

PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT

First Delegated Legislation Committee

DRAFT PASSENGER AND GOODS VEHICLES (TACHOGRAPHS) (AMENDMENT) REGULATIONS 2016

Wednesday 10 February 2016

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Sunday 14 February 2016

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IN GENERAL COMMITTEES

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The Committee consisted of the following Members:

Chair: MR DAVID HANSON

† Allen, Heidi (*South Cambridgeshire*) (Con)
 † Anderson, Mr David (*Blaydon*) (Lab)
 † Andrew, Stuart (*Pudsey*) (Con)
 † Atkins, Victoria (*Louth and Horncastle*) (Con)
 † Brown, Alan (*Kilmarnock and Loudoun*) (SNP)
 † Burden, Richard (*Birmingham, Northfield*) (Lab)
 † Cadbury, Ruth (*Brentford and Isleworth*) (Lab)
 † Davies, Mims (*Eastleigh*) (Con)
 † Doyle-Price, Jackie (*Thurrock*) (Con)
 † Glindon, Mary (*North Tyneside*) (Lab)
 † Haselhurst, Sir Alan (*Saffron Walden*) (Con)

† Heapey, James (*Wells*) (Con)
 † Jones, Andrew (*Parliamentary Under-Secretary of State for Transport*)
 † Jones, Graham (*Hyndburn*) (Lab)
 † Kennedy, Seema (*South Ribble*) (Con)
 † Lee, Dr Phillip (*Bracknell*) (Con)
 † McMahon, Jim (*Oldham West and Royton*) (Lab)
 Shannon, Jim (*Strangford*) (DUP)

Luanne Middleton, Joanna Welham, *Committee Clerks*

† **attended the Committee**

First Delegated Legislation Committee

Wednesday 10 February 2016

[MR DAVID HANSON *in the Chair*]

Draft Passenger and Goods Vehicles (Tachographs) (Amendment) Regulations 2016

8.55 am

The Parliamentary Under-Secretary of State for Transport (Andrew Jones): I beg to move,

That the Committee has considered the draft Passenger and Goods Vehicles (Tachographs) (Amendment) Regulations 2016.

These draft regulations are being made in order to update the existing domestic legislative and enforcement regime to comply with EU regulation No. 165/2014 on tachographs. For the benefit of Members who may not be aware, tachographs monitor and record the amount of time that a commercial driver has spent driving. They are used in heavy goods vehicles, passenger service vehicles and some light goods vehicles. Tachographs allow the enforcement of drivers' hours rules, thereby creating a level playing field for vehicle operators. They also play a crucial role in keeping our roads safe, by ensuring that professional drivers' working hours are not excessive and reducing the risk of accidents as a result of fatigue.

The EU regulation also paves the way for the introduction of new "smart" tachographs that will periodically record a vehicle's location via satellite technology. Those will be more resistant to tampering and allow for easier enforcement. They will also make life easier for drivers by no longer requiring them to manually record their location, meaning a small reduction in business administration.

By updating our domestic legislation in the light of this new European measure, these domestic regulations will ensure that the enforcement of EU drivers' hours and tachograph rules can continue. If we do not make those changes, the UK enforcement agencies—the Driver and Vehicle Standards Agency and the police—risk no longer being able to enforce against tachograph offences. That would not be acceptable; it would compromise road safety and driver welfare.

To ensure effective implementation of the EU regulation, my Department undertook a formal consultation in March 2015. There were two areas of flexibility in the legislation that we have opted to take up, following support from industry. First, we are amending the legislation to continue to take up certain national derogations to drivers' hours rules, thereby potentially reducing the administrative burden on the industry. Secondly, we are allowing the DVSA to authorise field tests of non-type-approved tachographs.

There was broad support for these proposals across the industry, and they are not gold-plating. The consultation supported the view that the impact of the regulations on drivers and operators will be negligible. Drivers' responsibilities will remain the same and the regulations

will extend certain exemptions we have. The changes are low cost—an assessment that the Regulatory Policy Committee has confirmed—and there are likely to be zero net costs to industry and Government as a result of the changes to the domestic framework.

The draft regulations are important for the continued enforcement of important road safety rules and for the future of the commercial driving sector by anticipating the introduction of a new generation of tachograph. They have the support of the industry, which we should remember is an important sector that underpins much of our UK economy.

8.58 am

Richard Burden (Birmingham, Northfield) (Lab): It is a pleasure to serve under your chairmanship for the first time, Mr Hanson.

I hope we will not have to divide the Committee on this statutory instrument, because a lot of it seems non-contentious. I know that the UK prides itself on our high standards of commercial vehicle safety. For example, the Freight Transport Association has observed that there is little evidence of impropriety in this country in relation to the calibration of tachographs. However, I want to press the Minister on one area of the regulations that I have significant concerns about.

While the crux of the regulations is to ensure better quality of tachographs, if I have read them right, they also extend exemptions from drivers' hours rules from 50 km to 100 km. As far as I know, the EU regulation that gave rise to this SI allows that but does not require it. I would appreciate it if the Minister's confirmed whether I am right about that. If I am, and the extension is not required by the EU regulation, one has to ask what Ministers are trying to achieve by inserting it in these regulations.

The Government's explanatory memorandum says:

"Road safety is improved by ensuring that professional drivers' working hours are not excessive".

However, by doubling the radial base for exemptions, do the regulations not have the potential to completely undermine that objective? That certainly seems to be the view of one of the key bodies that the Government consulted on these regulations. The Minister referred to some responses he received from business, but he did not refer to the response he received from Unite, the main trade union involved in the road haulage industry. I draw attention to my entry in the Register of Members' Interests.

I want to quote from the consultation document that the Government put out to interested bodies and from Unite's response. The consultation asked:

"Do you agree that we continue to apply the national derogations to EU drivers' hours (for USPs, vehicles using natural or liquefied gas or electricity and those carrying live animals to market,) with the extension to 100km radius? Please explain your reasons. Also, can you provide any further information on the costs or benefits of the extension of these exemptions/national derogations for any of the various sectors?"

Unite's response was quite instructive:

"Unite believe what we need to remember is the reason the legislation was put in place was to combat driver fatigue. However with changes and derogations i.e. the introduction of Periods Of Availability (POA). The POA has been abused by employers to stretch the driver's working day and get round the law.

Employers have an obligation in law to ensure their employees do not come to any harm at work (Health and Safety regs, Management regs and the Corporate Manslaughter regs).

However tiredness for drivers is endemic (just-in-time) industry imperatives and physiological intimidation seems to be the way transport operations do business today. POA is a tool that is being misused by employers to reinforce these practices. It is time that this is addressed with the removal of POA. This would be a major step in making roads safer for us all."

Question No. 7 in the Government's consultation was:

"Do you believe we should retain the 50km criterion for driver CPC or increase it to 100km? Please explain your reasons".

The response was:

"Unite believes we should retain the 50 km criterion for driver CPC for the reasons stated above".

Looking through the Government's explanatory memorandum for these regulations, I am still none the wiser as to why they felt it necessary to double the distance and the radius-based exemptions in the UK. In fairness to the Freight Transport Association, it has been a bit clearer than the Government. It says:

"The complexity of rules will be significantly reduced by all radius based exemptions being uniform 100 km and therefore reduce the chance that the driver is penalised because he has become confused by the complexity rather than posed a realistic threat to road safety".

I get that, but what I find unsatisfactory is that the Government do not appear to have addressed this issue at all. While the impact assessment looks at this issue, it takes the view that the extension to 100 km will be

"a deregulatory and proportionate measure reducing the administrative and financial burden on businesses and individuals".

Again, I get that, but as far as I can see, the impact assessment makes absolutely no reference to the issue that Unite raised—in other words, any possible implications for safety. Can the Minister outline whether he has received any responses raising concerns about safety and the possible impact on driver fatigue that this extension could have? The impact assessment recognises that there were 95 accidents involving heavy goods vehicles for which fatigue was listed as a contributory factor, so why does that assessment not consider the possibility that that number could increase?

Ruth Cadbury (Brentford and Isleworth) (Lab): My hon. Friend might want to comment on the fact that Brake, the road safety charity, says that one quarter of all crashes on Britain's main roads are tiredness-related and that extending the hours could have a further significant impact, to the detriment of other people on the roads.

Richard Burden: My hon. Friend makes a very good point. Driver fatigue is, to use Unite's word again, "endemic" in the road haulage industry. Drivers have long hours. There are not many other professions in which people do not know where they are going to stop for their next meal or where they will be able to go to the toilet next. They do not know whether they will be stuck in a traffic jam that means that they just cannot finish work when they need to, however tired they are.

My hon. Friend is right. The problem of fatigue affects not only the driver, but potentially other road users; it is a hazard to other road users. It is therefore very unsatisfactory that the Minister appears to have just skated over that. He has not mentioned it at all in his explanatory memorandum or in his statement today.

I therefore ask him to answer this question when he responds to the debate. Why has he not addressed this issue? I want to be confident that the Government are not creating a situation in which more drivers further from home will be under pressure to drive regardless of their fatigue levels. Surely it is reasonable, if we are to pass this SI today, that we get some answers from the Minister on this issue.

We may not get to the bottom of this in the time available today. If a lot of what the Minister proposes in the regulations is sensible, it would be unfortunate if the whole SI had to be held up on this one point. If that is not to happen, we need to know from the Minister what he will do to listen and to act on the concerns that have been expressed to him by hon. Members here today and by Unite. One way he could do that would be by building in a robust review mechanism for the SI, but as far as I can tell he is suggesting precisely the opposite.

Paragraph 12 of the explanatory memorandum, entitled "Monitoring & review", states:

"A review provision should be included in all secondary legislation that regulates business other than in exceptional circumstances where the potential benefits of doing so are clearly outweighed by the potential adverse effects...The reasons for not including a review provision in this instrument are, firstly, that most of the substantive changes that are being made by the instrument are amendments to primary legislation which is outside the scope of the review provision policy. Secondly, almost all of the changes to secondary legislation are simply the updating of references to EU Regulation 165/2014 and as such the introduction of a requirement to review the amended instruments would be disproportionate in the circumstances...Andrew Jones MP has made the following statement regarding the inclusion within the instrument of a periodic review provision:

"It is not appropriate in the circumstances to make provision for review in this legislation."

That is simply not good enough. Either the Minister can fully answer the concerns that have been raised about the extension of the limit from 50 km to 100 km in a way that we can all understand and that is watertight, or, if he cannot do that today, he can acknowledge those concerns and undertake to build in a robust review mechanism and a timetable for that review, through which any concerns can be explored and addressed. What is simply not acceptable is for him to do neither of those things. I therefore invite the Minister to revise what he said in his explanatory memorandum, to commit today to a review of these changes and to tell us what that review will consist of, when it will happen and how he will conduct it.

The reason for that is related to precisely the point that my hon. Friend the Member for Brentford and Isleworth made about improving road safety through more effective enforcement of tachograph legislation. It is important that professional hauliers and drivers have adequate places to stop for rest breaks, as required by law. As I have said, there are not many occupations where someone's place of work makes it unclear when they will get their next meal, where they will next sleep or even when they will be able to use the toilet.

The logistics industry has highlighted a package of measures to make the industry a more attractive place to work. Much of it relies on Government support for the appropriate infrastructure. For example, does the Minister recognise that Highways England must ensure the provision on its network of adequate secure lorry parking, with toilets and provisions?

[Richard Burden]

As an aside, I would be grateful if the Minister updated the Committee on the M20 lorry-park consultation and when he hopes to publish a response. Will he also tell us what the Government are doing to deal with the manpower time bomb in the industry, with the failure to attract sufficient new recruits, when it is vital to our economy?

I gather the regulations are the foundation for the development of what Ministers refer to as “smart” technologies that will automatically record driver location. Will the Minister provide a timeframe for when those might be introduced? Until then, even with these regulations to improve the assessment of tachographs by enforcement bodies, concerns remain about falsification as well as ability of the DVSA to monitor and enforce drivers’ hours effectively.

Although there is little evidence of falsification in the tachograph calibration market in the UK, the Road Haulage Association has recognised that the falsification of tachograph records is one of the most significant offences within the industry, with enforcement agencies unable to track rest stops, and any threat of sanction sadly often woefully weak.

I would be grateful if the Minister revealed whether the trend, highlighted by the RHA and others in the previous Parliament, has continued of a dramatic fall in recent years in the number of roadside checks and issuing of fixed-penalty notices. Will the Minister write to me outlining the figures and the amount generated from fixed-penalty notices issued to drivers of heavy goods vehicles and firms, indicating the proportion relating to tachograph offences?

I would welcome some answers today to the issues I have raised, in particular those that draw on the response that the Minister has already received from Unite. As he is unlikely to bring the Committee to a place where we can reach firm conclusions today, will he do the only possible thing, if the SI is to receive cross-party support, and commit himself to review the operation of the regulations with a clear timetable, so that the issues can be properly addressed? I look forward to his response.

9.13 am

Andrew Jones: There were many questions there. Let me start with the consultation, to which we received 13 responses. I am aware of concerns, but also the broader welcome for the proposals, which I want to put in context. In March 2014, the regulations changed across Europe, so that the exemption was either 100 km or zero. That automatically increased the radius of operation for certain drivers’ hours.

These derogations are common sense and limited. They are limited in distance to 100 km, but they are also limited to the type of vehicle they apply to. They would apply to Royal Mail vehicles, vehicles transporting live animals, and light goods vehicles that are propelled by gas or electricity. This is not a wholesale change to all drivers’ rules. If we had not made the change to 100 km and it was zero—we had a choice of either zero or 100—we would have brought into play thousands of vehicles that are currently outside the scope of the regulations, which would have been disproportionate.

I will write to the hon. Gentleman with information about the number of prosecutions. The number of fixed penalty notices has gone up in the last few years. Some 22,494 fixed penalty notices were issued last year, raising £3.8 million, which is the highest figure for some years. To put that in context, 17,000 fixed penalty notices were issued two years ago, raising £1.9 million—the amount of money raised has doubled in two years. He asked what proportion of that is tachograph-related, and I will have to do some further investigation, but obviously I will write to him.

Richard Burden: If I could take the Minister back to what he said before—this makes the point about why we need a review—if he is right that the EU regulation allows zero exemptions or 100 km exemptions, why is none of that mentioned in any of the paperwork that I have seen so far? How does that work? As I understand it, the whole point of the exemptions is to set out not what the regulation requires, but where there can be national derogations, so how on earth can the regulation say that we can either have zero or 100 km? It allows up to 100 km, but where does it say that we cannot have 50 km?

Andrew Jones: My understanding is that that choice was made in 2014, so we had no choice—that relates to previous amendments that were debated and discussed at the time. Our choice now, two years on, is different—it is a choice of either zero or 100. Let us remember that the choice applies to Royal Mail vehicles, vehicles transporting live animals and light goods vehicles propelled by gas or electricity, and only these categories.

Alan Brown (Kilmarnock and Loudoun) (SNP): I would like some clarity. I have previously received a written answer from the Minister on PCVs—people-carrying vehicles—such as buses, which have exemptions for local services up to 50 km. Will that exemption fall or is it still in place?

Andrew Jones: I think the hon. Gentleman is referring to the question I answered on 10 December 2015. Basically, the exemption applies to small passenger-carrying vehicles—effectively people carriers, with eight passenger seats or fewer. These are effectively private vehicles. Such vehicles are exempt from EU drivers’ hours rules and the need to use a tachograph. The same applies to vehicles with between 10 and 17 seats used for non-commercial purposes, which is effectively a minibus carrying scouts or a club football team, and vehicles that are used to carry passengers along regular routes—effectively a local bus service. Such services will be caught up by the change to 100 km. That is my understanding. If I am not correct, I will of course write to the hon. Gentleman.

In Operation Stack, the M20 lorry park is used when there are blockages at the port of Dover or the port of Calais that mean that HGVs cannot pass through as smoothly as possible. The key has been to get the holding area off the highway, and we have had problems when the M20 was closed in both directions because of problems last summer, which brought much of the local economy to a standstill. There has been a consultation on replacing the holding area, and we do not yet have a date for publishing the results, but it is clear that we

want to press on. This is a national issue, which is why the Government allocated £250 million to create the holding area in Kent, and we want to press on with that as quickly as possible.

The question about benefits for drivers is very important. The road haulage industry is hugely important to our country. If there were no road haulage, we would be running out of food within days. If we do not have the right numbers of drivers, we will struggle. However, there is a piece of work being carried out by the industry, in partnership with Government, on what we can do increase the numbers of people joining the industry. The industry has reckoned that there are some significant gaps in driver numbers; however there is a very positive story in the numbers of people now applying to join the sector. To update the Committee, the data showed that 55,000 applicants joined the industry—took their tests—in the past year, which is a significant upgrade on previous years. My intention is to build on that.

There are initiatives to try to bring people into the industry, working with the Department for Work and Pensions and with the armed forces, bringing in people who are leaving our military, but as well as tackling the supply—people joining the industry—we also have keep people in the industry, which is the retention piece. That is where driver facilities come into play. Driver facilities are simply not good enough—that is clear. I am not sure, however, that we can say that that is the responsibility of Highways England; these facilities are largely delivered by private sector organisations and that should continue.

Timescales for introduction were also mentioned. Essentially, we are looking at 2019 for the introduction of smarter tachographs, but they would not have to be applied to domestic vehicles, I think, for another 15 years—therefore, they would not apply until 2034, which is some way away. I think I have answered all the questions that the hon. Member for Birmingham, Northfield asked.

Richard Burden: There is one question the Minister has not answered and it is crucial to the way we respond today: will he review the operation of these regulations? In other words, will he change what he said in his explanatory memorandum?

Andrew Jones: I review all road safety issues on a rolling basis. I do not think we need to build in any kind of statutory position in legislation to do that. This is a regular feature of all policy development. Road safety is at the heart of what we are trying to do. Tachographs

play a key role in ensuring that drivers are not abused by their employers and not driving when they are tired. They contribute to road safety as part of a broader road safety plan. The Government published our road safety plan in December and it has been widely welcomed by the industry. We do not need to have periods of statutory review, but whenever we look at the data, which are published on a quarterly basis for all road accidents, we of course try to look at the causes, and I obviously keep that under review.

Richard Burden: I am grateful to the Minister for that, but I go back to his explanatory memorandum, which says that review mechanisms should be built into secondary legislation unless there are exceptional reasons not to do so. What are the exceptional reasons for not building in a review mechanism in this case?

Andrew Jones: Let us remember that in this case we are dealing with a very small number of vehicles. The exact nature of the tachographs is still to be defined, so there is further round of legislation to follow, but we are not planning to make any changes, because only a very small number of vehicles are involved.

Question put.

The Committee divided: Ayes 10, Noes 7.

Division No. 1]

AYES

Allen, Heidi	Haselhurst, rh Sir Alan
Andrew, Stuart	Heapey, James
Atkins, Victoria	Jones, Andrew
Davies, Mims	Kennedy, Seema
Doyle-Price, Jackie	Lee, Dr Phillip

NOES

Anderson, Mr David	Glendon, Mary
Brown, Alan	Jones, Graham
Burden, Richard	McMahon, Jim
Cadbury, Ruth	

Question accordingly agreed to.

Resolved,

That the Committee has considered the draft Passenger and Goods Vehicles (Tachographs) (Amendment) Regulations 2016.

9.26 am

Committee rose.

