

Tachographs: Data Downloading and Record Retention

Contents

1. Executive Summary	2
2. How to respond	3
3. Background	4
4. Proposals for downloading data	8
5. Proposal for retention of record sheets	15
Annex A-Partial Regulatory Impact Assessment	17
Annex B - Frequency of Downloading in other EU/EEA Member States	24
Annex C - Code of Practice on Consultation	26
Annex D - List of Current National and European Legislation relating to digital tachographs	27
Annex E - Consultation response sheet	28

January 2007

1. Executive Summary

1.1 This Consultation Document seeks your views on changes to UK legislation that are required in order to facilitate compliance with tachograph-related elements of new EU drivers hours rules¹.

1.2 Specifically, this Consultation Document considers: -

- the frequency by which data should be downloaded from digital tachograph vehicle units and driver cards,
- the retention by drivers of tachograph-generated records, and,
- offences and penalties for non-compliance.

1.3 The Partial Regulatory Impact Assessment at **Annex A** sets out the Department's initial assessment of the impact that these changes might have on your business.

1.4 There is a response sheet at **Annex E** which we would like you to use to comment on this Consultation Document. The questions are not exhaustive and if you feel we have overlooked a crucial element, or if you wish to raise additional points, please include this in your response.

1.5 This is a UK-wide consultation exercise. However, in respect of Northern Ireland, the new EU drivers' hours rules are a transferred matter and separate legislation and enforcement arrangements will be needed to facilitate compliance. This will be prepared separately by the relevant Northern Ireland Departments (working closely with the Department for Transport). Whilst the existing domestic legislation referred to in this Consultation Document is mostly GB specific, the corresponding legislation will also be changed in Northern Ireland. In view of the specific equality requirements of section 75 of the Northern Ireland Act 1998, equality considerations will be addressed in Northern Ireland as part of the preparations for the legislative process. Any responses to this consultation relating to Northern Ireland will be forwarded to the relevant Northern Ireland Departments.

1.6 The new EU drivers' hours rules are a reserved matter in respect of Scotland and Wales. These devolved administrations will have the opportunity to comment, as part of the consultation exercise, before the planned changes are implemented.

1.7 The deadline for responses to this consultation is 12th April 2007.

1.8 A summary of responses to this consultation will be published on our website: www.dft.gov.uk after the consultation period has closed.

Code of Practice

1.9 This consultation is being conducted in accordance with the criteria contained in the Cabinet Office's "Code of Practice on Written Consultation". A summary of the criteria is at **Annex C**. Also included are details of the Cabinet Office website where a full version of the Code can be found, and a contact point should you wish to make a complaint about the consultation process itself.

¹ Regulation (EC) No. 561/2006 which was published in the Official Journal of the EU on 11th April 2006

2. How to respond

2.1 The consultation period began on 18th January 2007 and will run until 12th April 2007.

2.2 We would welcome an early response, if possible. All responses, however, must be received by the deadline of 12th April 2007.

2.3 Annex E below sets out the specific questions we would like you to answer

2.4 If you would like further copies of this Consultation Document, it can be found at www.dft.gov.uk or you can contact Steve Oliver on telephone number 020 7944 2756.

2.5 Please send consultation responses to:

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Logistics Policy Branch 1

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Zone 2/25

Great Minster House

76 Marsham Street

London

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Fax: 020 7944 2928

Or you can e-mail them to: Steve.Oliver@dft.gsi.gov.uk

2.6 When responding, please state whether you are responding as an individual or representing the views of an organisation. If responding on behalf of a larger organisation, please make it clear who the organisation represents and, where applicable, how the views of members were assembled.

2.7 A list of those consulted is available from the Department's website at www.dft.gov.uk. If you have any suggestions of others who may wish to be involved in this process please contact us.

2.8 All information in responses, including personal information, may be subject to publication or disclosure in accordance with the access to information regimes (these are primarily the Freedom of Information Act 2000, the Data Protection Act 1998 and the Environmental Information Regulations 2004). If you want your response to remain confidential, you should explain why confidentiality is necessary and your request will be acceded to only if it is appropriate in all the circumstances. An automatic confidentiality disclaimer generated by your IT system will not, in itself, be regarded as binding on the Department.

2.9 All responses, including those given in confidence, will be included in any overall statistical summary of responses.

3. Background

3.1 A new EU Regulation on drivers' hours includes various provisions relating to tachographs which will affect all drivers and transport operators using vehicles equipped with such recording equipment, wherever they are in the European Union. Changes to UK domestic legislation will be necessary in order to provide for compliance with these new EU requirements and to allow UK enforcers to take effective action against non-compliant drivers or operators.

Legislative background

3.2 EU drivers' hours rules² limit driving time and set minimum break and rest requirements.

3.3 The rules, which apply to most HGV drivers and about half the bus and coach drivers in the UK, are intended to promote road safety, improve working conditions for drivers and to help ensure fair competition across the EU.

3.4 When the EU first adopted the rules in 1985, Member States also agreed to require certain commercial vehicles to be fitted with a tachograph³. Tachographs are devices used to record drivers' activities - digital tachographs do this electronically. These records are used to enforce the EU drivers' hours rules.

3.5 A new EU Regulation on drivers' hours⁴, intended to be simpler and easier to enforce, was published in the Official Journal of the EU in April 2006 and will, for the most part, come into force in April 2007⁵. However, certain provisions relating to tachographs came into force just 20 days after publication in the Official Journal - on 1st May 2006:-

- the fitting and use of digital tachographs became mandatory for any in-scope vehicles put into service for the first time from that date⁶,
- a requirement for Member States to make domestic legislation mandating how often data must be downloaded from both the digital tachograph Vehicle Unit and the associated drivers' cards (the actual frequency of downloading is left to Member States' discretion), See paragraphs 3.9 to 3.10 and section 4 below, and,
- revised requirements for drivers to carry tachograph records with them in their vehicles (both digital tachograph data and/or the paper charts generated by earlier generation, analogue, tachographs). Under certain circumstances, these requirements are incompatible with long-standing domestic legislation requiring such records to be returned to employers ("the 21 day rule") and we need, therefore, to amend that domestic legislation. See paragraphs 3.11 to 3.13 and section 5 below

² Council Regulation (EEC) 3820/85

³ Council Regulation (EEC) 3821/85

⁴ Regulation (EC) No. 561/2006

⁵ See the Department for Transport's Consultation Document entitled "*Legislative changes to comply with a new European Regulation on drivers' hours*" - October 2006

⁶ This mandatory fitting date was reflected domestically in *The Passenger and Goods Vehicles (Recording Equipment) (Fitting Date) Regulations 2006* - SI 2006 No. 1117

Digital tachographs

3.6 Further background on digital tachographs can be found at <http://www.digitaltachograph.com> but, very basically, there are three elements required in order to be able to use a digital tachograph⁷:-

- a motion sensor,
- the digital tachograph itself - usually referred to as the Vehicle Unit. This will be permanently fitted to the vehicle in question and will record details of that vehicle's activities as well as generating the information recorded on Driver Cards (see below), and,
- smart cards.

Four types of smart card are used with digital tachographs:

- the "Driver Card" which a driver requires in order to be able to use a digital tachograph. Every driver who uses a vehicle or vehicles equipped with a digital tachograph will require their own Driver Card (these are valid for five years and can be obtained from the DVLA for £38). The driver must insert his or her Driver Card into the Vehicle Unit every time that he or she uses a vehicle equipped with a digital tachograph. The Driver Card will record details of the card holder's activities,
- the "company card" which will be used by employers to interrogate Vehicle Units (e.g. to extract data for fleet management purposes),
- the "workshop card" which will enable approved workshops to activate, calibrate and properly inspect digital tachographs, and,
- the "control card" which will be used by enforcers to interrogate Vehicle Units (e.g. to access data necessary to determine compliance with the EU drivers' hours rules).

3.7 For many years now enforcers have been able to take appropriate action in cases where there are abuses of:

- the EU drivers' hours rules,
- analogue recording equipment, and,
- the records generated (which may have been falsified or doctored in such a way that they do not constitute an accurate and authentic record).

3.8 On 5th August 2005, domestic regulations⁸ came into force, which further extended the offences and penalties to include the records and data produced by digital tachographs and associated smart cards. Enforcers can now draw on these powers to deal with record-keeping offences involving the use of digital tachographs.

Data downloading

3.9 Under the new EU drivers' hours Regulation, Member States are required to make domestic legislation mandating how often data must be downloaded from both the digital tachograph Vehicle Unit and the associated Driver Cards (if data is not downloaded frequently enough, it may be lost. This is because both Vehicle Units and Driver Cards have limited memory capacity and automatically

⁷ For the purposes of this Consultation Document, the term "digital tachograph" or "digital recording equipment" means recording equipment that conforms to the technical specification set out in Annex 1B of Council Regulation (EEC) 2135/98

⁸ Statutory Instrument 2005 No 1904 (The Passenger and Goods Vehicles (Recording Equipment) Regulations 2005

over-write data when that capacity is exceeded). However, the actual frequency of downloading is left to Member States' discretion⁹.

3.10 In the light of this consultation exercise, we will need to make domestic Regulations which mandate the frequency of data downloading (from both digital tachograph Vehicle Units and Driver Cards) and set out the offences and penalties for failing to comply. Further details are set out in section 4 below.

Record retention

3.11 Under the new EU drivers' hours rules¹⁰, there are new requirements relating to the information that drivers must be able to produce whenever an inspecting officer so requests (e.g. at a roadside check):-

drivers using vehicles fitted with analogue tachographs must be able to produce:-

- record sheets for the current week and those used by the driver in the previous 15 days,
- their digital tachograph Driver Card (if the driver holds one), and,
- any manual record and printout made during the same period, and,

drivers driving vehicles fitted with digital tachographs must be able to produce:-

- their digital tachograph Driver Card
- any manual record and printout made during the current week and the previous 15 days, and,
- any analogue tachograph record sheets for the same period (i.e. covering occasions where the driver drove an analogue tachograph equipped vehicle).

3.12 The new requirements described in paragraph 3.11 above came into force from 1st May 2006, but from 1st January 2008, the time period will be extended to include the current day and the previous 28 days¹¹ (in other words, the driver will have to have about him 29 days' worth of records, in one form or another).

3.13 The new, directly applicable, EU requirements described in paragraphs 3.9 and 3.11 above are inconsistent with domestic legislation, which currently stipulates¹² that drivers' hours records must be returned to employers every 21 days - the so called "21 Day Rule". To address this inconsistency, we will need to amend the domestic legislation. Again, this Consultation Document seeks your views and we will make changes in the light of this consultation - further details are set out in section 5 below.

Existing domestic legislation

3.14 For reference purposes, a full list of the various elements of national legislation already in place relating to the installation and use of digital tachographs can be found at Annex D.

⁹ However, under Article 10(5)(c) of Regulation (EC) 561/2006, the European Commission reserves the right to set a maximum period within which data shall be downloaded

¹⁰ See Regulation (EC) No 561/2006, Article 26(4) - amending Article 15, paragraph 7 of Council regulation (EEC) No 3821/85.

¹¹ Ditto previous reference.

¹² See Part VI of the 1968 Transport Act (as amended) - Section 97A

Partial Regulatory Impact Assessment

3.15 The "partial Regulatory Impact Assessment" (RIA) at Annex A sets out our initial assessment of the impact that the requirement to fit and use digital tachographs might have on your business. The underlying cost assumptions in the partial RIA (see section (c) of Annex E which summarises these assumptions and asks you to comment on whether or not they are reasonable) reflect information gathered from a range of sources, including vehicle manufacturers, tachograph manufacturers, tachograph analysis bureaus and trades associations. We would welcome your views on this initial analysis and whether or not it is consistent with your experience (or expectations).

3.16 The partial RIA covers the specific impact of the changes we are proposing in this document.

3.17 In developing the partial RIA, a crucial point we have borne in mind is that although the introduction of the digital tachograph will change the way driver and vehicle activities are recorded, it will not, broadly speaking, alter the sort of information that is recorded (namely driving time, rest, breaks, etc).

3.18 At the end of this consultation exercise, and based on the responses we get from you, we will produce a full Regulatory Impact Assessment which will form part of this package to be put before Parliament alongside the new domestic Regulations referred to in paragraphs 3.10 and 3.13 above.

4. Proposals for downloading data

Downloading - requirements & background

4.1 Digital tachograph Driver Cards and Vehicle Units automatically over-write previously recorded data when their memory capacities are exceeded. How frequently this happens will depend on vehicle usage, but, typically, a Driver Card is intended to hold around 28 days worth of data and a Vehicle Unit 365 days. Once data is overwritten, it is lost forever. Therefore, in order to be able to ensure that they can demonstrate compliance with drivers' hours rules, operators need to download Driver Card and Vehicle Unit data regularly.

4.2 Apart from providing enforcement officers with the information they need to ensure that drivers and operators are obeying the rules, downloaded digital tachograph data should provide operators with a useful tool in terms of managing their fleets and staff.

4.3 Data will need to be downloaded from any Driver Cards or Vehicle Units used in scope of the EU drivers' hours rules. It will also need to be downloaded from any Driver Cards or Vehicle Units (such as those used by postal services) used to demonstrate compliance with the separate UK domestic drivers' hours rules.

4.4 Transport operators using digital tachograph equipped vehicles (and which fall within scope of the EU drivers' hours rules) are required¹³ to download all data that has not been previously downloaded from the digital tachograph Vehicle Unit and Driver Card, in order to ensure that there is a continuous record of both.

4.5 The new EU drivers' hours Regulation requires Member States to stipulate how regularly data must be downloaded¹⁴. Operators are further required to ensure that data is downloaded more frequently than stipulated if this is necessary to ensure that data is not lost.

4.6 In order for operators to be able to access and download data relating to their own drivers or vehicles, and to fulfil their obligations under our proposals (see paragraph 4.10 onwards) they should use a Company Card. The Company Card does not copy or store any data, it simply acts as a "lock" for operators to (a) have access to their own data and (b) prevent unauthorised access to their data. This is necessary in order to respect the rules relating to data protection. Company Cards, like Driver Cards, are also available from DVLA and are valid for a five year period.

4.7 Whilst they will be obliged to download digital tachograph data, operators are free to choose how they do this. There are a range of downloading options open to operators. Some may not wish to download the data themselves - and they do not have to do so. For example, some transport operators may consider that it is simply not worth the cost of purchasing the necessary computer equipment, or to upgrade any current system they have, in order to download data. They may find it more economical to enter a contractual undertaking for a third party (such as an analysis bureau) to download, store and, where applicable, analyse the data for them. In these circumstances, ultimate responsibility still rests with the operator to ensure compliance with the Drivers' Hours Rules, and make sure that the data and the digital signature¹⁵ is, nevertheless, downloaded, stored and inspected periodically at least.

¹³ See Regulation (EC) No. 561/2006, Article 10(5)(a)(ii)

¹⁴ Ditto previous footnote

¹⁵ The "digital signature" is a security feature to protect the recorded data. Annex 1B - Council Regulation (EEC) 2135/98 - describes it as data appended to, or a cryptographic transformation of, a block of data that allows the recipient of the block of data to prove the authenticity and integrity of the block of data.

4.8 Whilst operators are required to keep tachograph data in chronological order¹⁶, we propose that this is also done in such a way so that it is sorted and stored to clearly differentiate between vehicle and driver. This is not only good house-keeping, but it provides both fleet managers and enforcers easy access to data in a way that makes it readily available, thus saving time and inconvenience.

4.9 In this way, the means and details of data storage becomes unimportant, since any convenient and appropriate electronic storage medium can be used. The important thing is that the data, whether stored at a company premises or remotely, must be made available at a point convenient for the company and the control officer. This means that downloaded data can be archived and made accessible to enforcers in almost the same way as charts are accessible today.

Proposals for Downloading Requirements in the UK

4.10 When considering how often digital tachograph data should be downloaded by UK operators and drivers, we have applied the following principles:-

- transport operators are ultimately responsible for their own data;
- they have to be considered as liable for any loss of data. Operators must take all reasonable steps to protect downloaded data from loss (we would not, for example, consider loss of a computer to be an excuse for not having the data), and,
- operators must be in a position to hand over data, or make it accessible to, the enforcement authorities

4.11 In order to comply with the new EU drivers' hours Regulation, we need to put in place arrangements that ensure that operators and drivers download data frequently enough to prevent any loss (by "over-writing" old data with new data, for example) and to make it an offence when this is not done.

Options

4.12 We have identified 3 options for the UK to implement the downloading requirement.

4.13 **Option A** would involve making each transport operator responsible for deciding how frequently data should be downloaded (from either Driver Cards or digital tachograph Vehicle Unit) by their employees. This would allow different types of operators to set different requirements tailored to the needs of their businesses. For example a multi-drop delivery operation may need to download from Driver Cards every 20 days because of the volume of data stored - whereas a long distance operator may find it more appropriate to download data every 28 days. Operators would then have the flexibility to align downloading requirements with their existing pay or other management systems (assuming this was possible without data being lost).

4.14 However, in order to prevent potential avoidance of the downloading requirement, we envisage that every operator would need to have a written policy which was clearly communicated to their employees and available for inspection by the Vehicle and Operator Services Agency (VOSA) at any time. The operator would be required to ensure that the policy:

- fits the needs and circumstances of their operations;
- is robust enough to ensure that all data is regularly downloaded to show compliance with the rules; and
- provides a full and complete record of vehicle and driver activities and which can be made available to an inspecting officer whenever he/she requests it.

¹⁶ see Regulation (EC) No. 561/2006, Article 26(2) amending Article 14(2) of Regulation (EEC) No 3821/85

4.15 Developing and implementing such a policy would involve an additional cost to operators since, to make enforcement consistent, operators would need to ensure that their written policies were in line with current audit and quality management procedures. This would include a quality manual that employees could refer to and employers could use; a policy statement and a range of documentary and audit procedures. There is a significant cost associated with this and it would also require VOSA to become an accredited certification authority (or to employ an external body such as the United Kingdom Accreditation Service (UKAS) to carry out accreditation).

4.16 Initial feedback from industry contacts suggests that, even if such an option were feasible, industry would still prefer a clearer timescale regarding downloading. Additionally, as an accredited certification body VOSA would have to check compliance with the rules and take action where shortcomings or breaches were detected (and such policies - existing in a diverse environment - would be under constant scrutiny, possibly subject to certification and always required to adopt any new updates or modifications.)

4.17 The other two options both involve setting a statutory maximum time between downloads - effectively saying that data should be downloaded at least every "X" days from the Driver Card and every "Y" days from the Vehicle Unit.

4.18 Under **Option B** this would be at a sufficiently frequent level (for example every 14 days for Driver Cards and 56 days for Vehicle Units) to avoid any possibility whatsoever of data being overwritten. Because of this there would be no separate responsibility on the operator to ensure that data was not overwritten.

4.19 **Option C**, however, involves having a longer maximum time between downloads for Driver Cards (say every 28 days) but involves retaining a responsibility on operators and drivers working in operations (such as multi-drop deliveries) where this might be too long a time period to ensure that more frequent downloading takes place to ensure that data is not erased. The secondary legislation envisaged by this Consultation Document would require that data is downloaded at specific time intervals or more frequently if necessary to ensure that as much data as is reasonably practicable was downloaded. VOSA would have the power to take enforcement action if either: (a) downloading did not take place within the specified intervals, or (b) there was missing data as a result of a failure to download on a more frequent basis.

4.20 We consider that **Option C** is likely to be the most appropriate way forward - because it provides clarity for the majority of drivers and operators without imposing excessive requirements. Although **Option A** may appear to offer greater flexibility for industry, we have concerns that in practice it might actually prove to be more costly or burdensome than a fixed requirement. It also creates the possibility of not being able to properly benchmark different audit systems necessary to ensure that compliance is spread consistently across the diversity of the industry. And it would make it more difficult for drivers to understand their responsibilities (especially in the case of drivers new to operators or working on a short term basis for them). On the other hand, we consider that **Option B** risks placing an unnecessary burden on significant parts of the industry - which would download data more frequently than was actually required.

Question 1

*In your response to this consultation, we would like you to tell us if -
you agree that Option C should be adopted? or;
if not, which option would you prefer and why?*

4.21 If, following consultation, we progress with our preferred approach of Option C, we propose setting a maximum time between downloads of 28 calendar days (the average data level held) for Driver Cards and 56 calendar days for Vehicle Units. We are proposing the comparative short period of 56 calendar days for enforcement reasons. Under current Court procedures, any case for

prosecution needs to be submitted within 5 months of the offence being committed. On average it takes VOSA or the police around 2-3 months to prepare a case, so if prosecutions are to be taken effectively, data that is no more than 2 months old will need to be readily available to enforcers. In practice operators may want to align downloading from Vehicle Units with 4 or 6-weekly vehicle checks, but they would be free to leave it for a full 56 days if they would prefer to do so.

4.22 For information about what other Member States (many of whom do not face the same time constraints on progressing prosecutions) have done regarding the frequency of downloading, please see Annex B. As you will see, we consider our proposals on Driver Cards to be commensurate with the broad approach being adopted across the European Union, whilst at the same time reflecting the balance that needs to be struck between making an appropriate level of data available to enforcement officers on request, and at the same time relieving industry from having an unnecessary or too substantial administrative burden. However our proposals on downloading data from Vehicle Units are more stringent simply because of the time constraints imposed by the UK justice system.

Question 2

*Whether or not you support **Option C**, do you agree that if this approach were adopted:*

28 days is an appropriate maximum time between downloads for Driver Cards?

If not what alternative frequency would you propose?

56 calendar days is an appropriate maximum time between downloads from Vehicle Units?

If not what alternative frequency would you propose?

4.23 If, following consultation, we were to progress with **Option B** which would involve shorter downloading times, we would propose setting a maximum time between downloads of 14 calendar days for Driver Cards, but for the enforcement reasons set out above would envisage retaining 56 calendar days for Vehicle Units.

Question 3

*Whether or not you support **Option B**, do you agree that if this approach were adopted:*

14 days is an appropriate maximum time between downloads for Driver Cards?

If not what alternative frequency would you propose?

56 days is an appropriate maximum time between downloads from Vehicle Units?

If not what alternative frequency would you propose?

Other circumstances in which downloading will be required

4.24 In addition to the regular downloading requirement discussed above, we also intend to require a transport operator or driver to download data in the following circumstances:

- whenever a digital tachograph-equipped vehicle is sold (or is no longer used by the operator);
- whenever a Vehicle Unit is faulty or ceases to function correctly;
- whenever the operator is requested to do so by an enforcement officer; and,
- whenever an employed driver leaves the company.

4.25 In the case of drivers using hired or leased vehicles, it will be for the transport operator hiring or leasing the vehicle to enter into a contractual arrangement for the hiring or leasing company to

download the data from the digital tachograph Vehicle Unit on behalf of the operator, and to hand the data back to the operator in an appropriate format, with the digital signature¹⁷.

4.26 Alternatively, operators could provide all of their employed drivers using hired and leased digital tachograph-equipped vehicles with Company Cards, but we do not recommend this, since it creates the possibility for the driver to breach the Data Protection Rules.

Question 4

Do you agree that it is appropriate to require downloading in all of these circumstances?

If not, which circumstances should be excluded and why?

Are there any additional circumstances in which downloading should be required? If so what are they?

4.27 There are other situations in which data could be lost, other than overwriting of storage devices. With vehicles, there is the possibility that the vehicle will be taken over by someone else, particularly if it is a hired or leased vehicle. This means that there is the possibility that relevant data of previous owners or users may be lost (simply because the original operator might not have had the opportunity to get to the vehicle to download the Vehicle Unit).

4.28 There is also the problem of what to do if the digital tachograph Vehicle Unit is faulty and does not work properly, but it is still possible to download the data. Whilst the digital tachograph Vehicle Unit itself can be replaced in the vehicle, the faulty unit may end up decommissioned but still with vital data contained on it. Given that EU requirements make it clear that transport operators are responsible for the accessibility of their data, we will require that, where it is not possible to download data from a digital tachograph Vehicle Unit (because it is broken or malfunctioning), a certificate of undownloadability must be produced if operators request a workshop to attempt the download.

4.29 Although there is no legal obligation on the part of the operator to be in possession of an undownloadability certificate if he has not gone to a workshop to try to download the data, (since the operator could legitimately hand over the broken VU to VOSA or may not have had the opportunity to get to a workshop), there is a legal requirement on the workshop to produce an undownloadability certificate if they cannot download the data from a Vehicle Unit. However, once the operator has been issued the certificate then he must present it (instead of the VU itself) if requested to do so. These certificates will only be available from, and issued by Tachograph Calibration Centres approved by VOSA.¹⁸

4.30 The undownloadability certificate is an important document, and is as vital as any downloaded or printed record. It is therefore important that, as part of the general record-keeping requirements associated with digital tachographs, it is kept and stored in a safe place and is available to inspecting officer whenever it is requested.

4.31 Consideration also needs to be given to those situations where the driver(s) are hired on a temporary basis. In these situations, full record must always be available and accessible by enforcement officers, irrespective of the frequency of downloading determined by the national authority.

4.32 In addition, where downloading of data from a Driver Card is not possible, because the card has been lost, or stolen, or is malfunctioning, transport operators must also provide, on request, enforcement officers with print-outs (signed by the driver) from the beginning and end of each session

¹⁷ With VOSA, we are developing best practice guidelines in order to set out the best way for transport operators, who hire or lease vehicles to access data from vehicles that do not belong to them and which may not be easily accessible to, when the data needs to be downloaded. This will also cover issues such as the Company Locks and Data Protection rules.

¹⁸ Details of your nearest Approved Calibration Centre capable to provide this service for digital tachographs is available from VOSA's website (www.vosa.gov.uk) or by calling the VOSA Enquiry Unit on 8070 6060440. At the time of publication of this document 354 of the 543 GB approved calibration centres were approved to provide this service.

relating to those periods that the driver is not able to provide electronic data of his/her activities which would normally have been recorded onto the Driver Card.

Summary of downloading proposal

4.33 For the avoidance of doubt, the Government's current proposal for downloading requirements, and upon which draft legislation is being prepared (but which may change as a result of the views expressed in this consultation) is as follows:

For Driver Cards we propose that digital tachograph data downloading must take place:

- (a) prior to the overwriting of the data;
- (b) before the driver ceases to be employed by his/her company; or - where companies use self-employed drivers or drivers hired from an agency - at the end of the period for which that driver is used;
- (c) whenever the digital tachograph equipped vehicles leave the control of the operator or his employed drivers (i.e., his hired out, leased, lent or otherwise not accessible to the original operator or driver). This is to ensure that in those circumstances where neither the operator nor driver have later access to a digital tachograph, but have Driver Cards with data stored on them, the data will already have been downloaded;
- (d) whenever is necessary to avoid the foreseeable erasure of data;
- (e) and in any event, at least once every 28 calendar days.

4.34 For drivers and transport operators in the UK we propose that all data from the digital tachograph Vehicle Unit should be downloaded, by transport operators:

- (a) immediately before permanently or temporarily transferring control of the vehicle to another person¹⁹ or company;
- (b) whenever the digital tachograph Vehicle Unit ceases to function correctly, but can still be downloaded²⁰.
- (c), whenever is necessary to avoid the foreseeable erasure of data;
- (d) and in any event, at least once every 56 days calendar days.

Summary of Enforcement and Offences

4.35 As already noted above, the new EU drivers' hours rules require transport operators to download all data from the Vehicle Unit and Driver Card as regularly as is stipulated by the Member State. We would like to recreate this requirement in the domestic Regulations envisaged by this Consultation Document in order to make sure that operators download their Vehicle Units and Driver Cards to prevent data being lost or over-written.

4.36 To this end, there has to be a new offence for not downloading data from a digital tachograph Vehicle Unit or Driver Card within the defined time period, since data may be lost or over-written. To set differing rules about records when using one type of recording equipment rather than another (i.e., analogue or digital) would contravene EU law. VOSA require access to the data within tight

¹⁹ By this we mean the transfer of a vehicle to a person acting as/or for another **transport operator** not the transfer of the vehicle to a **driver** employed by the same person or company;

²⁰ The legislation requires drivers to get their VU repaired by an approved workshop as soon as circumstances permit or, if the vehicle is able to return to its premises within a period of one week calculated from the day of the breakdown, the repair shall be conducted *en route*. Workshops are required to provide undownloadability certificates whenever the data cannot be downloaded, even after a repair.

Tachographs: Data Downloading and Record Retention

deadlines over a sufficient period of time to make sure that they can capture, as far as reasonably possible, a full record, and to take action where abuses are identified. By setting out an offence for not downloading data does not then discriminate unfairly against drivers or transport operators who comply with the rules when using analogue tachographs.

4.37 Additionally, enforcement officers will also require data to be supplied within 24 hours following a request by an enforcement officer involved in the investigation of a serious incident. Alternatively, the requirement for a download if requested by an enforcement officer to be made within 7 days in other cases. In any case, data will be made available to the enforcement officer within 7 days of the request. These requirements will also be set out in the legislation.

4.38 The penalty for failure to download and store data, and make the downloaded data available to enforcement officers will be a level 5 fine (currently up to £5000).

4.39 The defence for someone not being able to download data from either the Vehicle Unit or the Driver Card is if the equipment is not working properly or if, in such circumstances, the driver was complying with the EU rules which prevented him, whilst on a journey, from getting the equipment repaired.

5. Proposal for retention of record sheets

5.1 The current EU drivers' hours Regulations require²¹ that employers (operators) should make periodic checks of their drivers' activities to ensure that they are complying with the drivers' hours rules.

5.2 This requirement is reflected in national UK legislation²² which requires that drivers, unless they have a reasonable excuse, must return any record sheet which relates to them to their employer within 21 days of completing it - "the 21 day rule" - thereby enabling employers to meet their obligations.

5.3 However, the new EU drivers' hours Regulation²³ takes into account the situation that will exist with the combinations of records that will be required to be presented at the roadside by drivers who may have used analogue and/or digital tachograph, in particular those records that are not electronic. This is important to ensure that a driver can provide to enforcement officers a continuous record of all his activities over the specified time, irrespective of what type of recording equipment he has used (analogue or digital).

5.4. Where a driver drives a vehicle fitted with an analogue tachograph, he will be required to produce record sheets for the current week and those used by him in the previous 15 days, as well as his digital tachograph Driver Card (if he holds one). He will also be expected to produce any manual record and printout made during the same period. Conversely, where a driver drives a vehicle fitted with a digital tachograph, he will be required to produce his Driver Card and any manual record and printout made during the current week and in the previous 15 days. He will also be expected to produce any record sheets used during the same period when driving a vehicle fitted with an analogue tachograph.

5.5 These new rules are extant²⁴; but from 1 January 2008, the time period will be redefined to include the current day and the previous 28 days (in other words, the driver will have to have 29 days' worth of records, in one form or another).

5.6 Whilst this requirement is then consistent with the general principle that the Driver Card used in conjunction with a digital tachograph will be able to store up to 28 days' worth of data (depending on the range and number of activities that a driver performs), it creates an inconsistency with the "21 day rule" for returning records in national regulations. The "21 day rule" will need to be amended to address this.

5.7 Since the change impacts directly on the record-keeping associated with digital tachographs (implicitly Driver Card data storage, directly with print-outs), it seems sensible to include an additional provision in the domestic Regulations envisaged by this Consultation Document, and to do so now, rather than return to it in a year or so.

5.8 In anticipation of the EU requirement from 1st January 2008, we propose that the domestic "21 day rule" should be replaced by a requirement for drivers to return records to their employers within every 35 days. This would meet the forthcoming 28 day requirement, but give an additional seven days for the driver to access all these documents and be able to hand them over.

Question 5

²¹ Article 15 (2) of Council Regulation (EEC) 3820/85;

²² See Part VI of the 1968 Transport Act (as amended) - Section 97A;

²³ Regulation (EC) 561/2006 will replace and repeal Council Regulation (EEC) N° 3820/85, for the most part with effect from 11th April 2007, but certain provisions came into effect in May 2006, including new requirements relating to data retention by drivers

²⁴ The majority of changes to drivers hours resulting from Commission Regulation (EC) 561/2006 do not come into effect until April 2007. The requirement for drivers to be able to provide records for the current week and the previous 15 days was, however, introduced with effect from 1st May 2006.

Tachographs: Data Downloading and Record Retention

Do you agree that it is reasonable to require the return of records to employers within a period of every 35 days? Or, if not;

What period would you prefer and why?

5.10 Separately, we wish to amend existing domestic legislation²⁵ to ensure that a driver who is employed or at the disposal of more than one transport operator shall notify and provide sufficient information to each operator that the driver works for in order for that employer to comply with its own obligations under the Drivers' Hours rules.

5.11 This amendment will not impose anything new on drivers or operators, but will simply clarify the requirement. There is already a penalty for failing to comply (a Level 4 fine - up to £2500) and we do not expect this to change.

5.12 Finally, the new EU drivers' hours regulations make a further reference to retaining such records in "chronological order". Our proposed legislation would also include this requirement, therefore making it easier for enforcers to inspect records, rather than having to sort through boxes of records for specific events (this is also referred to in section 4.8 where we have taken an interpretation of what is meant by chronological order).

²⁵ 1968 Transport Act (as amended) – section 97A(1)(b)

Annex A-Partial Regulatory Impact Assessment

1. Title of proposal

1.1 Legislative changes to comply with new EU Regulations relating to downloading and record retention from digital tachographs.

2. Purpose and intended effect

2.1 Objective

2.1.1 To make Regulations providing for the downloading of data acquired by digital tachographs and to amend existing domestic legislation regarding record retention to bring it into line with new EU requirements.

2.1.2 Key objectives for this exercise are that:

the enforcement of the drivers' hours rules continues to be effective following the introduction of the digital tachograph^h

such enforcement continues to promote better road safety and fair competition, and

where abuses occur, they are dealt with effectively, proportionately and promptly.

2.1.3 In addition, an overall objective is to make sure that the right balance is struck between ensuring compliance with the rules by fair and proper enforcement, whilst ensuring that the requirements on you to meet those obligations do not impose an unreasonable or unnecessary burden or cost on business.

2.2 Background

2.2.1 European drivers' hours and tachograph rules require most HGVs and coaches to be equipped with a device to monitor drivers' driving times and rest periods through recording the time, speed and distance of journeys. The rules also require that drivers and operators keep records of hours worked. EU Regulation put in place in 1985 requires the use of a device known as the tachograph for recording drivers' hours. The existing generation of analogue tachographs recorded the information on paper discs. However, due to increased abuses and manipulation of the equipment, digital tachographs were developed and, for vehicles first brought into service after May 2006, these new tachographs are now mandatory. This requirement was introduced through European Regulation in 1998²⁶. The digital tachograph records the information digitally. Domestic regulatory requirements relating to record-keeping and complementing the (directly applicable) EU requirements now need to be updated to reflect the introduction of this new digital technology.

2.3 Rationale for government intervention

2.3.1 Regulations will be required to complete an update of the domestic regime for enforcing the EU drivers' hours rules in order to reflect the introduction of digital tachographs. In particular, we need to amend the domestic requirements relating to drivers' hours records. While there is no need for the UK to replicate the new, directly applicable, EU Regulation on driver's hours in domestic legislation, we need to put in place powers to ensure that we can penalise those who do not comply.

²⁶ Council Regulation (EC) No 2135/98 amending Regulation (EEC) No 3821/85 (the use and installation of tachographs in road transport)

The proposals in this RIA need to be considered against the wider background of existing, long established procedures and requirements relating to drivers hours enforcement where analogue tachographs are used, as well as more recent secondary legislation already in place to reflect the introduction of digital tachographs

3. Consultation

3.1 Within government

3.1.1 In developing the policy principles behind the required changes, the Department has worked closely with the Vehicle and Operator Services Agency (VOSA) and the Police who have responsibility for enforcing the EU drivers' hours rules requirements in Great Britain,

3.1.2 EU drivers' hours rules are a reserved matter in respect of Scotland and Wales. These devolved administrations are aware of the proposals reflected in this RIA, and will have the opportunity to comment on the detail before the proposed changes are implemented. In respect of Northern Ireland, the EU Regulation is a transferred matter so separate legislation and enforcement arrangements will be needed to facilitate compliance. This will be prepared separately by the relevant Northern Ireland Departments.

3.2 Public consultation

3.2.1 This partial RIA forms part of the Department's consultation exercise on finalising the domestic legislative changes required to facilitate enforcement in this country of the new EU Regulation on drivers' hours. The key trade associations have been involved in the development of this policy. This consultation will further inform the costs and options. A list of consultees is available from the Department's website at www.dft.gov.uk.

4. Options

4.1 The EU drivers' hours rules require Member States to ensure that the data necessary to enforce the rules can be made available for at least 365 days after recording, and under conditions which guarantee the security and accuracy of the data. However the rules leave the frequency of data downloading to individual Member States.

4.2 When considering how often data should be downloaded by UK operators and drivers, we have applied the main principles that govern the general management of data²⁷ by transport operators. These principles are that:

- transport operators are ultimately responsible for their own data;
- they have to be considered as liable for any loss of data, and
- they must, therefore, be in a position to hand over data, or make it accessible to, the enforcement authorities.

4.3 In considering the options we have had to strike a balance between the risks that the periods between downloading are so long that data is overwritten on either the Vehicle Unit or the Driver Card (once the digital memory is filled data continues to be stored through overwriting the initial data), and that data is available at the operators premises for enforcement officers. We must also recognise the cost in time and resource involved in downloading the data must be reasonable.

4.4 We considered 3 options for downloading.

Option A - downloading arrangements at operator's discretion

²⁷ As defined in Directive 95/46/EC on the management and processing of personal data and transposed into national legislation under the Data Protection Act 2000

4.5 Under this option, each transport operator would be responsible for establishing when data should be downloaded (from either the Driver Card or digital tachograph Vehicle Unit) by their employees. This would allow different types of operators to set different requirements tailored to the specific circumstances of their business. For example, a multi-drop delivery operation might need to download from Driver Cards every 20 days because of the volume of data stored - whereas a long distance operator may find it more appropriate to download data every 28 days. This would also give operators the flexibility to align downloading requirements with their existing pay or other management systems (assuming this was possible without data being lost).

4.6 In order for enforcement to be consistent, we envisage that, under this option, every operator would need to have a written policy which was clearly communicated to their employees and available for inspection by our enforcement officers at VOSA at any time. The operator would be required to ensure (and demonstrate to VOSA) that this policy:

- met the needs and circumstances of their operations;
- was robust enough to ensure that all data was regularly downloaded and that none was overwritten or otherwise lost; and
- generated an accurate and complete record of vehicle and driver activities that was sufficient to demonstrate compliance with the EU drivers' hours rules and which could be made available to an inspecting officer whenever he/she requested

Option B - set a tight statutory maximum time between downloads

4.7 This option would involve setting a statutory maximum time between downloads - effectively saying that data should be downloaded at least every "X" days from the Driver Card and every "Y" days from the Vehicle Unit.

4.8 Under this option, the statutory maximum would have to be set at a level that ensured sufficiently frequent downloading (for example every 14 days for Driver Cards and 56 days for Vehicle Units) to avoid any possibility of data being overwritten. Because of this there would be no need for a separate responsibility (and hence resource) to be imposed on the operator to ensure that data was not overwritten.

Option C - set a relatively lax maximum time between downloads alongside a statutory requirement for operators to ensure that data is not overwritten

4.9 This would be a variation on **option B**, with a longer maximum time between downloads for Driver Cards - say every 28 days - but retaining a responsibility on operators and drivers to nevertheless ensure that data was not overwritten or otherwise lost (for instance in those operations where, say, 28 days would be too long a gap between downloading to ensure that data was not overwritten). The legislation would require that data was downloaded at specific time intervals or more frequently if necessary to ensure that data is not overwritten. VOSA would have the power to take enforcement action if either: downloading did not take place within the specified intervals; or there was missing data as a result of a consistent failure to download on a more frequent basis.

4.10 The Department prefers **option C** because it minimises the potential administrative burden whilst ensuring that data is downloaded as frequently as necessary.

5. Costs and benefits

5.1 Sectors and groups affected

5.1.1 The proposals will primarily affect those drivers and operators working in the road freight and inter-urban road passenger transport sectors, who are subject to the EU Regulations. VOSA and the police who have responsibility for enforcing the requirements of the EU Regulation will also be affected.

Tachographs: Data Downloading and Record Retention

5.1.2 For the most part, vehicles that are in-scope of the EU drivers' hours rules must be fitted with a tachograph and the driver must use that tachograph to record and demonstrate his or her compliance with the EU drivers' hours rules.

5.1.3 There are approximately 100,000 commercial goods vehicles operators, 8,500 bus and coach operators and about 450,000 drivers in the UK who are subject to the EU drivers' hours rules.

5.2 Benefits

5.2.1 The existing drivers' hours legislation requires operators to maintain records of vehicle and driver activity. This is currently achieved by recording data onto paper charts and retaining those tachograph charts. Analysis of charts involves measurement of the time-speed graph the chart records to ensure that the driver at the time the chart was in use did not exceed the permitted hours. One of the key benefits of recording data digitally is that the storage and analysis of data can be completed electronically, and so save in the time and cost of analysis and the physical storage of charts and other paper records.

5.3 Costs

5.3.1 The following calculations are estimates based on the best data currently available to the Department, and they will be updated in the light of responses to the accompanying consultation.

5.3.2 Our initial assessment is that the cost for operators buying new vehicle equipped with digital tachographs, will be comparable to buying a new vehicle fitted with an analogue or modular tachograph. Our assessment has been broken down into two elements: installation, and use.

Cost of Installation

5.3.4 In respect of their installation, the requirement to fit new vehicles with digital tachographs has been mandatory since May 2006. Vehicle manufacturers will have no choice but to equip their vehicles, destined for the European market, with such recording equipment. Therefore, any driver or operator wishing to buy a vehicle from May 2006 will have to buy one with a digital tachograph.

5.3.5 Vehicle manufacturers are also obliged to activate and fully calibrate the equipment once installed into the new vehicle. These activities will be performed within the manufacturing environment, as they are performed now with modular tachographs.

5.3.6 The price of original equipment sold to vehicle manufacturers (who would buy the new recording equipment in bulk) is not known, since this is a commercial arrangement between vehicle and tachograph manufacturers; but again, the indication from manufacturers is that it would compare favourably with the cost of installing analogue or modular tachographs.

5.3.7 Retrofitting digital tachographs is not a legal requirement and may be performed on a voluntary basis. The Department's view is that it should neither be mandatory nor forbidden, but undertaken in such a way that ensures vehicle and road safety. Therefore, our assessment of the costs do not take account of this particular aspect. However, for information, tachograph manufacturers have indicated that if operators or drivers wish to buy the new digital recording equipment "off the shelf", then the cost will be in the region of about £650. This price does not include the cost of installing or activating the unit, nor the consequential costs associated with establishing technical compatibility of such equipment into older vehicles.

5.3.8 Therefore, our assessment is that the cost to operators buying vehicles equipped with digital tachographs will be negligible, in terms of the overall cost of purchasing a new vehicle.

Cost of the use of the Equipment

5.3.9 The EU provisions covered by the Consultation Document are directly applicable and we have no choice but to adopt them. This includes downloading data which has a cost and impact associated with it. Additional costs are linked to the purchase of Driver and Company Cards and a

Tachographs: Data Downloading and Record Retention

separate consultation and regulatory impact assessment was undertaken in 2005 in advance of the new regulations (Statutory Instrument 2005 No 1140) giving DVLA the authority to charge for such cards.

5.3.10 Transport operators already have a responsibility to make available and accessible data to enforcers in order to demonstrate compliance with the drivers' hours rules. In this respect that we have identified a potential cost impact resulting from the use of the digital tachograph from either, (a) operators downloading and storing data themselves or (b) getting an agency to do it for them.

5.3.12 The various possibilities open to operators are described in the Consultation Document, but in summary, the options above may: (a) necessitate the purchase and use of some form of computer equipment/software; whereas option (b) will probably come with a fee attached if a third party downloads data for and on behalf of an operator. In any event the electronic data must be accessible and available for inspection by an inspecting officer for at least 365 days.

5.3.13 As far as actual costs are known, there is the cost of a Company Card (necessary to give access rights to the personal data of drivers, since compliance with the Data Protection Act is required, and available from DVLA at a cost of £38 and valid for 5 years), A single Company Card can be used per company but, depending on the size of operation and location of depots, more may be appropriate.

5.3.14 There is also the potential cost of purchasing a computer (if you do not already have one) and the additional cost of appropriate software and downloading equipment. We expect the figure for these together to be a one-off cost of £400-£500. Of course, very small operators may consider the purchase of such equipment too heavy, and prefer just to download data onto a dedicated memory stick, the cost of which will be in the region of about £160-£190 (and has sufficient memory to make 60 3-monthly downloads - or roughly 5400 paper charts (in terms of cost this would equate to about £1890).

5.3.15 Alternatively, if an operator wishes to have no involvement whatsoever with the downloading process, and seek the services of a third party, we are led to believe that the costs will be similar to those offered by analysis bureaux checking charts and sheets. The cost of using the digital tachograph will also vary with the size and nature of the business.

5.3.16 For illustrative purposes only, our assumptions are:

- that an operator will be using at least one vehicle which is fitted with a digital tachograph;
- at least one driver employed will require a Driver Card;
- That an operator will normally get the data analysed by an agency or bureau at a comparable costs to at present (although if you analyse the data yourself, please let us know).

5.3.17 Using these assumptions, the tables below give an indication of the comparative costs over a 5-year period of using analogue and digital tachographs for 3 sizes for vehicle fleets.

Analogue tachographs

Number of drivers	X Days worked	X Cost per chart (35 pence) over 1 year period	X Cost per chart (35 pence) over 5 year period
1	240	£84	£420
5	1200	£420	£2100
10	2400	£840	£4200

Digital tachographs

Number of drivers	X days worked	Cost of memory stick (average £175 + Driver Card (£38) and Company Card (£38))	Cost compared to analogue tachographs
1	240	£251	-£169
5	1200	£403	-£1697
10	2000	£593	-£3607

These figures exclude training costs - but we consider that these could normally be subsumed within the savings set out in the table above, whilst still maintaining an overall saving for industry.

Potential costs of each option to Industry

5.3.20 It is difficult to quantify the costs that could be associated with the different downloading proposals we have made in our Consultation Document as the main difference between our 3 options is the frequency with which downloading needs to be undertaken. The costs and benefits associated with this are very much dependent on the nature of the business concerned and the systems it has in place.

5.3.21 In **Option A** we had proposed that downloading should be left to the discretion of the operator, but in order to allow for effective enforcement, operators would need to put in place a written policy about such activities. This would require clear communication to all employees (including temporary staff such as agency drivers) and could require such policies to be in line with current audit and quality management procedures. There could be a significant cost associated with this. But it would minimise the staff time taken up by the act of downloading.

5.3.22 For **Option B** and **C** the costs to operators of the time taken downloading would be higher than in **Option A** (because frequency could not be customised to the business) but this apparent disbenefit could be offset by the communication and auditing costs associated with the **Option A** approach. The costs of **Option B** would be higher than **Option C** because downloading from Driver Cards would be required for all operators (rather than just those on the most intensive operations) would be required around 4 times more per year under **Option B** compared to **Option C**.

Costs to Enforcement Agencies

5.3.24 Our proposed Regulations should not result in increased costs for the enforcement agencies.

Costs to the Court system

5.3.25 Our assessment is that the proposed regulations should not lead to an increase in Court activity. The capacity of enforcement agencies to pursue prosecution is limited by their finite resources.

Environmental and Social Costs

5.3.26 None, although it could be argued that given the possibility to have well-maintained and well-driven vehicles will, in turn, improve fuel efficiency, which in turn would have environmental benefits by reducing vehicle fuel emissions.

6. Small Firms Impact Test

6.1 Both the road haulage and inter-urban road passenger transport sectors contain a significant percentage of small businesses. The costs established in section 4 above have taken this into account and there will not be a disproportionate impact on smaller firms. Enforcement procedures, and

therefore costs, already exist for driver's hours regulations but we would like to hear from anyone who considers the proposals will have a significant additional impact on their small business. A Small Business Test was carried out in March this year in conjunction with Department for Trade and Industry's Small Business Unit. 250 small businesses were contacted and invited to comment.

7. Competition assessment

7.1 The draft Regulations will primarily affect the road haulage sector but also the inter-urban road passenger transport sector.

7.2 The road haulage industry is an open and very competitive market. A large number of firms compete to offer road haulage services. In addition many firms operate their own in-house road distribution. While a few firms operate a large number of vehicles and handle a proportionately greater share of demand their market power is effectively constrained by competition.

7.3 The bus industry is dominated by the five large companies; First, Arriva, Stage Coach, Go-Ahead and National Express. National Express also dominates the national inter-city coach market. In terms of domestic leisure travel and international coach services a number of smaller companies compete to provide these services.

7.4 The EU Regulation applies to all Member States and therefore should not affect the relative position of companies in comparable businesses within the EU. The proposals are not expected to have any disproportionate cost impact on any law abiding sector of the industry. Therefore, the structure of competition in the road freight and inter-urban road passenger transport sectors should not be affected.

7.5 In addition, the effective enforcement of the EU Regulation will enhance the operation of the market by ensuring there is a level playing field that prevents law-abiding firms suffering from unfair competition from firms or drivers working excessive hours.

8. Enforcement, sanctions and monitoring

8.1 The draft Regulations relate directly to the effective enforcement of the EU Drivers Hours Rules. They do not themselves introduce new rules that need to be enforced as the EU Regulation is directly applicable. The Department maintains close contacts with enforcement agencies who keep it informed of the effectiveness of the enforcement regime.

Annex B - Frequency of Downloading in other EU/EEA Member States²⁸

Member State	Driver Card	Vehicle Unit
Austria	28 days	Three months
Belgium	21 days and special cases, for example when the driver replaces his card, leaves the firm, etc	Two months
Cyprus	28 days	Three months
Estonia	At least once in a 28 day period	At least once every three months
Finland	Every 3 weeks	Internally: every 2 months; externally, when they return to Finland
France	28 days (maximum)	95 days (maximum)
Germany	Every 28 days	Every 3 months
Hungary	Every two weeks	Every quarter year
Latvia	At least once in a 28 day period	At least once every 3 months
Luxembourg	At least every 28 days	At least every 90 days
Malta	Every 28 days	Every 6 months
Norway	Every third week	Every month
Slovak Republic	Every 28 days	Every 3 months
Slovenia	Every 28 days	Every 3 months
Spain	At least every 31 days	At least every 3 months
Sweden	As often as is needed. It is the company's responsibility to download data so that none is lost	As often as needed. It is the company's responsibility to download so that no data is lost; but SRA has the mandate to add further requirements if necessary

²⁸ Information provided by national authorities and collated by the Monitory of the Digital Tachograph Project (MIDT) Secretariat responsible for co-ordinating the introduction and use of digital tachographs across the EU. Where no information is available, this is because the subject is the source of either public or political consultation in those countries.

Tachographs: Data Downloading and Record Retention

Switzerland	Every week; if the driver is absent at least every 21 days; when leaving the company/before starting work for new employer	Every 3 months after first use; before it is rented or sold to another company; when the tachograph no longer works, but the downloading feature still functions
The Netherlands	Every three weeks	Every three months

Annex C - Code of Practice on Consultation

This consultation is being conducted in line with the Cabinet Office's Code of Practice on Written Consultation. The six broad consultation criteria are listed below, but more information can be found at:

<http://www.cabinetoffice.gov.uk/regulation/consultation/code/criteria.asp>

The Six Consultation Criteria

1. Consult widely throughout the process, allowing a minimum of 12 weeks for written consultation at least once during the development of the policy.
2. Be clear about who may be affected, what questions are being asked, and the timescale for responses.
3. Ensure that your consultation is clear, concise and widely accessible.
4. Give feedback regarding the responses received and how the consultation process influenced the policy.
5. Monitor your department's effectiveness at consultation, including through the use of a designated consultation co-ordinator.
6. Ensure your consultation follows better regulation best practice, including carrying out a Regulatory Impact Assessment if appropriate.

If you have any comments or wish to make a complaint about the consultation process itself, please contact:

Andrew Price

Zone 9/09 Southside

105 Victoria Street

London SW1E 6DT

e-mail: consultation@dft.gsi.gov.uk

Annex D - List of Current National and European Legislation relating to digital tachographs

UK Legislation

SI 2005 No 1904 (The Passenger and Goods Vehicles (Recording Equipment) Regulations 2005

SI 2005 No 1140 The Passenger and Goods Vehicles (Recording Equipment) (Tachograph Card Fees) Regulations 2005

SI 2006 No 1937 The Passenger and Goods Vehicles (Recording Equipment) (Tachograph Card) Regulations 2006

SI 2006 No 1117 (The Passenger and Goods Vehicles (Recording Equipment) (Fitting Date) Regulations 2006

Northern Ireland Legislation

SR 2005 No. 325

SR 2005 No. 441

SR 2006 No. 274.

EU Legislation

Council Regulation (EC) No 2135/98

Council Regulation (EEC) No 3821/85 (as amended by the above)

Commission Regulation (EC) No 1360/2002

Commission Regulation (EC) No 561/2006

Annex E - Consultation response sheet

The response sheet is in four parts, click to download a Word version from the following link:

http://www.dft.gov.uk/stellent_stag/groups/dft_freight/documents/page/dft_freight_614147.doc