

EU-MIDT

Enforcement Committee

EU-MIDT/ENC/003-2005

Roadside Checks – Recommendations

PREPARED BY : IDT Project

DATE: 28/06/2005

EU-MIDT Enforcement Committee-003-2005

REF : EU-MIDT/ENC/003-2005

EU-MIDT SECRETARIAT DOCUMENT PREPARATION

OPERATION	NAME	ORGANISATION	DATE
PREPARED BY	Task Force 1	IDT Project	28/06/2005
CHECKED BY	Mirna CIENIEWICZ	Squaris – MIDT Secretariat	28/06/2005
APPROVED BY	Thierry GRANTURCO	Granturco Lawyers MIDT Secretariat	28/06/2005
ISSUED BY	Secretariat	MIDT	29/06/2005

CHANGE CONTROL LIST

VERSION	DATE	NAME	DESCRIPTION

COUNCIL REGULATION (EEC) n° 3821/85 of 20 December 1985 on recording equipment in road transport

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 Regulation (EEC) No 1463/70 as last amended by Regulation (EEC) No 2828/77 introduced recording equipment in road transport ,

Whereas, taking into account the amendments set out hereinafter, in order to clarify matters, all the relevant provisions should be brought together in a single text, and in consequence thereof, Regulation (EEC) No 1463/70 of the Council should be repealed whereas, however, the exemptions set out in Article 3 (1) for certain

passenger services should be maintained in force for a certain time;

Whereas the use of recording equipment that may indicate the periods of time referred to in Regulation (EEC) No 3820/85 on the harmonization of certain social legislation relating to road transport is intended to ensure effective checking on that social legislation;

Whereas the obligation to use such recording equipment can be imposed only for vehicles registered in Member States .1 whereas furthermore certain of such vehicles may, without giving rise to difficulty, be excluded from the scope of this Regulation ;

Whereas the Member States should be entitled, with the Commission's authorisation, to grant certain vehicles exemptions from the provisions of the Regulation in exceptional circumstances; whereas, in urgent cases, it should be possible to grant these exemptions for a limited time without prior authorisation from the Commission;

Whereas, in order to ensure effective checking, the equipment must be reliable in operation, easy to use and designed in such a way as to minimise any possibility of fraudulent use; whereas to this end recording equipment should in particular be capable of providing, on separate sheets for each driver and in a sufficiently precise and easily readable form, recorded details of the various periods of time;

Whereas automatic recording of other details of a vehicle's journey, such as speed and distance covered, will contribute significantly to road safety and will encourage sensible driving of the vehicle; whereas, consequently, it appears appropriate to provide for the equipment also to record those details;

Whereas it is necessary to set Community construction and installation standards for recording equipment and to provide for an EEC approval procedure, in order to avoid throughout the territory of the Member States any impediment to the registration of vehicles fitted with such recording equipment, to their entry into service or use, or to such equipment being used;

Whereas, in the event of differences of opinion between Member States concerning cases of EEC type approval, the Commission should be empowered to take a decision on a dispute within six months if the states concerned have been unable to reach a settlement;

Whereas it would be helpful in implementing this Regulation and preventing abuses to issue drivers who so request with a copy of their record sheets;

Whereas, in order to achieve the aims hereinbefore mentioned of keeping a check on work and rest periods, it is necessary that employers and drivers be responsible for seeing that the equipment functions correctly and that they perform with d e care the operations prescribed;

Whereas the provisions governing the number of record sheets that a driver must keep with him must be amended following the replacement of the flexible week by a fixed week;

Whereas technical progress necessitates rapid adaptation of the technical specifications set out in the Annexes to this Regulation; whereas, in order to facilitate the implementation of the measures necessary for this purpose,

provision should be made for a procedure establishing close co-operation between the Member States and the Commission within an Advisory Committee ;

Whereas Member States should exchange the available information on breaches established;

Whereas, in order to ensure that recording equipment functions reliably and correctly, it is advisable to lay down uniform requirements for the periodic checks and inspections to which the equipment is to be subject after installation,

HAS ADOPTED THIS REGULATION:

Explanation of the term "Valid"

A tachograph card shall be "administratively" valid between the official start and expiry dates of the card. (Article 14(4))

However, a card may cease to be "legally" valid before its administrative expiry date where:

- a) A personalised card is being used by someone other than the person to whom it was issued, or
- b) It is being used fraudulently, or
- c) the card has been superseded by a replacement card.

What is meant by the terms Confiscation and Withdrawal

Confiscation of a card occurs when an enforcer takes possession of a card as part of an investigation into fraud.

A card is withdrawn when the CIA removes its administrative validity.

Articles	Interpretation explanation	/ Recommended way of enforcing these provisions
----------	----------------------------	---

CHAPTER I Principles and scope		
<p><u>Article 1</u></p> <p>Recording equipment within the meaning of this Regulation shall, as regards construction, installation, use and testing, comply with the requirements of this Regulation and of Annexes 1 or 1B and II thereto, which shall form an integral part of this Regulation.</p>	No interpretation required	Always read the two documents together and apply the combination of both texts
<p><u>Article 2</u></p> <p>For the purposes of this Regulation the definitions set out in Article 1 of Regulation (EEC) No 3820/85 shall apply.</p>	No interpretation needed	Work may be required On either the new Drivers' Hours Regulation or the old version 3820/85

Article 3

1. Recording equipment shall be installed and used in vehicles registered in a Member State which are used for the carriage of passengers or goods by road, except the vehicles referred to in Articles 4 and 14 (1) of Regulation (EEC) No 3820/85.

Article 13 (1) (Annex 1B
(x) installation means:
mounting of the recording equipment in a vehicle;
activation means:
phase where the recording equipment becomes fully operational and implements all functions, including security functions;
Activating a recording equipment requires the use of a workshop card and the entry of its PIN code;
(f) calibration means:
Updating or confirming vehicle parameters to be held in the data memory. Vehicle parameters include vehicle identification (VIN, VRN and registering Member State) and vehicle characteristics (w, k, l, tyre size, speed limiting device setting (if applicable), current UTC time, current odometer value);
calibrating a recording equipment requires the use of a workshop card;

<p>2. Member States may exempt vehicles mentioned in Article 13 (1) of Regulation (EEC) No 3820/85 from application of this Regulation. Member States shall inform the Commission of any exemption granted under this paragraph.</p>	<p>Refer to National Legislation for applicable exemptions</p>	
--	--	--

<p>3. Member States may, after authorisation by the Commission, exempt from application of this Regulation vehicles used for the transport operations referred to in Article 13 (2) of Regulation (EEC) No 3820/85. In urgent cases they may grant a temporary exemption for a period not exceeding 30 days, which shall be notified immediately to the Commission. The Commission shall notify the other Member States of any exemption granted pursuant to this paragraph.</p>	<p>3) Member States may take advantage of the provision allowing exemptions for vehicles in exceptional circumstances provided that prior authorisation has been sought from the Commission. An example would be where contestants are required to be transported between the residency and the sports venue by large numbers of vehicles not equipped with tachographs</p> <p>Member States may take advantage of this short term exemption only in URGENT situations (e.g. where transport has been severely disrupted by prolonged severe weather condition that has prevented the distribution of food and drink) to allow transport undertakings to restore supplies to the public.</p>	<p>Enforcement Officers should consult the document concerning the interpretation of individual exemptions under Article 13 Reg 3820 attached to this document.</p> <p>Exemptions under Article 13 only apply within the Member State that made the application.</p> <p>It is recommended that drivers that are using exempted vehicles should, in any case, use both the, "out of scope" button and the Driver card Where neither option has been used further enquiries should be made. In circumstances where it cannot be established that an exemption has been granted further enquiries should be made.</p> <p>Enforcement Officers should prosecute against National Legislation. Where it is detected that the out-of-scope button has been used where the vehicle is being used in-scope – this is fraud.</p>
--	---	---

4 In the case of national transport operations, Member States may require the installation and use of recording equipment in accordance with this Regulation in any of the vehicles for which its installation and use are not required by paragraph 1.

(4) Member States may require the fitment of recording equipment to vehicles used under National (Domestic) rules this will include vehicles carrying out cabotage

Care should be taken to ensure that the vehicle is being used in circumstances that require recording equipment to be fitted on National (Domestic) operations

CHAPTER II

Article 4

For the purposes of this Chapter, the words “recording equipment” shall mean “recording equipment or its components”.

Applications for EEC approval of a type of recording equipment or of a model record sheet or memory card shall be submitted, accompanied by the appropriate specifications, by the manufacturer or his agent to a Member State. No application in respect of any one type of recording equipment or of any one model record sheet or memory card may be submitted to more than one Member State.

This should be interpreted as the total equipment needed to make the installed equipment work satisfactorily.

Type approval

Article 5

A Member State shall grant EC component type-approval to any type of recording equipment, to any model record sheet or memory card which conforms to the requirements laid down in Annex 1 or 1B to this Regulation, provided the Member State is in a position to check that production models conform to the approved type.

The system's security must comply with the technical requirements laid down in Annex 1B. The Commission, acting in accordance with the procedure laid down in Article 18, shall ensure that the said Annex stipulates that recording equipment may not be granted EC component type-approval until the whole system (the recording equipment itself, driver card and electrical gearbox connections) has demonstrated its capacity to resist attempts to tamper with or alter the data on driving times. The tests necessary to establish this shall be carried out by experts familiar with up to date tampering techniques.

Any modifications or additions to an approved model must receive additional EEC type approval from the Member State which granted the original EEC type approval.

Article 6

Member States shall issue to the applicant an EEC approval mark, which shall conform to the model shown in Annex II, for each type of recording equipment or model record sheet or memory card which they approve pursuant to Article 5.

Article 7

The competent authorities of the Member State to which the application for type approval has been submitted shall, in respect of each type of recording equipment or model record sheet or memory card which they approve or refuse to approve, either send within one month to the authorities of the other Member States a copy of the approval certificate accompanied by copies of the relevant specifications, or, if such is the case, notify those authorities that approval has been refused in cases of refusal they shall communicate the reasons for their decision.

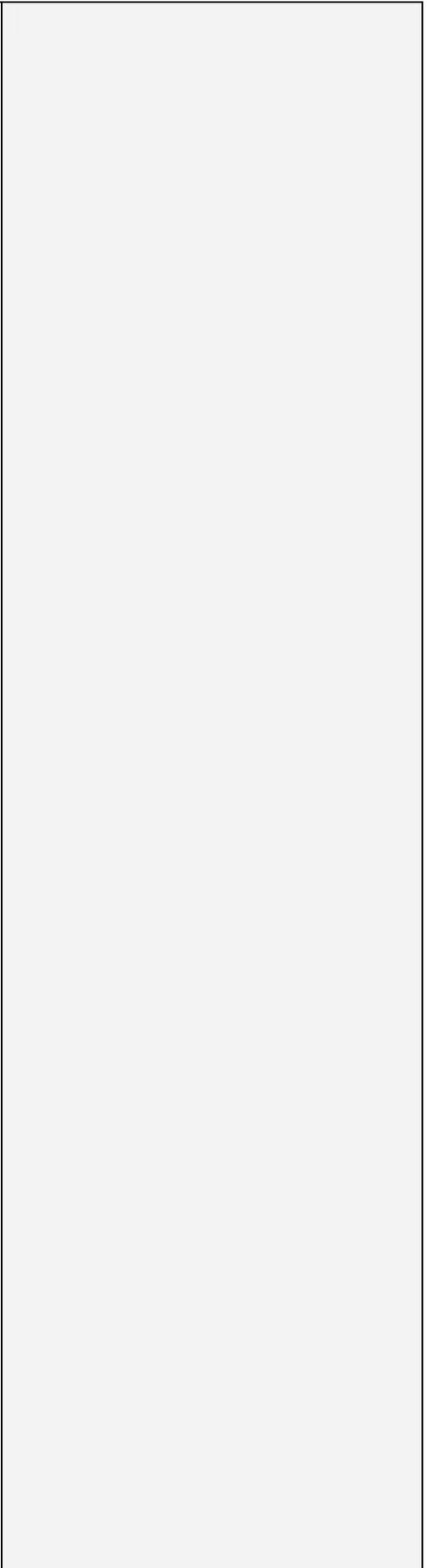
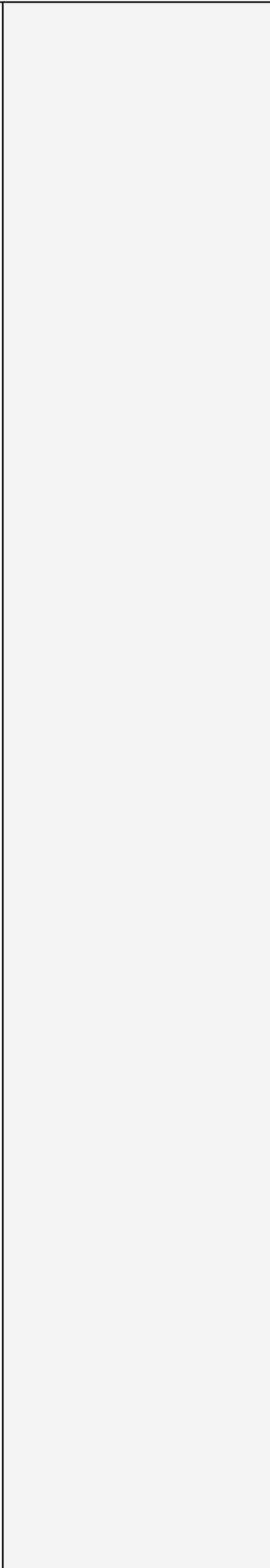
Article 8

1. If a Member State which has granted EEC type approval as provided for in Article 5 finds that certain recording equipment or record sheets or memory card bearing the EEC type approval mark which it has issued do not conform to the prototype which it has approved, it shall take the necessary measures to ensure that production models conform to the approved prototype. The measures taken may, if necessary, extend to withdrawal of EEC type approval.

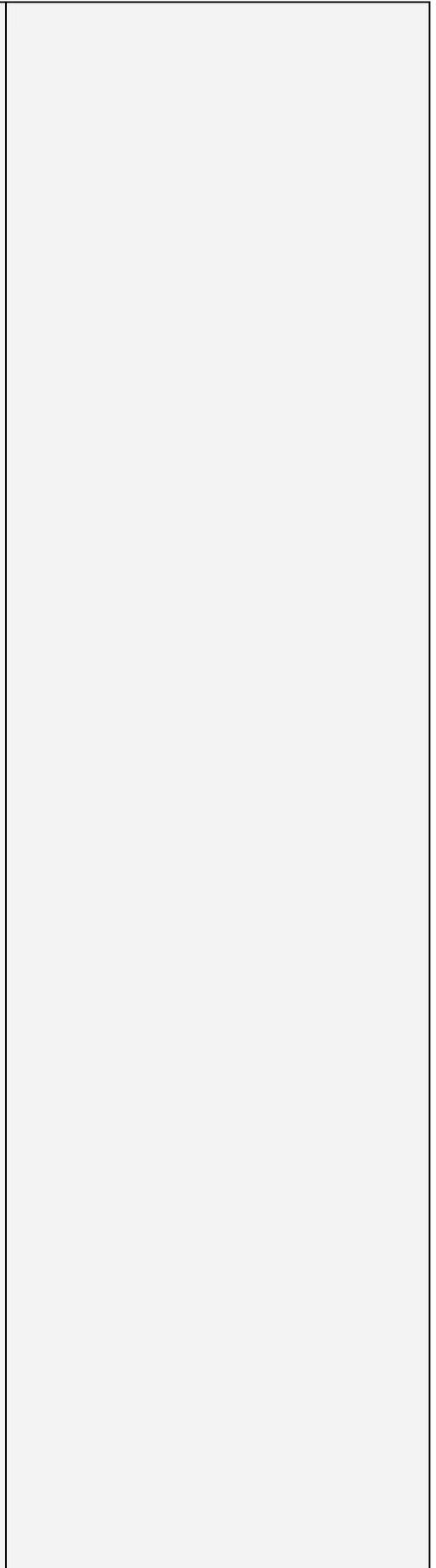
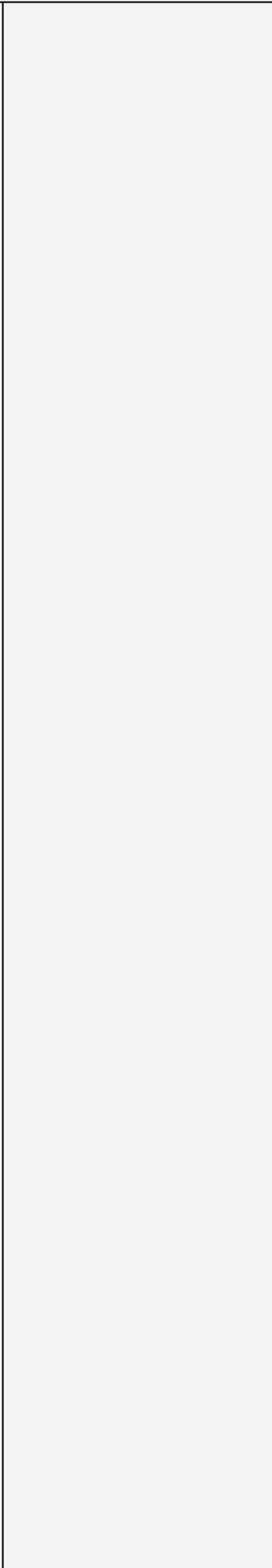
A vehicle fitted with recording equipment that is not type approved or where type approval has been withdrawn is not considered to be fitted with recording equipment in accordance with this Regulation.

Once the Member States and/or the Commission have agreed an implementation date then prohibition action is appropriate until type approved recording equipment has been fitted. If a tachograph is found in service that does not appear to comply with the type approval requirements of Annex 1 or Annex 1b, the fact shall be reported to the competent authority of the enforcer's Member State.

A Member State which has granted EEC type approval shall withdraw such approval if the recording equipment or record sheet or memory card which has been approved is not in conformity with this Regulation or its Annexes or displays in use any general defect which makes it unsuitable for the purpose for which it is intended.



If a Member State which has granted EEC type approval is notified by another Member State of one of the cases referred to in paragraphs 1 and 2, it shall also, after consulting the latter Member State, take the steps laid down in those paragraphs, subject to paragraph 5.

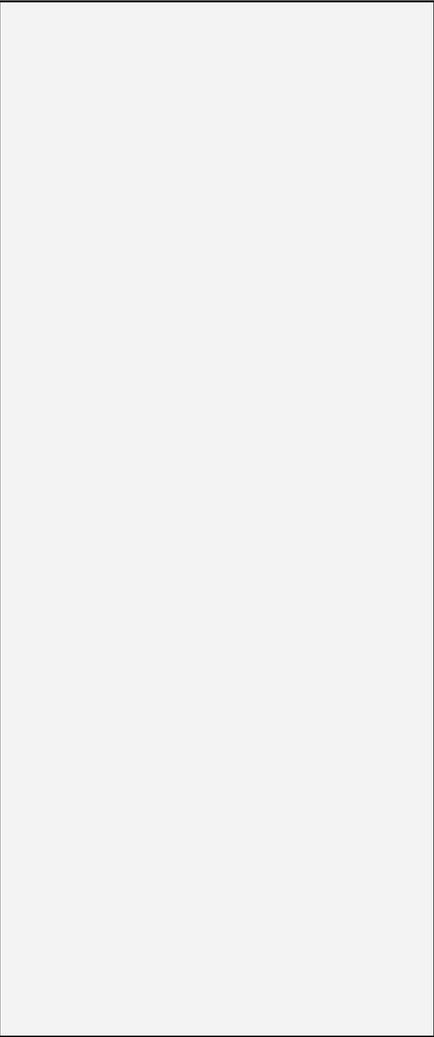
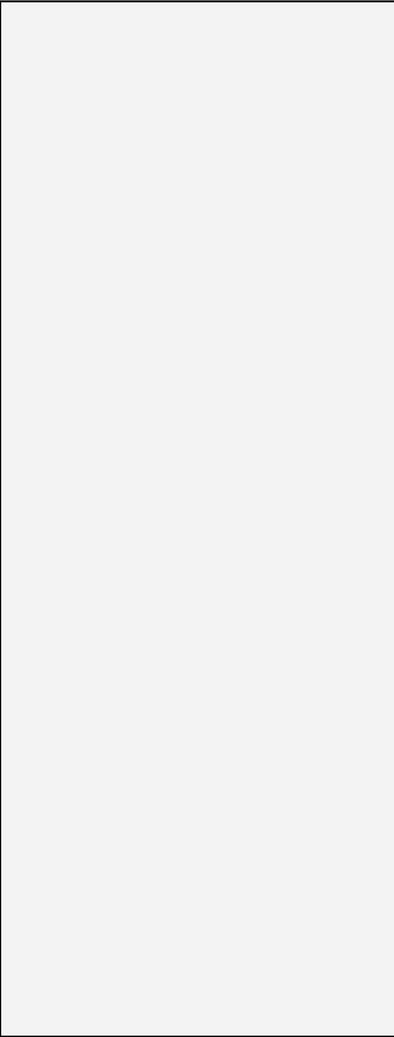


A Member State which ascertains that one of the cases referred to in paragraph 2 has arisen may forbid until further notice the placing on the market and putting into service of the recording equipment or record sheets or memory card. The same applies in the cases mentioned in paragraph 1 with. Respect to recording equipment or record sheets or memory card which have been exempted from EEC initial verification, if the manufacturer, after due warning, does not bring the equipment into line with the approved model or with the requirements of this Regulation. In any event, the competent authorities of the Member States shall notify one another and the Commission, within one month, of any withdrawal of EEC type approval or of any other measures taken pursuant to paragraphs 1, 2 and 3 and shall specify the reasons for such action.

If a Member State which has granted an EEC type approval disputes the existence of any of the cases specified in paragraphs 1 or 2 notified to it, the Member States concerned shall endeavour to settle the dispute and the Commission shall be kept informed. If talks between the Member States have not resulted in agreement within four months of the date of the notification referred to in paragraph 3 above, the Commission, after consulting experts from all Member States and having considered all the relevant factors, e.g. economic and technical factors, shall within six months adopt a decision which shall be communicated to the Member States concerned and at the same time to the other Member States. The Commission shall lay down in each instance the time limit for implementation of its decision.

Article 9

An applicant for EEC type approval of a model record sheet or driver card shall state on his application the type or types of recording equipment on which the sheet or driver card in question is designed to be used and shall provide suitable equipment of such type or types for the purpose of testing the sheet or driver card. The competent authorities of each Member State shall indicate on the approval certificate for the model record sheet or driver card the type or types of recording equipment on which that model sheet or driver card may be used.



<p><u>Article 10</u></p> <p>No Member State may refuse to register any vehicle fitted with recording equipment, or prohibit the entry into service or use of such vehicle for any reason connected with the fact that the vehicle is fitted with such equipment, if the equipment bears the EEC approval mark referred to in Article 6 and the installation plaque referred to in Article 12.</p>	<p>Once type approved, inspected and calibrated, the tachograph can be fitted in vehicles and used freely in all Member States.</p>	<p>Article 10 is worded in such a way that Member States may refuse to register vehicles fitted with type approved tachographs that are not calibrated, since an installation plaque can be affixed only by approved workshops after they have performed a full calibration. As a calibration requires the use of a workshop card, Article 10 implies that Member States which are unable to issue workshop cards may decide (during the transitional period) to not register vehicles fitted with digital tachographs.</p>
--	---	---

Article 11

All decisions pursuant to this Regulation refusing or with-drawing approval of a type of recording equipment or model record sheet or memory card shall specify in detail the reasons on which they are based. A decision shall be communicated to the party concerned, who shall at the same time be informed of the remedies available to him under the laws of the Member States and of the time-limits for the exercise of such remedies.

The decisions taken by Member State's authorities consisting in refusing or withdrawing a type approval certificate have to be notified to the parties concerned, duly motivated and have to be contestable in accordance with the laws applicable in the country where the decision has been taken. The way to contest such a decision has to be communicated to the parties concerned.

The national laws applicable to such cases will determine, in case the decision to withdraw a type approval certificate would be taken, if such a decision will be suspended during the time of the procedure of contestation.

The other Member States' competent authorities will have to be duly informed by the authorities of the Member State concerned of the legal consequences of a procedure of contestation.

CHAPTER III

Installation & Inspection

Article 12

Recording equipment may be installed or repaired only by fitters or workshops approved by the competent authorities of Member States for that purpose after the latter, should they so desire, have heard the views of the manufacturers concerned.

The period of administrative validity of approved workshop and fitter cards shall not exceed one year.

<p>If a card issued to an approved workshop or fitter is to be extended, is damaged, malfunctions, is lost or is stolen, the authority shall supply a replacement card within five working days of receiving a request to that effect.</p>	<p>A calibration carried out by means of a non-valid workshop card shall not be considered to be a valid calibration.</p>	<p>When checking calibration data, the validity of the workshop card used to carry out the calibration should be verified, by use of TACHOnet or by other means</p> <p>Where an invalid workshop card is identified as having been used to calibrate a VU, enquires will be carried out to identify which infringements have been committed and by whom.</p> <p>The vehicle unit will be correctly calibrated before the vehicle is permitted to continue, other than to proceed to an approved workshop and under the instruction of an enforcement officer. Calibration must be carried out either at the roadside check or at the nearest available approved workshop.</p> <p>Control officers should download and retain data or a printout relating to the calibration data. See article 15(8)</p>
--	---	---

<p>2. The approved fitter or workshop shall place a special mark on the seals which it affixes and, in addition, shall enter for recording equipment in conformity with Annex 1B, the electronic security data for carrying out, in particular, the authentication checks. The competent authorities of each Member State shall maintain a register of the marks and electronic security data used and of approved workshop and fitter cards issued.</p>	<p>According to paras 251 & 252 Reg 1360 2002, the following parts shall be sealed:</p> <ul style="list-style-type: none"> - any connection which, if disconnected, would cause undetectable alterations to be made or undetectable data loss, - the installation plaque, unless it is attached in such a way that it cannot be removed without the markings thereon being destroyed. <p>The seals mentioned above may be removed:</p> <ul style="list-style-type: none"> - in case of emergency, - to install, to adjust or to repair a speed limitation device or any other device contributing to road safety, provided that the recording equipment continues to function reliably and correctly and is resealed by an approved fitter or workshop (in accordance with Chapter VI) immediately after fitting the speed limitation device or any other device contributing to road safety or within seven days in other cases. 	<p>Where seals are missing or damaged, or where invalid sealing marks are identified as having been used, enquires will be carried out to identify which infringements have been committed and by whom.</p> <p>The vehicle unit will be correctly sealed and calibrated before the vehicle is permitted to continue. It may, however, proceed to an approved workshop under the instruction of an enforcement officer. Sealing and calibration must be carried out either at the roadside check or at the nearest available approved workshop.</p>
--	---	--

	<p>Where recording equipment is not sealed, includes broken seals or has been sealed using invalid sealing marks, the vehicle will not be considered to be fitted with recording equipment in accordance with this Regulation.</p>	
--	--	--

3. The competent authorities of the Member States shall forward to the Commission the lists of approved fitters or workshops and the cards issued to them and shall forward to it copies of the marks and of the necessary information relating to the electronic security data used.

For the purpose of certifying that installation of recording equipment took place in accordance with the requirements of this Regulation an installation plaque affixed as provided in Annexes 1 and 1B shall be used.

Reg 1360 2002 requires in para 249 and 250:

After the recording equipment has been checked on installation, an installation plaque which is clearly visible and easily accessible shall be affixed on, in or beside the recording equipment. After every inspection by an approved fitter or workshop, a new plaque shall be affixed in place of the previous one.

The plaque shall bear at least the following details:

- name, address or trade name of the approved fitter or workshop,
- characteristic coefficient of the vehicle, in the form $w = \text{imp/km}$
- constant of the recording equipment, in the form $k = \text{imp/km}$
- effective circumference of the wheel -tyres in the form $l = \text{mm}$,
- tyre size,
- The date on which the characteristic coefficient of the vehicle was determined and the effective circumference of the wheel tyres measured, the vehicle identification number.

5. Any seal may be removed by the fitters or workshops approved by competent authorities under paragraph 1 of this Article, or in the circumstances described in Annex 1, Chapter V, paragraph 4 or in Annex 1B section VI © to this regulation

CHAPTER IV		
Use of equipment		
<p>Article 13</p> <p>The employer and drivers shall ensure the correct functioning and proper use of, on the one hand, the recording equipment and, on the other, the driver card where a driver is required to drive a vehicle fitted with recording equipment in conformity with Annex 1 B.</p>	<p>Where a tachograph or Driver Card (if the driver holds one) is found not to be correctly functioning as required by Annex 1b, the operator of the vehicle and the driver are responsible.</p> <p>Operators must ensure that their drivers have a sufficient knowledge of the proper use of the tachograph and Driver Card</p>	<p>Malfunctions, errors and faults in the tachograph and cards used with it may have been recorded by the tachograph within the <i>Events and faults file</i>. Both the tachograph and driver card <i>Events and faults</i> files may be printed and/or downloaded.</p> <p>Deliberate interference with the recording equipment or Driver card is not considered to be a malfunction.</p> <p>Where the operator or driver could not, by taking reasonable steps, have been aware that the tachograph or Driver Card was not functioning correctly, it would be reasonable to take account of this fact.</p>

Article 14

1. The employer shall issue a sufficient number of record sheets to drivers of vehicles fitted with recording equipment in conformity with Annex 1, bearing in mind the fact that these sheets are personal in character, the length of the period of service and the possible obligation to replace sheets which are damaged, or have been taken by an authorised inspecting officer. The employer shall issue to drivers only sheets-of an approved model suitable for use in the equipment installed in the vehicle.

It is the responsibility of the employer to ensure that the driver always has with him/her sufficient record sheets to prevent them from running out during the journey.

In the first part of paragraph one of this Article, only the employer has responsibility for ensuring sufficient record sheets are issued. Where the driver runs out of sheets during the journey, other articles of this Regulation could be more appropriate for dealing with the driver, such as Articles 13 and 15(2).

The aim of the article is to ensure that the driver is always able to keep a continuous record of his/her journey. If that cannot be achieved because he/she has run out of the sheets that were issued, the operator has not issued sufficient numbers.

The driver is also likely to have committed offences. These alternative offences could have been committed contrary to Article 13 and 15.

<p>Where the vehicle is fitted with recording equipment in conformity with Annex 1B, the employer and the driver shall ensure that, taking into account the length of the period of service, the printing on request referred to in Annex 1B can be carried out correctly in the event of an inspection.</p>	<p>There is an absolute liability on the part of both the employer and the driver to ensure that drivers have sufficient rolls of paper on which to make a printout.</p> <p>Where the driver runs out of paper during the journey, both the employer and driver commit an offence.</p>	<p>If a driver is unable to make a print-out when required to do so by an inspecting officer because he does not have sufficient paper, then the employer and the driver commit an offence.</p> <p>Alternative offences exist in Article 15(7) in the event that a driver is unable to produce print-outs</p>
<p>This means that record k2. The undertaking shall keep the record sheets in good order for at least a year after their use and shall give copies to the drivers concerned who request them. The sheets shall be produced or handed over at the request of any authorized inspecting officer.</p>	<p>sheets should be organised i.e. by vehicle/driver/date and kept in good condition (e.g. legible).for at least a year.</p>	<p>The record sheets need not be organised by both vehicle and driver. One or the other is sufficient. However they must be kept in date order.</p>

<p>2. The undertaking shall keep record sheets and printouts, whenever printouts have been made to comply with Article 15(1), in chronological order and in a legible form for at least a year after their use and shall give copies to the drivers concerned who request them. The undertaking shall also give copies of downloaded data from the driver cards to the drivers concerned who request them and the printed papers of these copies. The record sheets, printouts and downloaded data shall be produced or handed over at the request of any authorized inspecting officer.</p>	<p>The transport undertaking should keep the records at the operating centre of the undertaking. The records shall be kept in date order by either driver or vehicle as advised by the Member State concerned. In the case of an agency driver, the records will be held at the premises of the operator for whom the driver drove.</p> <p>The undertaking shall provide copies of the data, charts or printouts to the driver or an authorized inspecting officer within a reasonable time after the request. The operator must ensure that, in complying with the request and as far as is possible, the data from the driver card that is required by the driver is not overwritten.</p> <p>To provide the records to an inspecting officer, the data must be provided as soon as possible and at least within ten days of the download.</p> <p>Where a driver requests copies of the record sheets the operator must make these available to the drivers.</p>	<p>It is an infringement for:</p> <ol style="list-style-type: none"> 1. an operator to fail to keep the records in date order. 2. an operator to fail to supply copies of the records to a control officer. 3. an operator to fail to provide copies of downloaded data to a driver within a reasonable time. <p>Self-explanatory.</p>
--	---	---

	<p>The record sheets must be produced on request of an inspecting officer.</p> <p>In addition, the record sheets must be handed over on request by the operator. The inspecting officer is permitted to remove them from the premises for inspection elsewhere. Any record sheets not to be used in evidence should be returned to the operator at the earliest opportunity.</p>	<p>Production of record sheets could be interpreted as showing the record sheets only.</p> <p>However, the handing over on request overcomes the above possible interpretation. When the record sheets are handed over it is clearly intended that they can be removed to a place where suitable inspection can be carried out. Any record sheets which do not form part of a prosecution case should be returned to the operator as soon as possible.</p>
<p>3. The driver card as defined in Annex 1B shall be issued, at the request of the driver, by the competent authority of the Member State where the driver has his normal residence.</p>	<p>It is the responsibility of the driver to apply for a driver card prior to driving a vehicle in scope of Regulation EEC 3820 and which is fitted with a tachograph in accordance with Annex 1b.</p>	<p>A driver will commit an infringement when no Driver Card has ever been issued on first application to that driver when:</p> <p>He drives a vehicle fitted with an annex 1b tachograph and the vehicle is subject to Regulation EEC 3820/85. Drivers committing the above infringement should be prohibited from driving an in-scope vehicle further.</p>

A Member State may require any driver subject to the provisions of Regulation (EEC) No 3820/85 and normally resident on its territory to hold a driver card.

(a) For the purposes of this Regulation "normal residence" means the place where a person usually lives, that is for at least 185 days in each calendar year, because of personal and occupational ties, or, in the case of a person with no occupational ties, because of personal ties which show close links between that person and the place where he is living.

However, the normal residence of a person whose occupational ties are in a different place from his personal ties and who consequently lives in turn in different places situated in two or more Member States shall be regarded as being the place of his personal ties, provided that such person returns there regularly. This last condition need not be met where the person is living in a Member State in order to carry out a fixed-term assignment.

(b) Drivers shall give proof of their place of normal residence by any appropriate means, such as their identity card or

Enforcement officers need not involve themselves with card-issuing scenarios & 185 day qualifying periods.

any other valid document.

(c) Where the competent authorities of the Member State issuing the driver card have doubts as to the validity of a statement as to normal residence made in accordance with point (b), or for the purpose of certain specific controls, they may request any additional information or evidence.

(d) The competent authorities of the issuing Member State shall, as far as this can be done, ensure that the applicant does not already hold a valid driver card.

(a) The competent authority of the Member State shall personalise the driver card in accordance with the provisions of Annex 1B.

The purpose of the personalisation process is to ensure that the applicant is the same person who is using the card.

Where verification of the personalisation reveals that the driver card has been obtained by using false documentation or by false declaration, the card should be confiscated.

For notification and return of the card to the Member State see paragraph 4(c)

A driver will commit an infringement when he does not hold a valid driver card when driving:

- 1) a vehicle fitted with an annex 1b tachograph and
- 2) That vehicle is subject to Regulation EEC 3820/85.

Drivers committing the above infringement should be prohibited from driving an in-scope vehicle further.

For administrative purposes, the driver card may not be valid for more than five years.



<p>The driver may hold one valid driver card only. The driver is authorised to use only his own personalised driver card. The driver shall not use a driver card which is defective or which has expired.</p>	<p>The only valid card issued to a driver is that with the latest replacement and renewal index numbers. Once a replacement or renewal card becomes valid, all previously issued cards cease to be valid. Annex 1b states:</p> <p><i>Requirement 009</i> <i>The recording equipment shall ignore non-valid cards inserted, except displaying, printing or downloading data held on an expired card which shall be possible.</i></p> <p>An annex 1b tachograph will <u>not</u> ignore a card that has been replaced and the normal expiry date of which has not been reached.</p>	<p>A driver will commit an infringement when he does not use a valid driver card when driving:</p> <ol style="list-style-type: none"> 1) a vehicle fitted with an annex 1b tachograph and 2) that vehicle is subject to Regulation EEC 3820/85. <p>Drivers committing the above infringement should be prohibited from driving an in-scope vehicle further.</p> <p>Article 4c places restrictions on the suspension and/or withdrawal of valid cards. Cards which have been replaced but whose expiry date has not been reached become invalid. Invalid cards should be confiscated.</p> <p>The Member State that issued an “invalidated” card should be informed of the fact that such a card has been confiscated. Enforcement officers should check with the relevant database (national or TACHOnet) to check if an application has been made for a replacement. Not every MS will be able to provide this information</p> <p>Where it is established that a driver is driving without a card for a reason that is within the statuses of TACHOnet, it is recommended that the fact should be notifiable and recorded on the TACHOnet system</p>
---	---	--

<p>When a new driver card is issued replacing the old, the new card shall bear the same driver card issue number but the index shall be increased by one. The issuing authority shall keep records of issued, stolen, lost or defective driver cards for a period at least equivalent to their period of administrative validity.</p>	<p>The keeping of records concerning issued, stolen, lost or defective driver cards is a matter for the card-issuing authorities.</p>	
---	---	--

If the driver card is damaged, malfunctions or is lost or stolen, the authority shall supply a replacement card within five working days of receiving a detailed request to that effect.

This paragraph is a matter for card issuing and there is not an enforcement issue.

<p>In the event of a request for the renewal of a card whose expiry date is approaching, the authority shall supply a new card before the expiry date provided that the request was sent to it within the time limits laid down in the second subparagraph of Article 15(1).</p>	<p>It is the driver's responsibility to make an application for the renewal of a driver card. Application must be made at least 15 days before the expiry of the previous card if the two cards are to be consecutive.</p>	<p>If a driver surrenders a driver card during any renewal procedure, it will be unlawful to drive an Annex 1b vehicle for the period when he is without a valid card.</p>
<p>(b) Driver cards shall be issued only to applicants who are subject to the provisions of Regulation (EEC) 3820/85.</p>		

<p>The driver card shall be personal. It may not, during its official period of validity, be withdrawn or suspended for whatever reason unless the competent authority of a Member State finds that the card has been falsified, or the driver is using a card of which he is not the holder, or that the card held has been obtained on the basis of false declarations and/or forged documents. If such suspension or withdrawal measures are taken by a Member State other than the Member State of issue, the former shall return the card to the authorities of the Member State which issued it and shall indicate the reasons for returning it.</p>	<p>Falsification involves the alteration of the physical structure of a card, or its software, with intent to deceive.</p> <p>A false declaration is made where any material fact has been deliberately misrepresented in an application, either in writing or otherwise, with intent to obtain a card.</p> <p>The driver is not the holder of a card if he is using a card that has not been legitimately issued to him.</p> <p>A card is not legitimately held if it is obtained by either making an intentional false declaration and/or by the submission of forged documents to the card issuing authority with intention of obtaining a card.</p> <p>The confiscation of a card is effectively a suspension or withdrawal and the holder must make an application for a replacement. A driver may not drive without a valid driver card under these circumstances.</p>	<p>In cases where it is evident that a card has been falsified, obtained by means of a false declaration or is being used by a person who is not the legitimate holder of a card, that card may be confiscated as evidence. Verification can be made by use of TACHOnet.</p> <p>This article only places a restriction on the withdrawal or suspension of legitimate cards. There is no such restriction on the confiscation of “cloned” or illegitimately obtained cards,</p> <p>This Article does not permit the confiscation of a driver’s card because it has stored upon it data that forms part of an intended fraud, even if the fraud includes use of other devices or illegitimate cards. Data may be copied from the card.</p> <p>When a replacement driver card has been issued and becomes valid, all cards previously issued to that driver cease to be valid. When a replacement driver card has been issued and becomes valid, the card being replaced ceases to be valid and is subject to confiscation.</p> <p>The fraudulent use of a card is dealt with under Article 15(8).</p> <p>Where cards are confiscated, the officers’ national card issuing authority must be informed as soon as possible for inclusion on TACHOnet. The card should return to the CIA as soon as is practically possible. Where the CIA is in another Member State,</p>
--	--	---

		notifications will be made through the enforcers national CIA.
--	--	--

<p>Driver cards issued by Member States shall be mutually recognised.</p> <p>Where the holder of a valid driver card issued by a Member State has established his normal place of residence in another Member State, he may ask for his card to be exchanged for an equivalent driver card; it shall be the responsibility of the Member State which carries out the exchange to verify if necessary whether the card produced is actually still valid.</p>	<p>The consequence of paragraph d) is that it will be in order for a driver to hold a driving licence in one MS and a DC from another.</p>	<p>The consequence of paragraph d) is that it will be in order for a driver to hold a driving licence in one MS and a DC from another.</p>
---	--	--

<p>Where the holder of a valid driver card issued by a Member State has established his normal place of residence in another Member State, he may ask for his card to be exchanged for an equivalent driver card; it shall be the responsibility of the Member State which carries out the exchange to verify if necessary whether the card produced is actually still valid.</p>	<p>This is the responsibility of the CIA</p>	
---	--	--

<p>Member States carrying out an exchange shall return the old card to the authorities of the Member State of issue and indicate the reasons for so doing.</p>	<p>This is the responsibility of the CIA</p>	<p>Normally there will be an exchange or replacement of an old DC against a new one. If a driver surrenders a driver card during any exchange procedure, it will be unlawful to drive an Annex 1b vehicle for the period when he is without a valid card.</p>
--	--	---

<p>Where a Member State replaces or exchanges a driver card, the replacement or exchange, and any subsequent replacement of renewal, shall be registered in that member State.</p>	<p>This is the responsibility of the CIA</p>	<p>Normally there will be an exchange or replacement of an old DC against a new one. If a driver surrenders a driver card during any exchange procedure, it will be unlawful to drive an Annex 1b vehicle for the period when he is without a valid card.</p>
<p>f) Member States shall take all the necessary measures to prevent any possibility of driver cards being falsified.</p>	<p>This is the responsibility of the CIA</p>	<p>It is recommended that Member States cooperate in the exchange of information when security breaches are detected.</p>
<p>5. Member States shall ensure that data needed to monitor compliance with Council Regulation (EEC) No 3820/85 and Council Directive 92/6/EEC of 10 February 1992 on the installation and use of speed limitation devices for certain categories of motor vehicles in the Community (*) which are recorded and stored by recording equipment in conformity with Annex 1B to this Regulation can be made available for at least 365 days after the date of their recording and that they can be made available under conditions that guarantee the security and accuracy of the data.</p>	<p>Member States have to take necessary measures to ensure that all the data recorded by the vehicle unit will be made available to enforcers. There is no explicit requirement for downloading. Data can be kept either in the VU or elsewhere.</p>	<p>It is recommended that the data is downloaded and kept in a secure environment.</p>

<p>Member States shall take any measures necessary to ensure that the resale or decommissioning of recording equipment cannot detract, in particular, from the satisfactory application of this paragraph.</p>	<p>Member States have to take necessary measures to ensure that all the data recorded by the vehicle unit will be made available to enforcers.</p>	<p>It is recommended that the data is downloaded and kept in a secure environment.</p>
--	--	--

<p>Article 15</p> <p>1. Drivers shall not use dirty or damaged record sheets or driver card. The sheets shall be adequately protected on this account.</p> <p>Where a driver card is damaged, malfunctions, or is not in the possession of the driver, the driver shall:</p> <p>(a) at the start of his journey, print out the details of the vehicle the driver is driving, and shall enter onto that printout:</p> <p>(i) details that enable the driver to be identified (name, driver card or driver's licence number), including his signature;</p> <p>(ii) the periods referred to in paragraph 3, second indent (b), (c) and (d);</p> <p>(b) at the end of his journey, print out the information relating to periods of time recorded by the recording equipment, record any periods of</p>	<p>Record sheets must be clearly legible so that all of the manual and automatic recordings can be easily read and analysed</p> <p>Driver cards are acceptable if they are electronically fully functional (as specified by Annex 1b) and the printed data, including the photograph, is clearly legible.</p> <p>It is a clear infringement for a driver to drive without being in possession of a driver card unless it is lost, stolen or has malfunctioned. (Article 16)</p>	<p>Record sheets must be clearly legible so that all of the manual and automatic recordings can be easily read and analysed</p> <p>Driver cards are acceptable if they are electronically fully functional (as specified by Annex 1b) and the printed data, including the photograph, is clearly legible</p>
---	---	--

<p>other work, availability and rest undertaken since the printout that was made at the start of the journey, where not recorded by the tachograph, and mark on that document details that enable the driver to be identified (name, driver card or driver's licence number), including the driver's signature.</p>		
<p>Where a driver wishes to renew his driver card, he shall apply to the competent authorities of the Member State in which he has his normal residence not later than fifteen working days before the expiry date of the card.</p>	<p>It is the driver's responsibility to make an application for the renewal of a driver card. Application must be made at least 15 days before the expiry of the previous card if the two cards are to be consecutive.</p>	<p>If a driver surrenders a driver card during any renewal procedure, it will be unlawful to drive an Annex 1b vehicle for the period when he is without a valid card.</p>

<p>In case of damage to a sheet bearing recordings, drivers shall attach the damaged sheet to the spare sheet used to replace it.</p>	<p>When a record sheet is damaged or dirtied in service, any replacement sheet should include manual records for periods that are not recorded or visible on the dirty or damaged sheet. Replacement records should subsequently be kept with the sheet being replaced, but not necessarily physically attached to it.</p>	<p>Where a record sheet becomes dirty or damaged in service, records must be kept to include periods for which the original records are unreadable. These records should be kept on a replacement record sheet or, where the tachograph has become defective, on manual records made on the original record or elsewhere. In any event, the original and replacement records must be kept together.</p>
---	--	---

<p>If the driver card is damaged, malfunctions or is lost or stolen, the driver shall apply within seven calendar days for its replacement to the competent authorities of the Member State in which he has his normal residence.</p>	<p>It is an infringement to drive a 1b vehicle without a driver card. It is a serious infringement to deliberately drive a 1b vehicle without a driver card.</p> <p>It is also a serious infringement to falsely declare that a card has been lost or stolen. However, the legal defences to driving without a driver card set out in Article 16 must be considered.</p> <p>An application is made only when a completed application is delivered to the CIA together with the appropriate fees.</p> <p>It is strongly recommended that a CIA should amend TACHOnet upon notifications received from enforcement agencies.</p> <p>If not commenced beforehand, other card issuing processes will commence upon receipt of a formal declaration supplied by the driver.</p>	<p>Measures should be put in place in Member States to require a driver to make a declaration of the malfunction, loss or theft of their cards immediately, if possible by telephone and preferably before they next drive. Following the declaration, a written application must be made within 7 days. An application is made only when a completed application is delivered to the CIA together with the appropriate fees.</p> <p>In addition to the drivers' obligations, a controller who detects a driver who has not made a declaration regarding the loss malfunction or theft of their card should:</p> <p>Notify the CIA of the loss or theft as soon as practicable and Advise the driver of his obligations to notify and apply.</p>
---	--	--

<p>2. Drivers shall use the record sheets or driver card every day on which they are driving, starting from the moment they take over the vehicle. The record sheet or driver card shall not be withdrawn before the end of the daily working period unless its withdrawal is otherwise authorised. No record sheet or driver card may be used to cover a period longer than that for which it is intended.</p>	<p>It is illegal to drive a vehicle without a chart inserted into the tachograph. It is illegal to drive a vehicle without a driver card inserted into the tachograph unless it has been reported as lost stolen or malfunctioning. A driver shall insert a chart, with the centre field details completed (See Article 15(5), into a tachograph, or a Driver Card into a 1b tachograph as soon as he takes possession of a vehicle. A driver card cannot technically be used for longer than it is intended. A chart may only remain in a tachograph for a period not exceeding 24 hours.</p>	<p>Enforcers must have sufficient authority to ensure that tachograph charts and driver cards have been inserted into the instrument and that any chart or card produced to the enforcer originated from the tachograph in the vehicle concerned.</p> <p>Moreover, failing to produce a chart when requested is an infringement under Article 15(7).</p> <p>Where a card is not used because it has been lost stolen or is malfunctioning, the provisions of Article 16(2) must be complied with. Refer to Article 15(1) above concerning the making of a declaration of loss theft or malfunctioning.</p>
---	--	--

<p>When as a result of being away from the vehicle, a driver is unable to use the equipment fitted to the vehicle, the periods of time referred to in paragraph 3, second indent (b), (c) and (d) shall:</p> <p>(a) if the vehicle is fitted with recording equipment in conformity with Annex I, be entered on the record sheet, either manually, by automatic recording or other means, legibly and without dirtying the sheet; or</p> <p>(b) if the vehicle is fitted with recording equipment in conformity with Annex IB, be entered onto the driver card using the manual entry facility provided in the recording equipment.</p> <p>Where there is more than one driver on board the vehicle fitted with recording</p>	<p>For a vehicle fitted with an Annex 1 tachograph, activities undertaken before taking possession of, or after relinquishing responsibility for it, shall be written onto the chart.</p> <p>For vehicles fitted with an Annex 1b tachograph, entries shall be made immediately after insertion of a driver card. Apart from the entry relating to location, it is not a legal requirement to make manual entries on driver cards.</p> <p>The person who is driving must insert their driver card into the first position in the vehicle</p>	<p>Where a driver is unable to use the equipment because he is away from the vehicle, it is a legal requirement. On an annexe 1 tachograph the driver must make manual entries anywhere on tachograph charts provided the entries do not interfere with the recordings on the chart.</p> <p>On an annex 1b tachograph, it is a legal requirement to make manual entries onto a driver card, where appropriate, as soon as a card is inserted into a tachograph. Apart from the entry relating to location, it is not a legal requirement to make manual entries on driver cards.</p> <p>Drivers who have sole responsibility for a vehicle (e.g. on an international journey) should be encouraged to keep a continuous record of all activities including periods of daily rest. Drivers do not commit an infringement if they do not keep recordings during rest periods. Drivers should not interrupt rest periods merely in order to change a chart. (Sweden does not agree with this interpretation and requires drivers to record daily rest periods on tachograph charts)</p>
---	---	---

equipment in conformity with Annex IB, each driver shall ensure that his driver card is inserted into the correct slot in the tachograph.

unit and the driver who is not driving will insert their card into position two. When the drivers change driving roles, they must also swap the position of the cards.

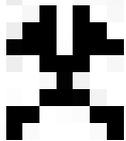
<p>Drivers shall amend the record sheets as necessary should there be more than one driver on board the vehicle, so that the information referred to in Chapter II (1) to (3) of Annex I is recorded on the record sheet of the driver who is actually driving.</p>	<p>Crew-Members and drivers shall ensure that their charts or driver cards are always in the correct position within the tachograph to ensure that correct recordings required by Article 15 are made on both charts and both cards.</p>	<p>The requirement to swap charts when changing roles between driving and crew within a vehicle does not appear to have been extended, within this Article, to cover driver cards. Despite this apparent omission, it is clearly the intention of the regulation that drivers and crew members record the activities mentioned in the article and to ensure that cards and charts are placed in the correct position in the tachograph.</p>
---	--	---

<p>3. Drivers shall :</p> <p>ensure that the time recorded on the sheet agrees with the official time in the country of registration of the vehicle,</p>	<p>This sub-paragraph is only applicable to Annex 1 tachographs. The clock in an Annex 1b tachograph is set to UTC and alteration of is only possible with a Workshop card. It is recognised that it is simple to alter the clock on an Annex 1 tachograph.</p>	<p>The display time on a 1b tachograph may be altered by the driver to suit personal preference. The time set on an analogue tachograph must be the same as the official time in the Member State in which the vehicle is registered, including daylight saving adjustments. It is an infringement if the clock is found to be incorrect.</p>
--	---	---

<p>operate the switch mechanisms enabling the following periods of time to be recorded separately and distinctly:</p>	<p>The only mode that is recorded automatically is driving. It is the driver's responsibility to ensure that the relevant mode switch is adjusted to ensure that the correct mode of work is recorded.</p>	<p>The Annex 1 tachograph defaults to the last selected switch position – normally set at “rest”. With a 1b tachograph, when the vehicle stops moving, it defaults to “Other work” unless the driver selects another mode. It is an infringement to fail to operate the mode switch according to the activity being undertaken.</p>
<p>- (a) under the sign  driving time:</p>	<p>The driver is not able to select this mode, which is selected automatically by the tachograph when it detects vehicle movement. To extend the definition of “Driving” beyond that which the tachograph can record as “Driving” would make enforcement impracticable.</p>	<p>Because “Driving” can only be selected by the tachograph itself, “Driving” can only be the periods of physical movement of the vehicle or for up to two minutes after it stops.</p>

~~–(b) under the sign— all other periods of work~~

(b) “other work” means any activity other than driving, as defined in Article 3(a) of Directive 2002/15/EC of the European Parliament and of the Council of 11 March 2002 on the organisation of the working time of persons performing mobile road transport activities, and also any work for the same or another employer within or outside of the transport sector, and must be recorded under this sign ;



(c) “availability” defined in Article 3(b) of Directive 2002/15/EC must be recorded under this sign .



Any period of activity that is not driving availability or rest is “other work” Availability can be a break but other work cannot.

Digital tachographs will default to recording “other work” when driving is not being recorded and may record an infringement by default. It is an infringement both to fail to use the mode switches and to contravene the resting and break periods. A driver should be prosecuted for any infringement for which there is sufficient evidence. It should be considered a serious infringement to falsely indicate that rest has been taken.

<p>—(c) under the sign other periods of availability, namely</p>	<p>The definition of waiting time in this Regulation is in conflict with some later EU law and European case law. Future legislation must clarify the position.</p>	<p>The strict interpretation of this article may cause conflict with other legal authorities, which should therefore be considered together with this Article.</p>
<p>- (d) under the sign  breaks in work and daily rest periods</p>	<p>No interpretation necessary other than where there is conflict see 15(4) below</p>	

<p>4. Each Member State may permit all the periods referred to in paragraph 3, second indent (b) and (c) to be recorded under the sign for vehicles registered in its territory."</p>	<p>Implementation of this particular article creates a conflict between parts of Regulation 3820 and the definitions of other work and availability in Regulation 3821. Future legislation must clarify the position.</p>	<p>Member States should not continue to take advantage of this facility after the implementation of digital tachographs.</p> <p>This provision deleted by Reg 561/2006</p>
---	--	---

<p>5. Each crew member shall enter the following information on his record sheet :</p> <p>on beginning to use the sheet - his surname and first name;</p>	<p>A driver will not start to drive a vehicle unless and until the tachograph contains a tachograph chart with the centre field details completed and manual entries completed relating to any work carried out before driving.</p> <p>The name means the full first name and the full last name in the form that appears on official documents (Driving Licence and Driver Card). Entries must be legible.</p>	<p>On record sheets, initials and nicknames are not acceptable unless additional to the required names.</p> <p>In the interests of clarity, Member States prefer that the Family name is followed by the first name. However Member States do not normally consider a failure to comply with this recommendation to be an infringement.</p> <p>The entry of a false name is fraud, failing to enter a name could be preparatory to a fraud and should be considered a serious offence.</p>
---	---	--

the date and place where use of the sheet begins and the date and place where such use ends;

The entry must accurately identify the day, month and year when the chart is first inserted. Where the chart starts and finishes on the same date, the date should be entered twice. The use of the charts ends when the chart is removed from the tachograph.

Locations must be accurate, and must be the nearest town or village. The locations where the vehicle is when the chart is inserted into the tachograph, and that where it is when the chart is removed are those which must be entered.

The entry of a false date is fraud, failing to enter a date could be preparatory to a fraud and should be considered a serious offence. Locations must be an identifiable conurbation and not the name of a hotel, industrial premises etc..

the registration number of each vehicle to which he is assigned, both at the start of the first journey recorded on the sheet and then, in the event of change of vehicle, during use of the sheet;

The registration number is that which is registered with the competent authority of the Member State.

Where a driver has to change vehicles and the first chart is not compatible with the tachograph in the second vehicle, a second disc will be used and the two discs will be kept together. If the chart is compatible, a second disc may be used or the first disc may be continued and the registration number of both vehicles will be entered on the chart.

the odometer reading;

at the start of the first journey recorded on the sheet,

at the end of the last journey recorded on the sheet, in the event of a change of vehicle during a working day (reading on the vehicle to which he was assigned and reading on the vehicle to which he is to be assigned) ;

Odometer readings must be accurate, and must be those shown on the tachograph when the chart is inserted into the tachograph and when the chart is removed.

The entry of a false odometer reading is fraud, failing to enter a reading could be preparatory to a fraud and should be considered a serious offence.

It is not an infringement to fail to subtract one odometer reading from another.

Where a driver has to change vehicles and the first chart is not compatible with the tachograph in the second vehicle, a second disc will be used and the two discs will be kept together. If the chart is compatible, a second disc may be used or the first disc may be continued and the odometer readings of both vehicles will be entered on the chart.

<p>(e) the time of any change of vehicle.</p>	<p>Times are recorded automatically when a chart is inserted into a tachograph.</p>	<p>A driver will not start to drive a vehicle unless and until the tachograph contains a tachograph chart with the centre field details completed and manual entries completed relating to any work carried out before driving.</p>
<p>5a The driver shall enter in the recording equipment in conformity with Annex 1B the symbols of the countries in which he begins and ends his daily work period. However, a Member State may require drivers of vehicles engaged in transport operations inside its territory to add more detailed geographic specifications to the country symbol provided that the Member State has notified them to the Commission before 1 April 1998 and that they do not number more than 20.</p>	<p>Before starting to drive, a driver must enter into the tachograph the symbol of the country in which he takes over the vehicle.</p> <p>Regional symbols are not required in international operations. The requirement to use regional symbols will only be applied by Spain to national operations including cabotage.</p> <p>Even if a global positioning system is fitted in the vehicle, the driver must ensure that the data is entered.</p>	<p>Where a country symbol has not been entered prior to driving, it is an infringement.</p> <p>Where it is possible and where locations are entered which are more precise than the country symbol (e.g. GPS), these locations will be acceptable.</p> <p>Drivers should be advised to enter locations into the VU of all vehicles that they drive during the daily working period.</p> <p>A driver must not start to drive a vehicle unless and until the tachograph contains the location data required. The printout will contain data relating to locations entered into the VU</p>

6. The recording equipment defined in annex 1 shall be so designed that it is possible for an authorised inspecting officer, if necessary after opening the equipment, to read the recordings relating to the nine hours preceding the time of the check without permanently deforming, damaging or soiling the sheet.

The equipment shall, furthermore, be so designed that it is possible, without opening the case, to verify that recordings are being made.

This is a design issue relating to Annex 1 tachographs

This has no influence in relation to digital tachographs and requires no further interpretation. However, in order to open the tachograph and read the recordings, an enforcer must have sufficient authorisation to enter the vehicle.

<p>7.</p> <p>(a) Where the driver drives a vehicle fitted with recording equipment in conformity with Annex I, the driver must be able to produce, whenever an inspecting officer so requests:</p> <p>(i) the record sheets for the current week and those used by the driver in the previous 15 days;</p> <p>(ii) the driver card if he holds one, and</p> <p>(iii) any manual record and printout made during the current week and the previous 15 days as required under this Regulation and Regulation (EC) No 561/2006. However, after 1 January 2008, the time periods referred to under (i) and (iii) shall cover the current day and the previous 28 days.</p> <p>(b) Where the driver drives a vehicle fitted with recording equipment in conformity with Annex IB, the driver must be able to produce, whenever an</p>	<p>This part of the Regulation relates only whilst driving an Annex 1 equipped vehicle. The driver is obliged to produce all charts that relate to work undertaken in the period. Reference to the last day of the previous week is clarified in the case of Mario Nijs ECJ C158/90.</p> <p>Previous 15 days means 15 calendar days on which he drove.</p> <p>If a driver is the holder of a Driver Card, it must be produced upon request.</p> <p>When a driver uses a vehicle which is fitted with an Annex 1 tachograph, he must produce printouts, relating to all periods of "driving" "other work and availability" and "breaks" that have been recorded on the driver's DC driven during the equivalent period. If the driver card is lost or defective, the driver must produce the printouts from the vehicle unit made in accordance with Articles 15 &16 of Regulation 3821/85 and Reg 12 of 561/06. Reference to a 28 days means 28 calendar days.</p>	<p>Some Member States (Germany, Belgium, Sweden and France ... <i>others too?</i>) additionally require a letter of attestation from the employer certifying that an in-scope vehicle has not been driven during periods of leave or sickness. Sweden requires drivers to declare daily and weekly rest periods on the rear of the chart, unless this data is recorded automatically</p> <p>If a driver is unable to produce a card and claims not to be the holder of one, this should be verified by use of TACHOnet or national records. In principle, the validity of every card should be checked.</p> <p>The effect of this paragraph is that a driver must produce printouts which may be required under Articles 15 and 16 of Regulation 3821 and Article 12 of Regulation 561/06.</p> <p>If a driver is unable to produce a card and claims that it is lost or defective this should be verified by use of TACHOnet or national records. In principle, the validity of every card should be checked.</p>
--	---	---

<p>inspecting officer so requests:</p> <ul style="list-style-type: none">(i) the driver card of which he is holder;(ii) any manual record and printout made during the current week and the previous 15 days as required under this Regulation and Regulation (EC) No 561/2006, and(iii) the record sheets corresponding to the same period as the one referred to in the previous subparagraph during which he drove a vehicle fitted with recording equipment in conformity with Annex I. However, after 1 January 2008, the time periods referred to under (ii) shall cover the current day and the previous 28 days.	<p>If a driver is the holder of a Driver Card, it must be produced upon request.</p> <p>The driver is obliged to produce all charts recorded in any Annex 1 tachograph that relate to work undertaken by him in the current week and the last 15 calendar days.</p>	<p>Some Member States (Germany, Belgium, Sweden and France ... <i>others too?</i>) additionally require a letter of attestation from the employer certifying that an in-scope vehicle has not been driven during periods of leave or sickness. Sweden requires drivers to declare daily and weekly rest periods on the rear of the chart, unless this data is recorded automatically</p>
--	---	--

— the driver card if he holds one, and

~~print-outs from the recording equipment defined in Annex 1 B relating to the periods of time indicated in paragraph 3, second indent, (a), (b), (c) and (d) if he drove a vehicle fitted with such recording equipment during the period referred to in the first indent of this paragraph.~~

~~Where the driver drives a vehicle fitted with recording equipment in conformity with Annex 1B, he must be able to produce, whenever an inspecting officer so requests :~~

~~the driver card of which he is the holder,~~

~~the record sheets corresponding to the same period as the one referred to in the previous subparagraph during which he drove a vehicle fitted with recording equipment in conformity with Annex 4.~~

~~An authorised inspecting officer may check compliance with Regulation (EEC) No 3820/85 by analysis of the record sheets, of the displayed or printed data which have been recorded by the recording equipment or by the driver card or, failing this, by analysis of any other supporting document that justifies non-compliance with a provision, such as those laid down in Article 16(2) and (3).~~

(c) An authorised inspecting officer may check compliance with Regulation (EC) No 561/2006 by analysis of the record sheets, of the displayed or printed data which have been recorded by the recording equipment or by the driver card or, failing this, by analysis of any other supporting document that justifies non-compliance with a provision, such as those laid down in Article 16(2) and (3).

An enforcer may enter a vehicle to check the display and to make the necessary printouts. A driver must produce evidence of all activities during the daily working periods of the previous 15 (28) calendar days on which he drove. When record sheets, printouts or other records are not sufficient to comply with this objective, an enforcer should evaluate documents produced by a driver which explains why some of the data is missing.

In order to read the display, an enforcer must have sufficient authorisation to enable him to enter the vehicle.

A driver must produce evidence of all activities during the daily working periods of the previous 15 (28) calendar days on which he drove. If he does not do so, and does not produce another document that provides a valid reason for missing data, he commits an infringement.

<p>8. It shall be forbidden to falsify, suppress or destroy data recorded on the record sheet, stored in the recording equipment or on the driver card, or print-outs from the recording equipment as defined in Annex 1B. The same applies to any manipulation of the recording equipment, record sheet or driver card which may result in data and/or printed information being falsified, suppressed or destroyed. No device which could be used to this effect shall be present on the vehicle.</p>	<p>The driver is obliged to record data relating to all activities of each daily working period. On the first part, it is an offence where, with intent to deceive, any person alters or destroys data which has been recorded on the record sheet, VU DC or printouts. On the second part, it is an offence for any person to alter any part of the recording equipment which prevents its correct recording. Devices which could be used to prevent the recording equipment from recording data correctly and accurately on the appropriate record shall not be on the vehicle.</p>	<p>It is a serious infringement to falsify suppresses or destroy any data that has been recorded in accordance with 3820/3821.</p> <p>It is also a serious infringement to manipulate or attempt to manipulate the equipment so that it does not accurately record on the appropriate record.</p> <p>Where a device is not installed, it would be correct to evaluate the intent to use it. Where any device is fitted, even if not connected or in use, the offence should be considered complete.</p>
---	---	---

<p><u>Article 16</u></p> <p>1. In the event of breakdown or faulty operation of the equipment, the employer shall have it repaired by an approved fitter or workshop, as soon as circumstances permit. If the vehicle is unable to return to the premises within a period of one week calculated from the day of the break-down or of the discovery of defective operation, the repair shall be carried out <i>en route</i>.</p>	<p>If the equipment ceases to be fully functioning in accordance with Annex 1 or Annex 1b it shall be considered as a breakdown. The equipment must be fully repaired as soon as is practical and in every case within 7 days calculated from the date of breakdown or when any person became aware that the tachograph was not fully functioning. Repair shall be organised by the person responsible for operating the vehicle.</p>	<p>Where it is obvious that a malfunction has occurred the equipment must be repaired as soon as practical and in every case within 7 days. Where the defect is not immediately obvious, the 7 days shall be measured from the time the defect was discovered.</p>
<p>Measures taken by Member States pursuant to Article 19 may give the competent authorities power to prohibit the use of the vehicle in cases where breakdown or faulty operation has not been put right as provided in the foregoing subparagraphs.</p>	<p>If the equipment is not repaired as above, the tachograph shall not comply with the provisions of Annex 1 or 1b .</p>	<p>Where a vehicle is found in service with a tachograph which has not been repaired within the specified time limits, it is appropriate to immediately prevent its further use until the tachograph has been fully repaired by an approved workshops.</p>

<p>2. While the recording equipment is unserviceable or malfunctioning, drivers shall mark on the record sheet or sheets, or on a temporary sheet to be attached to the record sheet or to the driver card, on which he shall enter data enabling him to be identified (drivers card number and/or driving licence number), including his signature, all information for the various periods of time which are no longer recorded or printed out correctly by the recording equipment.</p>	<p>Where a tachograph has suffered a breakdown, the driver will ensure that all activities undertaken during every daily working period shall be recorded, either as written records or printouts.</p> <p>All records and printouts (Annex 1 and 1b) made instead of automatic records must bear the driver's signature and either his driver card or driving licence number.</p>	<p>Temporary records shall include data relating to all activities undertaken during every daily working period during which the equipment was not able to record them automatically.</p> <p>Where the driver holds a DC, it will not be strictly necessary to attach the temporary record to the driver card. It will adequate if the card and records are available to be produced and handed over together.</p>
--	---	--

<p>If a driver card is damaged, malfunctions or is lost or stolen, the driver shall, at the end of his journey, print out the information relating to the periods of time recorded by the recording equipment and mark on that document the details that enable him to be identified (the driver card number and/or name and/or driving licence number), including his signature.</p>	<p>Where the driver card is lost stolen or malfunctions, the driver will ensure that all activities undertaken during every daily working period shall be recorded, on printouts. All printouts made instead of automatic records must bear the driver's signature and either his driver card or driving licence number.</p>	<p>Printouts shall include data relating to all activities undertaken during every daily working period during which the equipment was not able to record them automatically. Where a card is lost stolen or defective, a driver still has an obligation to manually input the locations into the VU and he should do so before making a printout</p>
---	--	---

<p>3. If a driver card is damaged or if it malfunctions, the driver shall return it to the competent authority of the Member State in which he has his normal residence. Theft of the driver card shall be the subject of a formal declaration to the competent authorities of the State where the theft occurred.</p>	<p>Where a driver is found using a card which is not fully functional or is damaged so that it either no longer functions or the written data is not visible, he will be considered to be driving without a driver card.</p> <p><u>It is strongly recommended that all CIAs should amend TACHOnet upon notifications received from enforcement agencies.</u></p> <p>If a card malfunctions; is damaged so that it no longer functions; or the written data is not visible; the defective card must be sent, by the driver, to the card-issuing authority of the Member State where he is currently resident. It is the responsibility of the authority to which the card is returned to issue another card (considered to be a renewal).</p> <p>If a card is stolen, the driver must report the theft of the card to the police of the state in which the theft occurred. Article 15(1) requires that a driver also makes an application for a replacement card within 7 days. “If the driver card is damaged, malfunctions or is lost or stolen, the driver shall apply within seven calendar days for its replacement to the</p>	<p>It is an infringement to drive an annex 1b vehicle without a fully functioning driver card. The third paragraph of this Article gives circumstances where a driver may continue to drive without a card.</p> <p>Measures should be put in place in Member States to require a driver to make a declaration of the malfunction, loss or theft of their cards immediately, if possible by telephone and preferably before they next drive. Following the declaration, a written application must be made within 7 days. An application is made only when a completed application is delivered to the CIA together with the appropriate fees.</p> <p>A controller who detects a driver who has not made a declaration regarding the loss malfunction or theft of their card should:</p> <p>Where the CIA accepts such notifications, notify the CIA of the loss or theft as soon as practicable and Advise the driver of his obligations to notify and apply.</p> <p>A driver who changes his state of residence is not obliged to change his driver card for one from the Member State where he has taken up</p>
--	--	---

	<p>competent authorities of the Member State in which he has his normal residence.”</p>	<p>residence. However, if the card has to be replaced because it is damaged lost stolen or malfunctions, the replacement card should be issued by the CIA of the new Member State.</p>
--	---	--

<p>Loss of the driver card must be reported in a formal declaration to the competent authorities of the State that issued it and to the competent authorities of the Member State of normal residence where they are different.</p>	<p>If a card is lost, the driver must report the loss to the card-issuing authority of the state which issued the card and also to the state where the driver has his normal residence. The application must be made as soon as possible after the loss but in any case within seven days. (Art 15(1))</p>	<p>It is an infringement to drive an annex 1b vehicle without a fully functioning driver card. The third paragraph of this Article gives circumstances where a driver may continue to drive without a card. Where no facility for making an immediate declaration to the CIA of loss or theft exists, it is acceptable if the declaration is part of the application process for a replacement card.</p>
---	--	--

<p>The driver may continue to drive without a driver card for a maximum period of fifteen calendar days or for a longer period if this is necessary for the vehicle to return to its premises, provided he can prove the impossibility of producing or using the card during this period.</p>	<p>The driver may not drive for more than fifteen days, without a functioning driver card. The 15 days to be calculated from the date of first malfunction or when any person became aware that the card was not fully functioning.</p> <p>A driver must still comply with his obligation to make a declaration and to apply for a replacement card within 7 days of the malfunction loss or theft.</p> <p>A driver may drive without a card for longer if neither he nor his vehicle return to its normal operating centre within 15 days AND the driver can prove that he could not have obtained or used a card within that time.</p>	<p>Details of when the card became defective may be contained within the faults and events file of the Vehicle Unit(s) of the vehicles in which the card was used. If the DC is partially defective, the information may be stored on the faults and events file of the driver card itself.</p> <p>A driver may drive without a card for substantially longer if his vehicle does not return to its normal operating centre within the 15 days. A driver who has returned to his Member State of residence since his card was lost or stolen, or became defective, should have the opportunity to claim any replacement card. He should not therefore be able to state that it was impossible to produce or use his card, regardless of whether the vehicle returns. Any extension of the 15 day deadline should not be considered as open-ended.</p>
---	--	---

<p>Where the authorities of the Member State in which the driver has his normal residence are different from those which issued his card and where the latter are requested to renew, replace or exchange the driver card, they shall inform the authorities who issued the old card of the precise reasons for its renewal, replacement or exchange.</p>	<p>This is a requirement for the Card-Issuing Authorities and is not an enforcement issue.</p>	
---	--	--

