

## GUIDANCE NOTE 5

**Issue:** Form for an attestation of activities established by the Commission Decision (2009/959/EU) of 14.12.2009 amending Decision 2007/230/EC on a form concerning social legislation relating to road transport activities

**Articles:** 11(3) and 13 of Directive 2006/22/EC

**Approach to be followed:** The form of attestation shall not be required for activities that can be recorded by the tachograph. The primary source of information at the roadside checks is the recordings made by the tachograph, and the lack of records should only be justified with an attestation if tachograph records, including manual entries, were not possible for objective reasons. In all circumstances, the complete set of tachograph records, complemented by the form, when necessary, shall be accepted as sufficient evidence to prove compliance with Regulation (EC) No 561/2006 or the AETR, unless there is a justified suspicion.

The attestation covers certain activities during the period mentioned in article 15 (7) (a) of Regulation (EEC) No 3821/85, namely the current day and the previous 28 days.

The attestation may be used when a driver has:

- been on sick leave
- been on leave, which forms part of the annual leave according to the legislation of the Member State where the undertaking is established
- been on leave or rest
- driven another vehicle exempted from the scope of Regulation (EC) No 561/2006 or AETR
- performed other work than driving
- been available

and where it has been impossible to record these activities by the recording equipment.

The box "leave or rest" may be used in a situation when the driver has not been involved in any driving, in other work or has not been available, has not been on sick leave or annual leave, including for instance also cases of partial unemployment, strikes or lock-outs.

Member States are not obliged to require the use of the form in the cases of lack of records, but if a form is required, this standardised form must be recognised valid. However, no form of any type shall be requested concerning ordinary daily or weekly rest periods.

The electronic and printable form as well as information regarding the Member States that accept solely this form is available at:

[http://ec.europa.eu/transport/modes/road/social\\_provisions/driving\\_time/form\\_attestation\\_activities\\_en.htm](http://ec.europa.eu/transport/modes/road/social_provisions/driving_time/form_attestation_activities_en.htm)

The form is accepted all over the EU in any official EU language. Its standard format facilitates understanding as it contains numbered pre-determined fields to be filled in. In AETR transport, it is recommended to use the form produced by the United Nations Economic Commission for Europe (<http://www.unece.org/trans/main/sc1/sc1.html>).

All the fields in the form must be filled in by typing. In order to be valid, the form must be signed both by the company representative and by the driver before the journey. For self-employed drivers, the driver signs once as the company representative and once as the driver.

Only the signed original is valid. The text of the form may not be modified. The form may not be pre-signed nor may it be altered by handwritten statements. If it is legally possible according to the national legislation, a telecopy (fax) or a digitalised copy of the form may be accepted.

The form may be printed on paper containing the company logo and contact details, but the fields containing the company information must also be filled in.