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► **B** **DIRECTIVE 2006/22/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**
of 15 March 2006

on minimum conditions for the implementation of Council Regulations (EEC) No 3820/85 and (EEC) No 3821/85 concerning social legislation relating to road transport activities and repealing Council Directive 88/599/EEC

(Text with EEA relevance)

(OJ L 102, 11.4.2006, p. 35)

Amended by:

		Official Journal		
		No	page	date
► <u>M1</u>	Commission Directive 2009/4/EC of 23 January 2009	L 21	39	24.1.2009
► <u>M2</u>	Commission Directive 2009/5/EC of 30 January 2009	L 29	45	31.1.2009
► <u>M3</u>	Commission Regulation (EU) 2016/403 of 18 March 2016	L 74	8	19.3.2016

Corrected by:

► **C1** Corrigendum, OJ L 256, 29.9.2009, p. 38 (2009/5/EC)



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Article 1

Subject-matter

This Directive lays down minimum conditions for the implementation of Regulations (EEC) No 3820/85 and (EEC) No 3821/85.

Article 2

Checking systems

1. Member States shall organise a system of appropriate and regular checks on correct and consistent implementation, as referred to in Article 1, both at the roadside and at premises of undertakings of all transport categories.

These checks shall cover each year a large and representative cross-section of mobile workers, drivers, undertakings and vehicles of all transport categories falling within the scope of Regulations (EEC) No 3820/85 and (EEC) No 3821/85.

Member States shall ensure that a coherent national enforcement strategy is applied on their territory. For this purpose, Member States may designate a body for the coordination of actions taken under Articles 4 and 6, in which case the Commission and the other Member States shall be informed thereof.

2. In so far as this is not already the case, Member States shall, not later than 1 May 2007, provide authorised inspecting officers with appropriate legal powers to enable them correctly to discharge their inspection obligations as required by this Directive.

3. Each Member State shall organise checks in such a way that, as from 1 May 2006, 1 % of days worked by drivers of vehicles falling within the scope of Regulations (EEC) No 3820/85 and (EEC) No 3821/85 are checked. This percentage will increase to at least 2 % from 1 January 2008 and to at least 3 % from 1 January 2010.

From 1 January 2012 this minimum percentage may be increased to 4 % by the Commission, in accordance with the procedure referred to in Article 12(2), provided that the statistics collected pursuant to Article 3 show that, on average, more than 90 % of all vehicles checked are equipped with a digital tachograph. In making its decision, the Commission shall also take into account the effectiveness of existing enforcement measures, in particular the availability of digital tachograph data at the premises of undertakings.

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Not less than 15 % of the total number of the working days checked shall be checked at the roadside and not less than 30 % at the premises of undertakings. From 1 January 2008 not less than 30 % of the total number of the working days checked shall be checked at the roadside and not less than 50 % shall be checked at the premises of undertakings.

4. The information submitted to the Commission in accordance with Article 16(2) of Regulation (EEC) No 3820/85 shall include the number of drivers checked at the roadside, the number of checks at the premises of undertakings, the number of working days checked and the number and type of infringements reported, together with a record of whether passengers or goods were transported.

*Article 3***Statistics**

Member States shall ensure that statistics collected from the checks organised in accordance with Article 2(1) and (3) are broken down into the following categories:

(a) for roadside checks:

- (i) type of road, namely whether it is a motorway, a national or a secondary road, and country of registration of the vehicle inspected, in order to avoid discrimination;
- (ii) type of tachograph: analogue or digital;

(b) for checks at the premises:

- (i) type of transport activity, namely whether the activity is international or domestic, passenger or freight, own account or for hire or reward;
- (ii) size of company fleet;
- (iii) type of tachograph: analogue or digital.

These statistics shall be submitted biennially to the Commission and shall be published in a report.

The competent authorities in the Member States shall keep a record of the data collected for the previous year.

Undertakings responsible for drivers shall keep, for a period of one year, the documents, records of results and other relevant data passed to them by the enforcement authorities concerning checks carried out on them at their premises and/or on their drivers at the roadside.

Any further clarification required of the definitions of the categories mentioned under (a) and (b) shall be established by the Commission, in accordance with the procedure referred to in Article 12(2).

*Article 4***Roadside checks**

1. Roadside checks shall be organised in various places and at any time and shall cover a sufficiently extensive part of the road network to make it difficult to avoid checkpoints.

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2. Member States shall ensure that:
 - (a) sufficient provision is made for checkpoints on or nearby existing and planned roads and, if necessary, that service stations and other safe locations along motorways can function as checkpoints;
 - (b) checks are carried out following a random rotation system, with an appropriate geographical balance.
3. The points to be verified at roadside checks are set out in Part A of Annex I. Checks may focus on a specific point if the situation so requires.
4. Without prejudice to Article 9(2), roadside checks shall be carried out without discrimination. In particular, enforcement officers shall not discriminate on any of the following grounds:
 - (a) country of registration of vehicle;
 - (b) country of residence of driver;
 - (c) country of establishment of undertaking;
 - (d) origin and destination of journey;
 - (e) type of tachograph: analogue or digital.
5. Enforcement officers shall be provided with:
 - (a) a list of the principal points to be checked, as set out in Part A of Annex I;
 - (b) standard checking equipment, as set out in Annex II.
6. If, in a Member State, the findings of a roadside check on the driver of a vehicle registered in another Member State afford grounds for believing that infringements have been committed which cannot be established during the check owing to a lack of necessary data, the competent authorities of the Member States concerned shall assist each other in clarifying the situation.

*Article 5***Concerted checks**

Member States shall, at least six times per year, undertake concerted roadside checks on drivers and vehicles falling within the scope of Regulations (EEC) No 3820/85 and (EEC) No 3821/85. Such checks shall be undertaken at the same time by the enforcement authorities of two or more Member States, each operating in its own territory.

*Article 6***Checks at the premises of undertakings**

1. Checks at premises shall be planned in the light of past experience in relation to the various types of transport and undertakings. They shall also be carried out if serious infringements of Regulations (EEC) No 3820/85 or (EEC) No 3821/85 have been detected at the roadside.

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2. Checks at premises shall cover the points listed in Part A and Part B of Annex I.
3. Enforcement officers shall be provided with:
 - (a) a list of the principal points to be checked, as set out in Parts A and B of Annex I;
 - (b) standard checking equipment, as set out in Annex II.
4. Enforcement officers in a Member State shall, in the course of the check take into account any information provided by the designated liaison body of another Member State, as referred to in Article 7(1), concerning the activities of the undertaking in question in that other Member State.
5. For the purposes of paragraphs 1 to 4, checks carried out at the premises of the competent authorities, on the basis of relevant documents or data handed over by undertakings at the request of the said authorities, shall have the same status as checks carried out at the premises of undertakings.

*Article 7***Intracommunity liaison**

1. Member States shall designate a body which shall have the following tasks:
 - (a) to ensure coordination with equivalent bodies in the other Member States concerned as regards actions taken under Article 5;
 - (b) to forward the biennial statistical returns to the Commission under Article 16(2) of Regulation (EEC) No 3820/85;
 - (c) to be primarily responsible for assisting the competent authorities of other Member States pursuant to Article 4(6).

The body shall be represented on the Committee referred to in Article 12(1).

2. Member States shall notify the Commission of the designation of this body and the Commission shall advise the other Member States accordingly.
3. The exchange of data, of experience and of intelligence between Member States shall be actively promoted, primarily but not exclusively through the Committee referred to in Article 12(1) and any such body as the Commission may designate in accordance with the procedure referred to in Article 12(2).

*Article 8***Exchange of information**

1. Information made available bilaterally under Article 17(3) of Regulation (EEC) No 3820/85 or Article 19(3) of Regulation (EEC) No 3821/85 shall be exchanged between the designated bodies notified to the Commission in accordance with Article 7(2):
 - (a) at least once every six months after the entry into force of this Directive;
 - (b) upon specific request by a Member State in individual cases.

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2. Member States shall seek to establish systems for the electronic exchange of information. In accordance with the procedure referred to in Article 12(2), the Commission shall define a common methodology for effective information exchange.

*Article 9***Risk rating system**

1. Member States shall introduce a risk rating system for undertakings based on the relative number and severity of any infringements of Regulations (EEC) No 3820/85 or (EEC) No 3821/85 that an individual undertaking has committed. The Commission shall support dialogue between Member States to encourage consistency between these risk rating systems.

2. Undertakings with a high risk rating shall be checked more closely and more often. The criteria and detailed rules for implementing such a system shall be discussed in the Committee referred to in Article 12, with a view to establishing a system for the exchange of information on best practices.

3. An initial list of infringements of Regulation (EEC) No 3820/85 and (EEC) No 3821/85 is set out in Annex III.

With a view to giving guidelines on the weighting of infringements of Regulations (EEC) No 3820/85 and (EEC) No 3821/85, the Commission may, as appropriate, in accordance with the procedure referred to in Article 12(2), adapt Annex III with a view to establishing guidelines on a common range of infringements, divided into categories according to their gravity.

The category for the most serious infringements should include those where failure to comply with the relevant provisions of Regulations (EEC) No 3820/85 and (EEC) No 3821/85 create a serious risk of death or serious personal injury.

*Article 10***Report**

By 1 May 2009 the Commission shall submit to the European Parliament and to the Council a report analysing the penalties for serious infringements provided for in the legislation of the Member States.

*Article 11***Best practice**

1. In accordance with the procedure referred to in Article 12(2), the Commission shall establish guidelines on best enforcement practice.

Those guidelines shall be published in a biennial report of the Commission.

2. Member States shall establish joint training programmes on best practice to be held at least once per year and shall facilitate exchanges, at least once per year, of staff of their respective bodies for intracommunity liaison with their counterparts in other Member States.

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3. An electronic and printable form shall be drawn up by the Commission in accordance with the procedure referred to in Article 12(2), to be used when a driver has been on sick leave or on annual leave, or when the driver has driven another vehicle exempted from the scope of Regulation (EEC) No 3820/85, during the period mentioned in the first indent of the first subparagraph of Article 15(7) of Regulation (EEC) No 3821/85.
4. Member States shall ensure that enforcement officers are well trained for the execution of their tasks.

*Article 12***Committee procedure**

1. The Commission shall be assisted by the Committee set up by Article 18(1) of Regulation (EEC) No 3821/85.
2. Where reference is made to this paragraph, Articles 5 and 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.

The period laid down in Article 5(6) of Decision 1999/468/EC shall be set at three months.
3. The Committee shall adopt its Rules of Procedure.

*Article 13***Implementing measures**

At the request of a Member State or on its own initiative the Commission shall, in accordance with the procedure referred to in Article 12(2), adopt implementing measures in particular with one of the following aims:

- (a) to promote a common approach to the implementation of this Directive;
- (b) to encourage a coherence of approach between enforcement authorities and a harmonised interpretation of Regulation (EEC) No 3820/85 between enforcement authorities;
- (c) to facilitate dialogue between the transport sector and enforcement authorities.

*Article 14***Negotiations with third countries**

Once this Directive has entered into force, the Community shall begin negotiations with the relevant third countries with a view to the application of rules equivalent to those laid down in this Directive.

Pending the conclusion of these negotiations, Member States shall include data on checks carried out on vehicles from third countries in their returns to the Commission as set out in Article 16(2) of Regulation (EEC) No 3820/85.

*Article 15***Updating of the Annexes**

Amendments to the Annexes which are necessary to adapt them to developments in best practice shall be adopted in accordance with the procedure referred to in Article 12(2).

*Article 16***Transposition**

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 1 April 2007. They shall forthwith communicate to the Commission the text of those provisions and a correlation table between those provisions and this Directive.

When Member States adopt these measures, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. The methods of making such reference shall be laid down by Member States.

2. Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field governed by this Directive.

*Article 17***Repeal**

1. Directive 88/599/EEC is hereby repealed.
2. References made to the repealed Directive shall be construed as being made to this Directive.

*Article 18***Entry into force**

This Directive shall enter into force on the 20th day following its publication in the *Official Journal of the European Union*.

*Article 19***Addressees**

This Directive is addressed to the Member States.

▼B*ANNEX I*

PART A

ROADSIDE CHECKS

The following points shall, in general, be covered by roadside checks:

- (1) daily and weekly driving times, breaks and daily and weekly rest periods; also the preceding days' record sheets which have to be carried on board the vehicle in accordance with Article 15(7) of Regulation (EEC) No 3821/85 and/or the data stored for the same period on the driver card and/or in the memory of the recording equipment in accordance with Annex II to this Directive and/or on printouts;
- (2) for the period referred to in Article 15(7) of Regulation (EEC) No 3821/85, any cases where the vehicle's authorised speed is exceeded, to be defined as being any periods of more than one minute during which the vehicle's speed exceeds 90 km/h for category N₃ vehicles or 105 km/h for category M₃ vehicles (categories N₃ and M₃ being defined in Annex II, Part A to Council Directive 70/156/EEC of 6 February 1970 on the approximation of the laws of the Member States relating to the type-approval of motor vehicles and their trailers⁽¹⁾);
- (3) where appropriate, momentary speeds attained by the vehicle as recorded by the recording equipment in no more than the previous 24 hours' use of the vehicle;
- (4) the correct functioning of the recording equipment (determination of possible misuse of the equipment and/or the driver card and/or record sheets) or, where appropriate, presence of the documents referred to in Article 14(5) of Regulation (EEC) No 3820/85;

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

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PART B

CHECKS AT THE PREMISES OF UNDERTAKINGS

The following points shall be checked at the premises of undertakings, in addition to those set out in Part A:

- (1) weekly rest periods and driving times between these rest periods;
- (2) observance of the two-weekly limitation of driving times;
- (3) record sheets, vehicle unit and driver card data and printouts.

Member States may, if appropriate, check on the joint liability of other instigators or accessories in the transport chain, such as shippers, freight forwarders or contractors, if an infringement is detected, including verification that contracts for the provision of transport permit compliance with Regulations (EEC) No 3820/85 and (EEC) No 3821/85.

⁽¹⁾ OJ L 42, 23.2.1970, p. 1. Directive as last amended by Commission Directive 2006/28/EC (OJ L 65, 7.3.2006, p. 27).

▼ B*ANNEX II***Standard equipment to be available to enforcement units**

Member States shall ensure that the following standard equipment is available to enforcement units carrying out the duties set out in Annex I:

- (1) equipment capable of downloading data from the vehicle unit and driver card of the digital tachograph, reading data, and analysing data and/or transmitting findings to a central database for analysis;
- (2) equipment to check the tachograph sheets;

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

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ANNEX III

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

No	LEGAL BASIS	TYPE OF INFRINGEMENT	LEVEL OF SERIOUSNESS (1)			
			MSI	VSI	SI	MI
A	Crew					
A1	Art 5.1	Not respecting minimum ages for conductors			X	
B	Driving periods					
B1	Article 6.1	Exceed daily driving time of 9h if possibilities to extend to 10h not allowed	9h < ... < 10h			X
B2			10h < ... < 11h			X
B3			11h ≤ ...		X	
B4		Exceed daily driving time of 9h by 50 % or more without taking a break or without any rest of at least 4,5 hours	13h30 ≤ ... and no break/rest	X		
B5		Exceed extended daily driving time of 10h if extension allowed	10h < ... < 11h			X
B6			11h ≤ ... < 12h			X
B7			12h ≤ ...		X	
B8			Exceed daily driving time of 10h by 50 % or more without taking a break of or without any rest of at least 4,5 hours	15h ≤ ... and no break/rest	X	
B9	Article 6.2	Exceed weekly driving time	56h < ... < 60h			X
B10			60h < ... < 65h			X
B11			65h < ... < 70h		X	
B12		Exceed weekly driving time by 25 % or more	70h ≤ ...	X		
B13	Art 6.3	Exceed maximum total driving time during 2 consecutive weeks	90h < ... < 100h			X
B14			100h < ... < 105h			X
B15			105h < ... < 112h30		X	
B16		Exceed maximum total driving time during 2 consecutive weeks by 25 % or more	112h30 ≤ ...	X		

▼ M3

No	LEGAL BASIS	TYPE OF INFRINGEMENT	LEVEL OF SERIOUSNESS (1)			
			MSI	VSI	SI	MI
C						
Breaks						
C1	Article 7	Exceed uninterrupted driving time of 4,5 hours before taking the break	4h30 < ... < 5h			X
C2			5h ≤ ... < 6h		X	
C3			6h < ...	X		
D						
Rest Periods						
D1	Article 8.2	Insufficient daily rest period of less than 11h if reduced daily rest period not allowed	10h < ... < 11h			X
D2			8h30 < ... < 10h		X	
D3			... < 8h30	X		
D4		Insufficient reduced daily rest period of less than 9h if reduce allowed	8h < ... < 9h			X
D5			7h < ... < 8h		X	
D6			... < 7h	X		
D7		Insufficient split daily rest period of less than 3h + 9h	3h + [8h < ... < 9h]			X
D8			3h + [7h ≤ ... < 8h]		X	
D9			3h + [... < 7h]	X		
D10	Article 8.5	Insufficient daily rest period of less than 9h for multi-manning	8h < ... < 9h			X
D11			7h < ... < 8h		X	
D12			... < 7h	X		
D13	Article 8.6	Insufficient reduced weekly resting period of less than 24 h	22h ≤ ... < 24h			X
D14			20h < ... < 22h		X	
D15			... < 20h	X		
D16		Insufficient weekly resting period of less than 45 h if reduced weekly resting period not allowed	42h < ... < 45h			X
D17			36h ≤ ... < 42h		X	
D18	... < 36h	X				

▼ M3

No	LEGAL BASIS	TYPE OF INFRINGEMENT	LEVEL OF SERIOUSNESS ⁽¹⁾				
			MSI	VSI	SI	MI	
D19	Article 8.6	Exceeding 6 consecutive 24-hour periods following the previous weekly rest period	... < 3h				X
D20			3h ≤ ... < 12h			X	
D21			12h ≤ ...		X		
E	12-day rule derogation						
E1	Article 8.6a.	Exceeding 12 consecutive 24-hour periods following a previous regular weekly rest	... < 3h				X
E2			3h ≤ ... < 12h			X	
E3			12h ≤ ...		X		
E4	Article 8.6a. (b)(ii)	Weekly rest period taken following 12 consecutive 24-hour periods	65h < ... ≤ 67h			X	
E5			... < 65h		X		
E6	Article 8.6a. (d)	Driving period, between 22.00 and 6.00, of more than 3 hours before the break, if the vehicle is not multi-manned	3h < ... < 4,5 h			X	
E7			4,5 h ≤ ...		X		
F	Work organisation						
F1	Article 10.1	Link between wage and distance travelled or amount of goods carried		X			
F2	Article 10.2	No or improper organisation of driver's work, no or improper instructions given to driver enabling him to comply with the law		X			

⁽¹⁾ MSI = most serious infringements/VSI = very serious infringement/SI = serious infringement/MI = minor infringement.

2. Groups of infringements against Regulation (EU) no 165/2014 of the European Parliament and of the Council ⁽¹⁾ (Tachograph)

No	LEGAL BASIS	TYPE OF INFRINGEMENTS	LEVEL OF SERIOUSNESS				
			MSI	VSI	SI	MI	
G	Installation of tachograph						
G1	Article 3.1 and Article 22.2	Not having type-approved tachograph installed and used (e.g.: not having a tachograph installed by fitters, workshops or vehicle manufacturers approved by the competent authorities of the Member States, using a tachograph without the necessary seals placed or replaced by an approved fitter, workshop or vehicle manufacturer or using a tachograph without the installation plaque)	X				

⁽¹⁾ Regulation (EU) No 165/2014 of the European Parliament and of the Council of 4 February 2014 on tachographs in road transport, repealing Council Regulation (EEC) No 3821/85 on recording equipment in road transport and amending Regulation (EC) No 561/2006 of the European Parliament and of the Council on the harmonisation of certain social legislation relating to road transport (OJ L 60, 28.2.2014, p. 1).

▼ M3

No	LEGAL BASIS	TYPE OF INFRINGEMENTS	LEVEL OF SERIOUSNESS			
			MSI	VSI	SI	MI
H	Use of tachograph, driver card or record sheet					
H1	Article 23.1	Using a tachograph not inspected by an approved workshop		X		
H2	Article 27	Driver holding and/or using more than one own driver card		X		
H3		Driving with a driver card that has been falsified (<i>considered as driving without driver card</i>)	X			
H4		Driving with a driver card of which the driver is not the holder (<i>considered as driving without driver card</i>)	X			
H5		Driving with a driver card which has been obtained on the basis of false declarations and/or forged documents (<i>considered as driving without driver card</i>)	X			
H6	Article 32.1	Tachograph not correctly functioning (<i>e.g.: tachograph not properly inspected, calibrated and sealed</i>)		X		
H7	Article 32.1 and Article 33.1	Tachograph improperly used (<i>e.g.: deliberate, voluntary or imposed misuse, lack of instructions on correct use, etc.</i>)		X		
H8	Article 32.3	Using a fraudulent device able to modify the records of the tachograph	X			
H9		Falsifying, concealing, suppressing or destroying data recorded on the record sheets or stored and downloaded from the tachograph and/or the driver card	X			
H10	Article 33.2	Undertaking not keeping record sheets, printouts and downloaded data		X		
H11		Recorded and stored data not available for at least a year		X		
H12	Art 34.1	Incorrect use of record sheets/driver card		X		
H13		Unauthorised withdrawal of record sheets or driver card which has an impact on the record of relevant data		X		
H14		Record sheet or driver card used to cover a period longer than that for which it is intended and data is lost		X		
H15	Article 34.2	Use dirty or damaged record sheets or drivers card and data not legible		X		
H16	Article 34.3	Not using manual input when required to do so		X		
H17	Article 34.4	Not using correct record sheet or driver card not in the correct slot (multi-manning)			X	
H18	Article 34.5	Incorrect use of switch mechanism		X		

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No	LEGAL BASIS	TYPE OF INFRINGEMENTS	LEVEL OF SERIOUSNESS			
			MSI	VSI	SI	MI
I Producing information						
I1	Article 36	Refusing to be checked		X		
I2	Article 36	Unable to produce records of current day and the previous 28 days		X		
I3		Unable to produce records of the driver card if the driver holds one		X		
I4	Article 36	Unable to produce manual records and printouts made during the current day and the previous 28 days		X		
I5	Article 36	Unable to produce a driver card, if the driver holds one		X		
J Malfunctioning						
J1	Article 37.1 and Article 22.1	Tachograph not repaired by an approved fitter or workshop		X		
J2	Article 37.2	Driver not marking all required information for the periods of time, which are no longer recorded while tachograph is unserviceable or malfunctioning		X		