchange between the component parts of recording equipment, or which inhibits or alters the data in such ways prior to encryption.”;

(c) in Schedule 2, by–

- (i) substituting a semi-colon for the full-stop at the end of paragraph (2), and
- (ii) inserting the following paragraph after paragraph (2)–

“(3) Specific analysis equipment, with appropriate software, to verify and confirm the digital signature attached to data, as well as specific analysis software to provide a detailed speed profile of vehicles prior to the inspection of their recording equipment.”; and

(d) by substituting the following Schedule for Schedule 3–

“SCHEDULE 3

Regulations 11 and 14

INFRINGEMENTS

In accordance with regulation 11(3), the following table contains guidelines on a common range of infringements of Regulation (EC) No, 561/2006 and Regulation (EEC) No. 3821/85, divided into categories according to their gravity.

1. Groups of infringements against Regulation (EC) No, 561/2006

No	Legal Basis	Type of Infringement	Level of Seriousness*		
			VSI	SI	MI
A	Crew				

A1	Art.5.1	Not respecting minimum ages for drivers		X	
B Driving periods					
B1	Art. 6.1	Exceed daily driving time of 9h if possibilities of 10h not allowed	9h<...<10h		X
B2			10h<...<11h	X	
B3			11h<...	X	
B4		Exceed extended daily driving time of 10h if extension allowed	10h<...<11h		X
B5			11h<...<12h	X	
B6			12h<...	X	
B7	Art. 6.2	Exceed weekly driving time	56h<...<60h		X
B8			60h<...<70h	X	
B9			70h<...	X	
B10	Art. 6.3	Exceed accumulated driving time during consecutive weeks ²	90h<...<100h		X
B11			100h<...<120h30	X	
B12			120h30<...	X	
C Breaks					
C1	Art. 7	Exceed uninterrupted driving time	4h30<...<5h		X
C2			5h<...<6h	X	
C3			6h<...	X	
D Rest periods					
D1	Art. 8.2	Insufficient daily rest period of less than 11h if reduced daily rest period not allowed	10h<...<11h		X
D2			8h30<...<10h	X	
D3			...<8h30	X	
D4		Insufficient reduced daily rest period of less than 9h if reduce allowed	8h<...<9h		X
D5			7h<...<8h	X	
D6			...<7h	X	
D7		Insufficient split daily rest period of less than 3h+9h	3h+(8h<...<9h)		X
D8			3h+(7h<...<8h)	X	
D9			3h+(...<7h)	X	
D10	Art. 8.5	Insufficient daily rest period of less	8h<...<9h		X
D11			7h<...<8h	X	

D12		than 9h for multi-manning	...<7h	X		
D13	Art. 8.6	Insufficient reduced weekly resting period of less than 24h	22h<...<24h			X
D14			20h<...<22h		X	
D15			...<20h	X		
D16		Insufficient weekly resting period of less than 45h if reduced weekly resting period not allowed	42h<...<45h			X
D17			36h<...<42h		X	
D18			...<36h	X		
E	Types of payment					
E1	Art. 10.1	Link between wage and distance travelled or amount of goods carried		X		
*VSI=Very Serious Infringement, SI=Serious Infringement, MI=Minor Infringement						

2. Groups of infringements against Regulation (EEC) No 3821/85

No.	Legal Basis	Type of infringements	*Level of seriousness		
			VSI	SI	MI
F	Installation of recording equipment				
FI	Art. 3.1	No type approved recording equipment installed and used	X		
G	Use of recording equipment, driver card or record sheet				
G1	Art. 13	Recording equipment not correctly functioning (for example: recording equipment not properly inspected, calibrated and sealed)	X		
G2		Recording equipment improperly used (not using a valid driver card, voluntary abuse,...)	X		
G3	Art.14.1	Not carrying a sufficient number of record sheets		X	
G4		Model of record sheet not approved		X	
G5		Not carrying enough paper for printouts			X
G6	Art.14.2	Undertaking not keeping record	X		

		sheets, printouts and downloaded data			
G7	Art.14.4	Driver holding more than one valid driver card	X		
G8	Art. 14.4	Use of driver card which is not the driver's own valid card	X		
G9	Art. 14.4	Use of defective or expired driver card	X		
G10	Art.14.5	Recorded and stored data not available for at least 365 days	X		
G11	Art 15.1	Use dirty or damaged sheets or driver cards and data legible			X
G12		Use dirty or damaged sheets or driver cards and data not legible	X		
G13		Failure to apply for replacement of damaged, malfunctioning, lost or stolen driver card within 7 calendar days		X	
G14	Art.15.2	Incorrect use of recording sheets/driver cards	X		
G15		Unauthorised withdrawal of sheets or driver card which has an impact on the record of relevant data	X		
G16		Unauthorised withdrawal of sheets or driver cards without any impact on data recorded			X
G17		Record sheet or driver card used to cover a period longer than that for which it is intended but no data is lost			X
G18		Record sheet or driver card used to cover a period longer than that for which it is intended and data is lost	X		
G19		Not using manual input when required to do so	X		
G20		Not using correct sheet or driver card not in the correct slot (multi-manning)	X		
G21	Art. 15.3	Time recorded on the sheet does not agree with official time of country of registration of the vehicle		X	
G22		Incorrect use of switch mechanism	X		
H	Fill in information				

H1	Art. 15.5	Surname missing on record sheet	X		
H2		First name missing on record sheet	X		
H3		Date of beginning or end of use of the sheet missing		X	
H4		Place or beginning or end of use of the sheet missing			X
H5		Registration number missing on record sheet			X
H6		Odometer reading (start) missing on record sheet		X	
H7		Odometer reading (end) missing on record sheet			X
H8		Time of change of vehicle missing on record sheet			X
H9	Art. 15.5a	Symbol of country not entered in recording equipment			X
I	Producing information				
I1	Art. 15.7	Refuse to be checked	X		
I2	Art. 15.7	Unable to produce records of current day	X		
I3		Unable to produce records of previous 28 days	X		
I4		Unable to produce records of the driver card if the driver holds me	X		
I5		Unable to produce manual records and printouts made during the current week and the previous 28 days	X		
I6		Unable to produce driver card	X		
I7		Unable to produce printouts made during the current week and the previous 28 days	X		
J	Fraud				
J1	Art.15.8	Falsify, suppress, destroy data recorded on record sheets, stored in the recording equipment or on the driver card or printouts from the recording equipment	X		
J2		Manipulation of recording equipment, record sheet or driver card which may result in data and/or printouts information being falsified	X		

J3		Manipulation device that could be used to falsify data and/or printouts information present on vehicle (switch/wire...)	X		
K	Breakdown				
K1	Art.16.1	Not repaired by an approved fitter or workshop	X		
K2		Not repaired en route		X	
L	Manual input or printouts				
L1	Art. 16.2	Driver not marking all information for the periods of time which are no longer recorded while recording equipment in unserviceable or malfunctioning	X		
L2		Driver card number and/or name and/or driving licence number missing on temporary sheet	X		
L3		Signature missing on temporary sheet		X	
L4	Art.16.3	Lost or theft of driver card not formally declared to the competent authorities of the Member State where the theft occurred	X		
*VSI=Very Serious Infringement, SI=Serious Infringement, MI=Minor Infringement					

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Dated 4th October, 2012.

PAUL BALBAN,
Minister with responsibility for Traffic.

EXPLANATORY MEMORANDUM

These Regulations amend the Transport (Recording Equipment) (Minimum Conditions) Regulations 2008 in order to transpose into the law of Gibraltar Commission Directive 2009/5/EC of 23 January 2009 on counter measures to prevent and detect manipulation of records of tachographs and Commission Directive 2009/5/EC of 23 January 2009 on counter measures to prevent and detect manipulation of records of tachographs.

The Regulations have the effect of—

- (a) improving the integrity of recording equipment to prevent fraud; and
- (b) updating tachograph infringements, as part of an EU harmonisation exercise.