



STATUTORY INSTRUMENTS.

**S.I. No. 371 of 2017**

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EUROPEAN UNION (FACILITATION OF CROSS-BORDER  
EXCHANGE OF INFORMATION ON ROAD-SAFETY-RELATED  
TRAFFIC OFFENCES) REGULATIONS 2017

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I, SHANE ROSS, Minister for Transport, Tourism and Sport, in exercise of the powers conferred on me by section 3 of the European Communities Act 1972 (No. 27 of 1972) and for the purpose of giving effect to Directive (EU) 2015/413 of the European Parliament and of the Council of 11 March 2015<sup>1</sup>, hereby make the following regulations:

1. These Regulations may be cited as the European Union (Facilitation of Cross-Border Exchange of Information on Road-Safety-Related Traffic Offences) Regulations 2017.

*Interpretation*

2. (1) In these Regulations—

“automated search” means an online access procedure for consulting the databases of one, more than one, or all of the Member States;

“data subject” means an individual who is the subject of personal data (within the meaning of the Data Protection Act 1988 No. 25 of 1988);

“Directive” means Directive (EU) 2015/413 of the European Parliament and of the Council of 11 March 2015<sup>1</sup>;

“drink-driving” means driving while impaired by alcohol, as defined in the law of the Member State of the offence, and in the case of an offence committed in the State, an offence under Part 2 of the Road Traffic Act 2010 (No. 25 of 2010) involving the use of alcohol;

“driving under the influence of drugs” means driving while impaired by drugs or other substances having a similar effect, as defined in the law of the Member State of the offence, and in the case of an offence committed in the State, an offence under Part 2 of the Road Traffic Act 2010 involving the use of drugs;

“failing to stop at a red traffic light” means driving through a red traffic light or any other relevant stop signal, as defined in the law of the Member State of the offence, and in the case of an offence committed in the State, a contravention of article 19, 20, 21, 28, 30 or 31 of the Regulations of 1997 or section 96 of the Road Traffic Act 1961 (No. 23 of 1961);

<sup>1</sup>OJ No. L 68, 13.3.2015, p. 9.

*Notice of the making of this Statutory Instrument was published in  
“Iris Oifigiúil” of 15th August, 2017.*

“failing to use a seat-belt” means not complying with the requirement to wear a seat-belt or to use a child restraint in accordance with Council Directive 91/671/EEC of 16 December 1991<sup>2</sup> and the law of the Member State of the offence, and in the case of an offence committed in the State, a contravention of article 6 or 7(3) of the Road Traffic (Construction, Equipment and use of Vehicles) (Amendment) (No. 3) Regulations 1991 (S.I. No. 359 of 1991) or Regulation 5, 6, 7, 8 or 9 of the European Communities (Compulsory Use of Safety Belts and Child Restraint Systems in Motor Vehicles) Regulations 2006 (S.I. No. 240 of 2006);

“failing to wear a safety helmet” means not wearing a safety helmet, as defined in the law of the Member State of the offence, and in the case of an offence committed in the State, a contravention of article 10 or 11 of the Road Traffic (Construction, Equipment and use of Vehicles) (Amendment) (No. 2) Regulations 1978 (S.I. No. 360 of 1978);

“holder of the vehicle” means the person in whose name the vehicle is registered, as defined in the law of another Member State of registration and, in the case of a vehicle registered in the State, the person in whose name the vehicle is registered in the National Vehicle and Driver File;

“illegally using a mobile telephone or any other communication devices while driving” means illegally using a mobile telephone or any other communication devices while driving, as defined in the law of the Member State of the offence and in the case of an offence committed in the State, an offence under section 3 of the Road Traffic Act 2006 (No. 23 of 2006);

“Member State of the offence” means the Member State (other than the State) where the offence was committed;

“Member State of registration” means the Member State where the vehicle with which the offence is alleged to have been committed is registered;

“national contact point” means a designated competent authority for the exchange of vehicle registration data;

“National Vehicle and Driver File” means records established and maintained by the Minister under section 60 (as amended by section 86 of the Finance Act 1994 (No. 13 of 1994)) of the Finance Act 1993 (No. 13 of 1993);

“registration number” in respect of a vehicle registered in the State, means the unique identification mark assigned to the vehicle by the Revenue Commissioners under section 131 (5) of the Finance Act 1992 (No. 9 of 1992);

“Regulations of 1997” means Road Traffic (Traffic and Parking) Regulations 1997 (S.I. No. 182 of 1997);

“road-safety-related traffic offence” means an offence referred to in Regulation 3;

<sup>2</sup>OJ No. L 373, 31.12.1991, p. 26.

“speeding” means exceeding speed limits in force in the Member State of the offence for the road or type of vehicle concerned, and in the case of an offence committed in the State, an offence under section 47 of the Road Traffic Act 1961 or a contravention of article 7 of the Regulations of 1997;

“use of a forbidden lane” means illegally using part of a road section, such as an emergency lane, public transport lane or temporary closed lane for reasons of congestion or road works, as defined in the law of the Member State of the offence, and in the case of an offence committed in the State, a contravention of article 25, 26, 27, 28, 32 or 33(1)(a), (b) or (d) of the Regulations 1997;

“vehicle” means any power driven vehicle, including a motorcycle, which is normally used for carrying persons or goods by road, and in the case of a record of a vehicle held on the National Vehicle and Driver File, a mechanically propelled vehicle (within the meaning of the Road Traffic Act 1961).

(2) A word or expression which is used in these Regulations and is also used in the Directive has, unless the context otherwise requires, the same meaning in these Regulations as it has in the Directive.

#### *Scope*

3. These Regulations apply to the following road-safety-related traffic offences:

- (a) speeding;
- (b) failing to use a seat-belt;
- (c) failing to stop at a red traffic light;
- (d) drink-driving;
- (e) driving while under the influence of drugs;
- (f) failing to wear a safety helmet;
- (g) the use of a forbidden lane;
- (h) illegally using a mobile telephone or any other communication devices while driving.

#### *National contact point*

4. The Minister for Transport, Tourism and Sport is designated as the national contact point in the State for—

- (a) requests for the exchange of data relating to vehicles and their owners or holders from the national contact point in Member States of the offence for the purposes of investigation of road-safety-related traffic offences, and
- (b) making a request to the national contact point in another Member State for access to its national vehicle registration database in order

to conduct the search for a vehicle registered in that database or the owner or holder of the vehicle, where the vehicle has been involved in a road-safety-related traffic offence committed in the State.

*Automated searches of National Vehicle and Driver File by Member State of offence*

5. (1) The national contact point in the State, for the purpose of the investigation of road-safety-related traffic offences, shall grant to the national contact point in the Member State of the offence access to the National Vehicle and Driver File in order to conduct automated searches in respect of data relating to vehicles and the owners and holders of vehicles contained in records held on the National Vehicle and Driver File where that other national contact point has complied with the data elements referred to in Annex I to the Directive and provided a full registration number of the vehicle which is the subject of the search.

(2) Searches under this Regulation shall be conducted in compliance with points 2 and 3 of Chapter 3 of the Annex to Decision 2008/616/JHA of 28th June 2008<sup>3</sup>, and Annex I to the Directive shall apply.

*Automated searches of vehicle registration databases of other Member States*

6. The national contact point in the State, for the purposes of the investigation of a road-safety-related traffic offence committed in the State involving a vehicle registered in another Member State, may in accordance with Article 4 of the Directive access, and process, data in the national vehicle registration database of the Member State of registration to conduct automated searches, where such access is granted by the Member State of registration, to be used in order to establish who is personally liable for the road-safety-related traffic offence in respect of which the search of the database of the Member State of registration was made.

*Use of processed data*

7. Data processed under Regulation 6 by the national contact point in the State may only be used for the objective of—

- (a) facilitating the cross-border exchange of information on road-safety-related traffic offences, and
- (b) the enforcement of sanctions where road-safety-related traffic offences are committed in the State with a vehicle registered in another Member State.

*Correction and erasure of personal data*

8. Personal data processed under Regulation 6 by the national contact point in the State shall be—

- (a) rectified if inaccurate, and
- (b) erased or blocked—

<sup>3</sup>OJ No. L 210, 6.8.2008, p. 12.

- (i) if they are no longer required for the purpose for which they were processed, or
- (ii) at the latest, following the expiry of such period for retaining the data specified by the national contact point of the other Member State who has allowed access to its vehicle registration database,

by the national contact point in the State.

*Information to data subject*

9. If a data subject whose personal data has been transmitted by the national contact point in the State to the national contact point in a Member State of the offence, in response to a request under Article 4 of the Directive, so requests, the national contact point shall inform him or her of—

- (a) what data was transferred in response to the request,
- (b) the date of the request, and
- (c) the identity of the national contact point in the Member State of the offence.

*Application of Data Protection Acts 1988 and 2003*

10. The Data Protection Acts 1988 and 2003 apply to personal data processed under these Regulations. The data subject shall accordingly be informed, when notified of the offence, of the right to access, rectification and deletion of personal data, as well as the maximum storage period of the data.

*Information letter*

11. Where, in relation to a road-safety-related traffic offence committed in the State the Director of Public Prosecutions or other person decides to initiate follow-up proceedings he or she shall, in informing the owner or holder of the vehicle concerned registered in another Member State of such proceedings, send the information letter in the language of the registration document of the vehicle, if available, or in one of the official languages of the Member State of registration.



GIVEN under my Official Seal,  
11 August 2017.

SHANE ROSS,  
Minister for Transport, Tourism and Sport.

EXPLANATORY NOTE

*(This note is not part of the instrument and does not purport to be a legal interpretation.)*

This instrument gives effect to EU Directive 413 of 2015. The Directive relates to sharing of vehicle registration data between Member States in order to investigate certain types of road traffic offences.

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