

DIRECTIVES

COMMISSION DIRECTIVE 2009/4/EC

of 23 January 2009

counter measures to prevent and detect manipulation of records of tachographs, amending Directive 2006/22/EC of the European Parliament and of the Council on minimum conditions for the implementation of Council Regulations (EEC) Nos 3820/85 and 3821/85 concerning social legislation relating to road transport activities and repealing Council Directive 88/599/EEC

(Text with EEA relevance)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Directive 2006/22/EC of the European Parliament and of the Council of 15 March 2006 on minimum conditions for the implementation of Council Regulations (EEC) Nos 3820/85 and 3821/85 concerning social legislation relating to road transport activities and repealing Council Directive 88/599/EEC ⁽¹⁾, and in particular Article 15 thereof,

Whereas:

- (1) In accordance with Article 15 of Directive 2006/22/EC, amendments to the Annexes to that Directive which are necessary to adapt them to developing best practice in the field of enforcement and checks of driving times and rest periods are to be adopted in accordance with the procedure set out in Article 12(2) thereof.
- (2) Following the introduction of the digital tachograph, the Commission has been made aware of a new threat posed by the installation of devices intended to defraud the system and thereby undermine the effectiveness of the implementation of the social legislation relating to road transport.
- (3) It is accordingly appropriate to ensure that Member States include dedicated checks of that equipment in roadside checks, and in checks at the undertaking.
- (4) In order to ensure the effectiveness of such checks, it is also necessary to further define the standard equipment to be made available to enforcement officers.

(5) Annexes I and II of Directive 2006/22/EC should be adapted accordingly.

(6) The measures provided for by this Directive are in accordance with the opinion of the Committee set up by Article 18(1) of Council Regulation (EEC) No 3821/85 ⁽²⁾,

HAS ADOPTED THIS DIRECTIVE:

Article 1

Directive 2006/22/EC is amended as follows:

1. In Part A of Annex I, the following point 5 is added:

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

2. In Annex II, the following point 3 is added:

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

⁽¹⁾ OJ L 102, 11.4.2006, p. 35.

⁽²⁾ OJ L 370, 31.12.1985, p. 8.

Article 2

1. The Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 31 December 2009 at the latest. They shall forthwith communicate to the Commission the text of those provisions and a correlation table between those provisions and this Directive.

When Member States adopt those provisions, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made.

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

Article 3

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

Article 4

This Directive is addressed to the Member States.

Done at Brussels, 23 January 2009.

For the Commission

Antonio TAJANI

Vice-President
