

THAMES VALLEY
POLICE



VEHICLE EXAMINATION
AND PROHIBITION -
POLICY AND PROCEDURE

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1. HUMAN RIGHTS

1.1 This policy has been drafted and audited in accordance with the Human Rights Act 1998. It is acknowledged that this policy has the potential to engage the following articles of the Act. This policy will be applied with reference to the key principles of the Convention, namely justification, proportionality and least intrusion.

- Article 1 of the First Protocol - Right to Property

Article 1 of the First Protocol (The Right to Property) states that *'...No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and general principles of international law. The preceding provision shall not, however, in any way impair the right of a state, to enforce such laws as it deems necessary to control the use of property in accordance with the general interest or to secure the payment of taxes or other contributions or penalties'*. Whilst this policy is aimed at preventing dangerous vehicles being further used on roads and ensuring commercial vehicle drivers comply with drivers hours legislation, it has to be viewed against the needs of the wider public, ensuring that proportionality between the aims and outcomes are balanced at all times.

- Article 5 Right to Liberty

Article 5 (Right to Liberty and Security) states that *'...Everyone has the right to liberty and security of person. No one shall be deprived of his liberty save in the following cases and in accordance with a procedure prescribed by law:*

(b) the lawful arrest or detention of a person for non-compliance with the lawful order of a court or in order to secure the fulfilment of any obligation prescribed by law.' Legislation allows, in certain circumstances, for an authorised examiner to prohibit the further driving of a motor vehicle on a road. This will result in engagement of this article.

- Article 6 Right to a Fair Trial

Article 6 (Right to a Fair Trial) states that *'...In determination of his civil rights and obligations or of any criminal charge against him, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law...*

2) Everyone charged with a criminal offence shall be presumed innocent until proved guilty according to law....' Legislation allows, in certain circumstances, for an authorised examiner to prohibit the further driving of a motor vehicle on a road. This will result in engagement of this article.

- Article 7 No Punishment Without Law

Article 7 (No punishment without Law) states that *'...No one shall be held guilty of any criminal offence on account of any act or omission which did not constitute a criminal offence under national or international law at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time the criminal offence was committed.'* Legislation allows in certain circumstances, for an authorised examiner to prohibit the further driving of a motor vehicle on a road. This will result in engagement of this article.

Actions taken as a consequence of the Policy will be applied in an impartial and fair way, having due regard for natural justice and Human Rights.

1.2 The terms of proportionality and least intrusion have been introduced into UK legislation. It is therefore necessary when considering an action to decide not only whether an act by a police officer is reasonable, but also whether it is commensurate with the acts of the driver / haulier and likely outcomes.

1.3 Intrusion has the same meaning under the Human Rights Act 1998 as in everyday language. The principle of least intrusion requires that before embarking on a course of

action, the effects on third parties must be considered. This Policy is aimed at ensuring the safety of all road users.

1.4 Public Availability: This document with the exception of **Appendices 'B', 'C' & 'D'** (Force Form issued to authorised officers) will be publicly available via the Thames Valley Police Internet site (www.thamesvalley.police.uk) or upon written request to the Assistant Chief Constable (Operational Support), Thames Valley Police, Headquarters, Oxford Road, Kidlington, Oxon. OX5 2NX

1.5 Challenges and Representations: Anyone directly affected by this policy may make representations in writing to:

- In respect of specific instances: Superintendent Traffic, Traffic Headquarters, Bath Road, Taplow Nr. Maidenhead, Berks. SL6 0NX.
- In respect of general representations: The Assistant Chief Constable (Operational Support), Thames Valley Police, Headquarters, Oxford Road, Kidlington, Oxon. OX5 2NX.

1.6 Review: This Policy will be audited every two years. Complaints from drivers / hauliers or members of the public will be investigated by either Superintendent i/c Traffic Department (correspondence to: Traffic Headquarters, Bath Road, Taplow nr. Maidenhead, Berks. SL6 0NX) or Headquarters Professional Standards Department (correspondence to: Police Headquarters, Kidlington, Oxon. OX5 2NX) as appropriate depending upon the nature of the complaint. The biennial review will take account of the following criteria:-

- Changes in legislation;
- Human Rights challenges in Domestic and European Courts;
- Changes in Vehicle Inspectorate / Association of Chief Police Officers (Roads Policing Committee) guidance; and
- The number and nature of complaints relating to this Policy.

1.7 Independent Scrutiny: This will be satisfied through the Police Complaints Authority procedure and Her Majesty's Inspector of Constabulary visits.

2. INTENTION

2.1 The intention of this Policy is to ensure the safety of members of the public using the roads by effective and uniform enforcement of legislative powers made available to authorised examiners through the examination and as necessary, prohibition of further driving of those vehicles found to be dangerously defective or where commercial vehicle drivers are found to be contravening drivers hours legislation. Such enforcement will take place within guidelines stipulated by the Department for Transport and Local Regions (DTLR) Vehicle Inspectorate and the Association of Chief Police Officers (Roads Policing Committee).

3. BACKGROUND & LEGAL BASIS

3.1 This Policy and Procedure in relation to Vehicle Examination and Prohibition is based upon the guidance notes drawn up and agreed by the Association of Chief Police Officers (Roads Policing) Committee and approved by the Vehicle Inspectorate.

3.2 The Road Traffic (Foreign Vehicles) Act 1972 enables authorised constables to prohibit the further driving of foreign vehicles following contravention of certain regulations

included within a schedule to that enactment. Those offences relate mainly to the mechanical condition of the vehicle, excess weight and the provisions relating to the community Drivers' Hours Regulations, Recording Equipment Regulations and some documentation requirements.

3.3 The Transport Act 1968 amended by the Transport Act 2000, allows UK registered vehicles to be prohibited for contravention's of the Drivers' hours legislation.

3.4 All decisions as to the exercise of the prohibition powers are for individual officers. However, as far as possible, common standards should be applied and the following points considered. This document sets out how police officers of Thames Valley Police will be authorised to examine and prohibit the driving of vehicles on a road and the criteria that should be considered before a prohibition is applied.

3.5 This document is intended to provide guidance when the prohibition is applied in accordance with either the Road Traffic (Foreign Vehicles) Act 1972 or the Transport Act 1968 following the exercise of powers under Section 99 of the Transport Act 1968 and where there appear to be breaches of the relevant regulations pertaining mainly to drivers' hours, the recording equipment requirements and, in relation to foreign vehicles only, the dimensions and weights of vehicles.

3.6 This Policy does not affect the 'post incident' examination of vehicles which will normally be undertaken by suitably qualified civilian vehicle examiners who are the responsibility of the Force Transport Officer. Such examinations will fall within the following criteria.

- a) All vehicles involved in fatal road collisions unless a Traffic Officer of Inspector rank or above dictates otherwise.
- b) Very serious injury road collisions where proceedings are likely to follow and it appears likely that a vehicle defect was a contributory factor in the absence of other causation factors. Such decisions will be made in conjunction with the Accident Investigation Officer if in attendance.
- c) Where the driver has made a definite allegation of a vehicle defect being a contributory factor and proceedings are likely to follow and the officer in the case cannot rebut the allegation at the time. Drivers in all collisions should be routinely asked if they are alleging a vehicle defect and the reply noted as evidence.
- d) Allegations of the sale of an unroadworthy vehicle (local authority Trading Standards officers should be approached in the first instance).
- e) Where there are positive indications that a vehicle has been interfered with in order to disguise its origins (i.e. 'Ringed').

3.7 Requests for such examinations will be submitted via facsimile transmission to the Workshop Manager, Howes Lane, Bicester on Force Form TD73.

4. DEFINITIONS

4.1 *Section 78(1) Road Traffic Act 1988 (Powers to Weigh)*

An authorised person means a person authorised by a highway authority or a constable authorised on behalf of such an authority by a police authority or a chief officer of police.

4.2 *Section 67 Road Traffic Act 1988 (Roadside Vehicle Testing)*

An authorised examiner means:-

- a person appointed as an examiner under section 66A Road Traffic Act 1988,
- a person appointed to examine and inspect public carriages for the purposes of the Metropolitan Public Carriage Act 1869,
- a person appointed to act for the purposes of this section by the Secretary of State,
- a constable authorised so to act by or on behalf of a chief officer of police, and
- a person appointed by the police authority for a police area to act, under the directions of the chief officer of police, for the purposes of this section.

4.3 *Section 68(1) Road Traffic Act 1988 (Testing and Inspection of Vehicles)*

A vehicle examiner means an examiner appointed under Section 66A Road Traffic Act 1988.

4.4 *Section 69(1&2) Road Traffic Act 1988 (Prohibition of Unfit Vehicles)*

- A vehicle examiner means an examiner appointed under Section 66A Road Traffic Act 1988.
- An authorised constable is one who has been authorised to act for the purposes of this section by or on behalf of the chief officer of police.

4.5 *Section 1(2) Road Traffic (Foreign Vehicles) Act 1972*

An examiner means an examiner appointed under section 66A Road Traffic Act 1988, or a constable authorised to Act by or on behalf of a chief officer of police.

5. QUALIFICATIONS

5.1 In respect of drivers hours and tachograph offence prohibition, officers will only be authorised if they have successfully completed a City & Guilds London Institute examination in Drivers' Hours and Recording Equipment, formerly known as the level two tachograph examination, or another Nationally recognised qualification of a similar standard and syllabus. The requirement for qualification will not be satisfied by success in the City & Guilds Recording Equipment Calibration examination (formerly known as level three), unless accompanied by the previously mentioned qualification.

5.2 For the purpose of testing and inspecting vehicles (which amounts to more than a visual mechanical inspection), officers will only be authorised if they have successfully completed a BTEC Vehicle Examiners or Vehicle Inspectorate Course.

6. AUTHORISATIONS

6.1 Nothing in this section shall prejudice the ability of **all** police officers to deal with simple vehicle defects which they can detect by observation and where no technical assistance is required to prove the offence. Officers of the Traffic Department will be authorised in writing by the Chief Constable. The authorisations will be carried at all times when vehicles or documentation are being examined.

6.1.1 **Form TD 1** (Appendix 'B')

The TD1 will be issued to all Traffic Department officers and authorises an officer to carry out a visual mechanical inspection of a vehicle or trailer to ensure its compliance with the Road Vehicle (Construction & Use) Regulations 1986 & Road Vehicle Lighting Regulations 1989; and to ensure that the condition of the vehicle is not likely to cause danger or injury to any person. In addition, the TD1 authorises and officer to weigh vehicles and prohibit those found to be overweight.

6.1.2 **Form TD 1(a)** (Appendix 'C')

The TD1(a) will be issued to Traffic Department officers who are successful in attaining a pass in the City & Guilds Drivers' Hours and Recording Equipment (formerly known as Level II Tachograph examination). An officer so authorised, may act as an examiner:

- a) under Sections 1,2 & 3 Road Traffic (Foreign Vehicles) Act 1972 with respect to any foreign goods or public service vehicle; and
- b) under Section 99A Transport Act 1968 as amended by the Transport Act 2000, any United Kingdom registered goods or passenger carrying vehicle;

in relation to the vehicle or its driver, any function of an examiner specified in the first column of Schedule 1 to the Road Traffic (Foreign Vehicles) Act 1972. The officer may prohibit the driving of the vehicle on a road, either absolutely or for a specified purpose and either for a specified period or without any limitation of time if it appears to an officer, that in relation to the vehicle or its driver, there has been a contravention of any of the enactment's specified in the first column of Schedule 2 of the Road Traffic (Foreign Vehicles) Act 1972, or there would be such a contravention if the vehicle were driven on a road.

Powers in relation to mechanical inspection are for visual mechanical examination as detailed at 4.1.1 above.

6.1.3 Form TD 1(b) (Appendix 'D')

The TD1(b) will be issued to Traffic Department officers who are successful in attaining a pass on a BTEC Vehicle Examiners or Vehicle Inspectorate Course. An officer so authorised, may act as an examiner of motor vehicles and for the purpose of testing or inspecting any such vehicle, the officer;

- a) may require the driver to comply with his reasonable instructions; and
- b) may drive the vehicle.

If it appears to the officer that owing to any defects in the vehicle, driving it would involve a danger of injury to any person he may prohibit the driving of the vehicle on a road absolutely or for one or more specified purposes. (Section 69 Road Traffic Act 1988 as amended by Section 12 Road Traffic Act 1991 and Sections 1,2 & 3 Road Traffic (Foreign Vehicles) Act 1972.

7. EXERCISE OF PROHIBITION POWERS

7.1 The prohibition of a vehicle has implications in relation to Human Rights legislation. Each and every prohibition must be proportionate to the infringement for which the prohibition was imposed. Specifically, a prohibition must be considered to be a road safety measure and never imposed as a punishment.

7.2 The imposition of a prohibition can have profound financial implications for the operator and the incorrect application could result in large compensation claims.

7.3 The application of prohibitions for a mechanical defects should be applied in accordance with current Vehicle Inspectorate guidelines contained within 'Categorisation of Defects on Road Vehicles'. A copy of this document is available from the Vehicle Inspectorate.

8. FOREIGN VEHICLES

8.1 Prohibitions applied as a result of overloading and vehicle dimensions should be applied in accordance with the guidelines set out at Appendix 'A', Part One. Prohibitions for contravention's of the relevant Drivers' Hours legislation should be applied in accordance with the guidelines set out in Appendix 'A', Part Two.

8.2 Section 1 (5) states that a notice shall be given, setting out whether the prohibition is on all driving or for a specified purpose and whether it is for a specified time or without limitation of time. A copy of form GV170C is available from the Vehicle Inspectorate.

8.3 If a constable has reasonable cause to suspect that a vehicle is being driven, or caused or permitted to be driven on a road in contravention of a prohibition issued under Section 1, he may detain the vehicle until its release is authorised upon being satisfied that certain criteria have been met. Sections 3-5 of the 1972 Act.

9. UK REGISTERED VEHICLES

9.1 Section 99A of the Transport Act 1968 allows that any authorised officer, may prohibit the driving of a UK registered vehicle on a road if it appears that there has been a contravention of Sections 96 - 98 of that Act and any orders or regulations under those Sections, or the applicable Community Rules, or that there will be such a contravention if the vehicle is driven on a road, or it appears to an authorised person that an offence under Section 99(5) of the Act has been committed in respect of a UK registered vehicle or its driver. A prohibition may also be applied for obstructing an authorised officer acting under Section 99(2) or (3) of the Act.

9.2 The prohibition should be applied in accordance with the guidelines set out in Appendix 'A' Part Two. A notice setting out whether the prohibition is on all driving or for a specified purpose and whether it is for a specified time or without limitation of time. A copy of form PG 9 is available from the Vehicle Inspectorate.

10. STANDARDISATION OF APPLICATION

10.1 The aim of the guidance notes is to ensure that commercial vehicle drivers, who drive excessively, or fail to take sufficient periods of rest, are required to stop and take a period of rest. For drivers' hours offences, the prohibition should only ever be for a period equivalent to the statutory period that is overdue or not taken.

10.2 To ensure that as far as practicable, there is commonality of application of the legislation between police forces and the Vehicle Inspectorate, it is agreed that the criteria for prohibition as set out in Appendix 'A', should be followed as far as practicable, but without seeking to undermine the officer's discretion.

11. DOCUMENTATION

11.1 Notices of prohibition will be in a format that is compatible with current Vehicle Inspectorate procedures. Notices served on foreign drivers must, in addition to an English version, be written in a language which recipient drivers fully understand.

11.2 Where a prohibition is issued, details of the prohibition will be passed to the Vehicle Inspectorate via the Traffic Intelligence Unit at Bicester.

11.3 Notifications of prohibitions issued will be placed on the Police National Computer (PNC) by the officer issuing the prohibition. When a prohibition is removed by Police Station front office counter staff (Form PG 10 issued), it will that member of staffs' responsibility to notify Headquarters PNC via Fax of the removal. It will be the responsibility of the prohibiting officer at the expiration of four weeks since issuing the notice, to enquire whether the

prohibition has been removed. If the prohibition is still in place, it will be the officers responsibility to enquire further into the matter.

12. HEALTH & SAFETY

12.1 All officers are to be made aware of the current Force generic risk assessment in relation to the examination of vehicles attached as Appendix 'E'.

13. MONITORING OF STANDARDS

13.1 It will be the responsibility of Superintendent (Traffic Department) to monitor prohibitions issued by authorised constables, to ensure that prohibitions are applied in accordance with this Policy.

13.2 Authorised officers will receive such further training as ensures that standards of knowledge and application are maintained.

Appendix A Part One
Offences and Recommended Sanctions

DESCRIPTION and OFFENCE SECTION	RELEVANT LEGISLATION	SANCTION	REMARKS
DEFECTS, DIMENSIONS AND		LIMITERS	
Overall width of a Refrigerated Motor Vehicle exceeded 2.60 Metres	Regulation 8(1) of The Road Vehicles (Construction and Use) Regulations 1986.	Direct out of country	
Overall width of a Motor Vehicle exceeded 2.55 Metres	Regulation 8(1) of The Road Vehicles (Construction and Use) Regulations 1986.	Direct out of country	
Exceed overall height (Bus) 4.57 Metres	Regulation 9 of The Road Vehicles (Construction and Use) Regulations 1986.	Direct out of country	Unless in the case of an articulated vehicle height can be reduced by using different towing vehicle or lowering suspension
Vehicle above 3m height (unless notice displayed)	Regulation 10(1)&(2) of The Road Vehicles (Construction and Use) Regulations 1986,	Direct out of country	
Vehicles with high level power operated equipment which has a maximum height of more than 3m must be fitted with an alarm	Regulation 10A(1) of The Road Vehicles (Construction and Use) Regulations 1986.	Direct out of country	For foreign vehicles the requirement to have a height sign in the cab only applies if the vehicle is more than 4m high. An exemption (or direction) may be applicable if it can be ascertained that no immediate danger will be presented on the envisaged route.

DESCRIPTION and OFFENCE SECTION	RELEVANT LEGISLATION	SANCTION	REMARKS
Exceeding 15.5m in length (Articulated Vehicle)	Regulation 7 (item 3 of the table) of The Road Vehicles (Construction and Use) Regulations 1986.	Direct out of country	Unless, length can be reduced by altering position of fifth wheel etc.
Exceeding 16.5m in length (Articulated Vehicle)	Regulation 7 (item 3a of the table) of The Road Vehicles (Construction and Use) Regulations 1986.	Direct out of country	Unless, length can be reduced by altering position of fifth wheel etc.
Exceeding 18m in length (Rigid vehicle and Trailer)	Regulation 7 (item 1 of the table) of The Road Vehicles (Construction and Use) Regulations 1986.	Direct out of country	Unless, length can be reduced by shortening towing arrangement etc.
Exceeding 18.75m in length (Rigid vehicle and Trailer)	Regulation 7 (item 1a of the table) of The Road Vehicles Construction and Use) Regulations 1986.	Direct out of country	Unless, length can be reduced by shortening towing arrangement etc.
Exceeding 12m in length (Rigid vehicle)	Regulation 7 (item 4 of the table) of The Road Vehicles (Construction and Use) Regulations 1986.	Direct out of country	Unless length can be reduced
Exceeding 18m in length (Articulated Bus)	Regulation 7 (item 2 of the table) of The Road Vehicles (Construction and Use) Regulations 1986.	Direct out of country	Unless length can be reduced

DESCRIPTION and OFFENCE SECTION	RELEVANT LEGISLATION	SANCTION	REMARKS
Maintenance, use of vehicle and carriage of passengers so as not to be danger of a nuisance is likely to be caused - insecure load	Regulation 100(2) of The Road Vehicles (Construction and Use) Regulations 1986.	Until load secured	
Using a vehicle where vehicle condition, the purpose for which it is used or manner of number of carriage of passengers or the weight position or distribution of load - involves a danger of injury to any person	Section 40A Road Traffic Act 1988	Until condition causing danger has been removed/repaired	May be imposed until the vehicle has been tested at GV testing station (S6A RT(FV)Act)
No load to be carried on a vehicle which would have a lateral (width) projection which exceeds 305mm.	Regulation 82(2)(a) of The Road Vehicles (Construction and Use) Regulations 1986.	Until projection reduced to under 305mm or load notified to police (2 days notice required)	
Overall width of the vehicle together with any lateral projection of the load exceeds 2.9m	Regulation 82(2)(b) of The Road Vehicles (Construction and Use) Regulations 1986.	Until width of load reduced so as lateral projection is under 2.9m or load notified to police (2 days notice required)	

DESCRIPTION and OFFENCE SECTION	RELEVANT LEGISLATION	SANCTION	REMARKS
No load to be carried on a vehicle which would render the width of the vehicle to exceed 4.3m	Regulation 82(1) of The Road Vehicles (Construction and Use) Regulations 1986.	Until width load is reduced so that with of vehicle is under 4.3m or load notified to police (2 days notice required)	
Marker boards not illuminated between sunset and sunrise.	Regulation 82(2)(b) & Schedule 12(5) of The Road Vehicles (Construction & Use) Regs 1986.	Prohibit for the period from sunset to sunrise	
Vehicle carrying a load that projects to the front in excess of 2m but not exceeding 3.05m	Regulation 82(7) of The Road Vehicles (Construction and Use) Regulations 1986.	Until length of load is reduced to under 2m or marker boards are fitted	
Vehicle carrying a load that projects to the front in excess 3.05m	Regulation 82(7) of The Road Vehicles (Construction and Use) Regulations 1986.	Until length of load is reduced to under 2m or reduced to between 2m and 3.05m and marker boards fitted or if unable to reduce load notify load to police (2 days notice required)	
Vehicle carrying a load that projects to the rear. Projection exceeds 2m but does not exceed 3.05m	Regulation 82(7) of The Road Vehicles (Construction and Use) Regulations 1986.	Until projection reduced to under 1m or if unable to reduce length is clearly made visible. (including the side marker boards)	

DESCRIPTION and OFFENCE SECTION	RELEVANT LEGISLATION	SANCTION	REMARKS
Vehicle carrying a load that projects to the rear. Projection exceeds 3.05m	Regulation 82(7) of The Road Vehicles (Construction and Use) Regulations 1986.	Until projection reduced to under 1m or if unable to reduce length of load notify load to police (2 days notice required)	Attendant required, marker boards required at both ends of load and on both sides.

Appendix A Part Two

Offences and Recommended Sanctions

DESCRIPTION and OFFENCE SECTION	RELEVANT LEGISLATION	SANCTION	REMARKS
TACHOGRAPHS AND	DRIVERS HOURS - VEHICLES	ON EC REGULATED	JOURNEYS
Fail to produce tachograph charts at the roadside. (Missing chart from previous week)	Article 15(7), Council Regulation EEC 3820/85	24 Hour Prohibition.	This can be increased to 36 or 45 hours if circumstances warrant. Can be released if missing chart is produced.
Fail to produce tachograph charts at the roadside. (Missing chart from previous day)	Article 15(7), Council Regulation EEC 3820/85	11 Hour Prohibition.	Provided that there is evidence of weekly rest having been taken. Can be released if missing chart is produced.
Fail to produce tachograph charts at the roadside. (Missing chart from earlier in week)	Article 15(7), Council Regulation EEC 3820/85	Prohibit until original chart or copy produced.	
Fail to produce extract from duty roster and copy of the timetable (EEC Regular Service)	Article 14(1), Council Regulation EEC 3820/85	24 Hour Prohibition.	This can be increased to 36 or 45 hours if circumstances warrant. Can be released if missing extract is produced.

DESCRIPTION and OFFENCE SECTION	RELEVANT LEGISLATION	SANCTION	REMARKS
Fail to produce extract from duty roster and copy of the time - table (EC Regular Service)	Article 14(1), Council Regulation EEC 3820/85	24 Hour Prohibition.	This can be increased to 36 or 45 hours if circumstances warrant. Can be released if missing extract is produced.
Fail to produce tachograph records when requested at the roadside	Article 15(7), Council Regulation EEC 3821/85	a. Verbal Warning b. 11 or 24 Hour prohibition	a. Provided that there is evidence of weekly and daily rest(in previous 24 hours) b. If no evidence.
False instrument	Section 3, Forgery and Counterfeiting Act 1981	b. 24 Hour Prohibition or c. 11 Hour Prohibition	a. Prosecute whenever possible. b. Where false instrument has been used to avoid weekly rest. c. Where false instrument has been used to avoid daily rest.
Tachograph not fitted.	Article 3(1), Council Regulation EEC 3821/85	Prohibition until cleared by authorised examiner. If operator wishes to continue on international journey he must arrange for tachograph to be fitted. If not vehicle to be directed out of country.	If operator decides to fit tachograph it is at the operators expense. Prohibition can be removed once tachograph fitted at approved tachograph centre.

DESCRIPTION and OFFENCE SECTION	RELEVANT LEGISLATION	SANCTION	REMARKS
Tachograph not properly fitted.	Article 3(1), Council Regulation EEC 3821/85	Prohibition until cleared by authorised examiner. If operator wishes to continue on international journey he must arrange for tachograph to be correctly fitted. If not vehicle to be directed out of country.	If operator decides to fit tachograph it is at the operators expense. Prohibition can be removed once tachograph correctly fitted at approved tachograph centre.
Use a vehicle with a defective tachograph	Article 13, Council Regulation EEC 3821/85	Prohibition until cleared by authorised examiner. Direct to Approved Tachograph Centre for defect to be rectified.	Examiners must be sure that tachograph has been defective for the period of one week calculated from the day of breakdown or discovery of breakdown. Consider defences under Section 97 Transport Act 1968.
Tachograph repaired otherwise than in accordance with Community Recording Regulations	Article 12 & Annex 1, Council Regulation EEC 3821/85	Either, a. direct out of country or direct to Approved Tachograph Centre for Tachograph to be fitted correctly.	

DESCRIPTION and OFFENCE SECTION	RELEVANT LEGISLATION	SANCTION	REMARKS
Fail to ensure that the time recorded on the chart agrees with the official time in the country of registration.	Article 15(3) Council Regulation 3821/85	Verbal Warning	
Fail to use tachograph record sheet.	Article 15(2), Council Regulation EEC 3821/85	a. 24 Hour Prohibition or b. 11 Hour Prohibition	a. This can be increased to 36 or 45 hours if circumstances warrant.
Fail to enter details on Tachograph record sheet centrefield	Article 15(5), Council Regulation EEC 3821/85	Verbal Warning, unless evidence of wrong doing then 11 or 24 hours as appropriate	
Use dirty or damaged charts or defaced charts.	Article 15(1), Council Regulation EEC 3821/85	b. 11 or 24 Hour Prohibition	a. Prosecute where deliberate attempt has been made to hide other offences. b. Where there is evidence of insufficient daily/weekly rest.
Knowingly make a false record.	Section 99(5) Transport Act 1968.	b. 24 Hour Prohibition or c. 11 Hour Prohibition	a. Prosecute whenever possible. b. Where false record has been used to avoid weekly rest. c. Where false record has been used to avoid daily rest.

DESCRIPTION and OFFENCE SECTION	RELEVANT LEGISLATION	SANCTION	REMARKS
Knowingly makes a false entry in a book, register or document.	Section 99(5) Transport Act 1968.	b. 24 Hour Prohibition or c. 11 Hour Prohibition	a. Prosecute whenever possible. b. Where false record has been used to avoid weekly rest. c. Where false record has been used to avoid daily rest.
With intent to deceive altered any record required to be kept or carried.	Section 99(5) Transport Act 1968.	b. 24 Hour Prohibition or c. 11 Hour Prohibition	a. Prosecute whenever possible. b. Where false record has been used to avoid weekly rest. c. Where false record has been used to avoid daily rest.
Exceed 4.5 hours driving without the required break or breaks.	Article 7(1), Council Regulation EEC 3820/85	45 Minutes	Failure to take rest must be happening at time of stop.
Exceed 10 hours driving twice each fixed week.	Article 6(1), Council Regulation EEC 3820/85	11 Hour Prohibition	Can be reduced to 8 hours if requirements have been met for split daily rest.
Exceed 9 hours driving.	Article 6(1), Council Regulation EEC 3820/85	11 Hour Prohibition	Can be reduced to 8 hours if requirements have been met for split daily rest.
Exceed fortnightly driving limit (90 hours)	Article 6(2), Council Regulation EEC 3820/85	Minimum 24 Hour Prohibition	Consider when "new " fortnight will start.
Insufficient rest in 24 hour period (single manned)	Article 8(1), Council Regulation EEC 3820/85	11 hour prohibition	Can be reduced to 8 hours if requirements have been met for split daily rest.

DESCRIPTION and OFFENCE SECTION	RELEVANT LEGISLATION	SANCTION	REMARKS
Insufficient rest in 30 hour period (double manned)	Article 8(2), Council Regulation EEC 3820/85	8 hour prohibition.	
Fail to take sufficient weekly rest	Article 8(3), Council Regulation EEC 3820/85	24 hour prohibition	This can be increased to 36 or 45 hours if circumstances warrant.

DESCRIPTION and OFFENCE SECTION	RELEVANT LEGISLATION	SANCTION	REMARKS
MISCELLANEOUS	OFFENCES (PSV)		
Exceed the maximum seating capacity	Regulation 5 of The Public Service Vehicles (Carrying Capacity) Regulations 1984.	Until excess passengers are removed	
Exceeding the maximum standing capacity	Regulation 7 of The Public Service Vehicles (Carrying Capacity) Regulations 1984.	Until excess passengers are removed or seated.	
Use a vehicle for the carriage of passengers on an EC Regular Service without being the holder of a Regular Service Authorisation	Articles 2(1)& 4, Council Regulation EC 684/92	Until either passengers removed to other suitable vehicle or Regular Service Authorisation obtained.	
Use a vehicle for the carriage of passengers on an EC/ASOR Occasional Service without a correctly completed Control Document (Waybill) being carried	Articles 2(3)& 11, Council Regulation EC 684/92	Until either, a. passengers removed to other suitable vehicle or b. Control Document (Waybill) is obtained or completed.	

DESCRIPTION and OFFENCE SECTION	RELEVANT LEGISLATION	SANCTION	REMARKS
MISCELLANEOUS OFFENCES (LGV)			
Use a goods vehicle for hire or reward on an international journey without a certified true copy of a Community Authorisation	Article 3(1), Council Regulation EC 881/92	There is no power to prohibit under the Road Traffic (Foreign Vehicles) Act 1972. Prosecute if Owner/Driver	
Misuse of a Community Authorisation whilst using a goods vehicle for hire or reward on an international journey.	Article 5(3) and Annex 1, Council Regulation EC 881/92	There is no power to prohibit under the Road Traffic (Foreign Vehicles) Act 1972. Prosecute if Owner/Driver	
MISCELLANEOUS OFFENCES (GENERAL)			
Obstruction of an Officer	Section 99(4) of the Transport Act 1968	Until obstruction ceases	Prosecute if possible.
Forgery and misuse of documents	Section 173 of the Road Traffic Act 1988	Until correct documentation produced.	Prosecute if possible.

