



STATUTORY INSTRUMENTS.

S.I. No. 545 of 2007

EUROPEAN COMMUNITIES (ROAD TRANSPORT ACTIVITIES
CHECKS) REGULATIONS 2007

(Prn. A7/1466)

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I, NOEL DEMPSEY, Minister for Transport, in exercise of the powers conferred on me by section 3 of the European Communities Act 1972 (No. 27 of 1972) for the purpose of giving effect to Directive No. 2006/22/EC of the European Parliament and of the Council of 15 March 2006¹, hereby make the following regulations:

1. These Regulations may be cited as the European Communities (Road Transport Activities Checks) Regulations 2007.

2. (1) In these Regulations—

“Directive” means Directive No. 2006/22/EC of the European Parliament and of the Council of 15 March 2006¹;

“enforcement officer” means—

- (a) a transport officer appointed under section 15 of the Road Transport Act 1986 (No. 16 of 1986),
- (b) an officer of Customs and Excise, or
- (c) a member of the Garda Síochána.

(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 that Directive.

3. The Road Safety Authority—

- (a) shall organise a system of appropriate and regular checks both at the roadside and at the premises of transport undertakings for the purposes of and in accordance with the Directive,
- (b) is the competent authority in the State for the purposes of Article 3 of the Directive,
- (c) is designated as the body which has the tasks referred to in Article 7 of the Directive, and
- (d) shall introduce a risk rating system for undertakings for the purposes of Article 9 of the Directive.

¹ OJ L 102, 11.4.2006, p. 35

*Notice of the making of this Statutory Instrument was published in
“Iris Oifigiúil” of 31st July, 2007.*

4. Roadside checks shall be carried out in consultation with the Garda Síochána.
5. (1) An enforcement officer may board a vehicle or enter the premises of a transport undertaking for the purpose of carrying out a check under Article 6 of the Directive.
- (2) An enforcement officer may in carrying out a check for the purposes of the Directive—
- (a) make such examination and inquiry as may be necessary,
 - (b) require the production of any record (and, in the case of information in non-legible form to produce it in legible form) which in the opinion of the enforcement officer is necessary for him or her to inspect, examine or require a copy of it or of any entry in it to be provided to him or her,
 - (c) inspect and take copies of or extracts from any such records (including, in the case of information in non-legible form, a copy of or extract from the information in permanent legible form),
 - (d) remove and retain the records for such period as may be reasonable for further examination or where it may be relevant in respect of proceedings,
 - (e) require any person whom he or she has reasonable cause to believe to be able to give information relevant for the purposes of the Directive to answer such questions with respect to matters to which the check relates as the officer thinks fit to ask,
 - (f) require the production of any recording equipment,
 - (g) direct that any recording equipment is left undisturbed for so long as is reasonably necessary for the purposes of the check,
 - (h) in relation to any recording equipment found in any vehicle or at any premises, take possession of it and detain it for so long as is necessary to—
 - (i) examine or arrange for the examination of it and do to it anything which he or she has power to do for the purpose of the check,
 - (ii) ensure that it is not tampered with before the examination is completed, or
 - (iii) ensure that it is available for use as evidence in any proceedings,
 - (i) require any person to afford him or her such facilities and assistance within his or her control or responsibilities as are reasonably necessary to enable him or her to exercise any of the powers conferred on him under this Regulation or the Directive,

- (j) require any person by or on whose behalf data equipment is or has been used or any person having charge of, or other wise concerned with the operation of, the equipment or any associated apparatus or material to afford the officer all reasonable assistance in relation to its use,
- (k) detain any vehicle for so long as to complete a roadside check,
- (l) if an infringement is detected, check on the joint liability of other instigators or accessories in the transport chain, such as shippers, freight forwarders or contractors enter their premises and exercise all or any of the powers under this paragraph.

(3) The driver of a vehicle shall stop the vehicle on being so required by an enforcement officer in uniform. A driver who fails to comply with this paragraph commits an offence.

(4) An enforcement officer shall not, other than with the consent of the occupier, enter any part of a premises of a transport operator or other person used as a private dwelling unless he or she has obtained a warrant under paragraph (6) authorising such entry.

(5) Where an enforcement officer in exercise of his or her powers under this Regulation or Article 6 of the Directive is prevented from entering any premises of a transport undertaking or other person, an application may be made under paragraph (6) for a warrant authorising such entry.

(6) If a judge of the District Court is satisfied on the sworn information of an enforcement officer that there are reasonable grounds for believing that a premises is a transport premises or the premises of other instigators or accessories in the transport chain, contains information for the purposes of a check under Article 6 of the Directive or serious infringements referred to in Article 6 have been detected at the roadside relating to vehicles being operated from the premises, the judge may issue a warrant authorising an enforcement officer, accompanied by other enforcement officers, at any time or times within one month from the date of issue of the warrant, to enter, if need be by reasonable force, the premises and exercise all or any of the powers conferred on an enforcement officer under this Regulation or the Directive.

6. A person who fails to comply with the request of an enforcement officer or obstructs or impedes an enforcement officer in carrying out a roadside check or a check at the premises of a transport undertaking or other person under these Regulations commits an offence.

7. (1) A transport undertaking responsible for drivers shall keep, for a period of one year, the documents, records of results and other relevant data passed to it by the Road Safety Authority or the relevant competent authority of another Member State concerning checks carried out on it at its premises or in its drivers at the roadside.

(2) A transport undertaking which fails to comply with this Regulation commits an offence.

8. (1) A person guilty of an offence under these Regulations is liable on summary conviction—

(a) in the case of a first offence, to a fine not exceeding €2,000, or

(b) in the case of a second or subsequent offence, to a fine not exceeding €5,000.

(2) Proceedings for an offence under these Regulations may be brought and prosecuted summarily by the Road Safety Authority.

(3) Where an offence under these Regulations is committed by a body corporate and is proven to have been committed with the consent or connivance of or to be attributable to any neglect on the part of a person being a director, manager or secretary or other officer of the body corporate or a person who was purporting to act in any such capacity, that person as well as the body corporate is guilty of an offence and is liable to be proceeded against and punished as if he or she were guilty of the first-mentioned offence.

9. A transport undertaking with a high risk rating under the risk rating system introduced by the Road Safety Authority under Article 9 of the Directive may make representations to the Authority regarding its rating. The Authority shall consider the representations and notify the undertaking of its conclusions.



GIVEN under my Official Seal,
24 July 2007

NOEL DEMPSEY
Minister for Transport.

EXPLANATORY NOTE

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

The purpose of these Regulations is to give effect to EU Directive 2006/22 of the European Parliament and of the Council of 15 March 2006 which sets down minimum enforcement activities to be implemented by Member States concerning social legislation relating to road transport undertakings. The Regulations designate the Road Safety Authority as being responsible in the State for:—

- a. the organisation of a system of checks at the roadside and at the premises of undertakings concerning compliance with social legislation;
- b. the collection and submission of statistical information concerning enforcement activities to the European Commission;
- c. intracommunity liaison activities and
- d. the establishment of a risk register of transport undertakings for the purposes of the Directive.

In addition the Regulations contain provisions relating to powers for enforcement officers and prescribe penalties for infringements.

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