



STATUTORY INSTRUMENTS.

S.I. No. 178 of 2023

EUROPEAN UNION (INTEROPERABILITY OF ELECTRONIC ROAD
TOLL SYSTEMS) REGULATIONS 2023

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I, EAMON RYAN, Minister for Transport, 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) 2019/520 of the European Parliament and of the Council of 19 March 2019¹ and further effect to Commission Delegated Regulation (EU) 2020/203 of 28 November 2019² and Commission Implementing Regulation (EU) 2020/204 of 28 November 2019³, hereby make the following regulations:

1. These Regulations may be cited as the European Union (Interoperability of Electronic Road Toll Systems) Regulations 2023.

2. (1) In these Regulations –

“accreditation” means the process defined and managed in compliance with the requirements laid out in the Toll Domain Statement(s) by the toll charger, which an EETS provider must undergo before it is authorised to provide EETS in a particular EETS domain and “accredited EETS provider” shall be construed accordingly;

“CE marking” means a marking by which the manufacturer indicates that the product is in conformity with the applicable requirements set out in Union harmonisation legislation providing for its affixing;

“Commission Delegated Regulation” means Commission Delegated Regulation 2020/203 of 28 November 2019⁴ on classification of vehicles, obligations European Electronic Toll Services users, requirements for interoperability constituents and minimum eligibility criteria for notified bodies;

“Commission Implementing Regulation” means Commission Implementing Regulation (EU) 2020/204 of 28 November 2019⁵ on detailed obligations of European Electronic Toll Services providers, minimum content of the European Toll Service domain statement, electronic interfaces, requirements for interoperability constituents and repealing Decision 2009/750/EC;

“conciliation body” means the body designated under Regulation 35 to be the conciliation body for the purpose of the Directive and these Regulations;

“Directive” means Directive (EU) 2019/520 of the European Parliament and of the Council of 19 March 2019¹ on the interoperability of electronic road toll

¹ OJ No. L.91, 29.3.2019, p. 45

² OJ No. L.43, 17.2.2020, p. 41

³ OJ No. L.43, 17.2.2020, p. 49

⁴ OJ No. L.43, 17.2.2020, p. 41

⁵ OJ No. L.43, 17.2.2020, p. 49

systems and facilitating cross-border exchange of information on the failure to pay road fees in the Union (recast);

“EETS” means the European Electronic Toll Service;

“EETS compliant system” means the set of elements of an electronic road toll system which are specifically needed for the integration of EETS providers in the system and for the operation of EETS;

“EETS domain” means a road, a road network, a structure, such as a bridge or a tunnel, or a ferry, where tolls are collected using an electronic road toll system;

“EETS domain statement” means the statement referred to in Regulation 19(1);

“EETS provider” means an entity registered to be an EETS provider under Regulation 9 or registered under the law of a Member State other than the State giving effect to Article 4 of the Directive and which, under a separate contract, grants access to EETS to an EETS user and transfers the tolls to the relevant toll charger;

“EETS user” means a person who has a contract with an EETS provider in order to have access to the EETS;

“electronic road toll system” means a toll collection system in which the obligation for the EETS user to pay the toll is exclusively triggered by and linked to the automatic detection of the presence of the vehicle in a certain location through remote communication with on-board equipment in the vehicle or automatic number plate recognition;

“European Electronic Toll Service” means the toll service provided under a contract on one or more EETS domains by an EETS provider to an EETS user;

“General Data Protection Regulation” means Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016⁶ on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation);

“holder of a vehicle” means a person in whose name a vehicle is registered under section 131 of the Finance Act 1992 (No. 9 of 1992) or a law or legislation of like effect in a Member State other than the State;

“interoperability constituent” means any elementary component, group of components, subassembly or complete assembly of equipment incorporated or intended to be incorporated into EETS upon which the interoperability of the service depends directly or indirectly, including both tangible objects and intangible objects such as software;

“interoperability requirements” means requirements for interoperability constituents specified by Article 1(3) and Annex II of the Commission Delegated Regulation;

“Minister” means the Minister for Transport;

⁶ OJ No. L 119, 4.5.2016, p.1

“national contact point” means, in the case of the State, the Minister designated as the national contact point under Regulation 52(1) for the purpose of the Directive and these Regulations and, in the case of a Member State other than the State, the competent body of the Member State for the cross-border exchange of vehicle registration data;

“notified body” means a body notified by the State under Regulation 48(2) or the law of a Member State other than the State giving effect to Article 19 of the Directive to be a notified body;

“on-board equipment” means the complete set of hardware and software components to be used as part of the toll service which is installed or carried on board a vehicle in order to collect, store, process and remotely receive or transmit data, either as a separate device or embedded in the vehicle;

“publish” means to publish on a freely accessible, up to date website or in a national newspaper;

“single contact office” means the body designated under Regulation 47 to be the single contact office for the purpose of the Directive and these Regulations;

“toll” means the fee which must be paid by the road user for circulating on a given road, a road network, a structure, such as a bridge or a tunnel, or a ferry;

“toll charger” means a public or private entity which levies tolls for the circulation of vehicles in an EETS domain;

“Toll Domain Statement” means a statement for an Irish toll domain which can be viewed on the Government’s website at <https://www.gov.ie/en/publication/42eb7-national-electronic-register-for-the-european-electronic-toll-service>;

“toll service provider” means a legal entity providing toll services on one or more EETS domains for one or more class of vehicle.

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

Subject matter and scope

3. (1) These Regulations do not apply to –

- (a) road toll systems that are not electronic road toll systems, and
- (b) small, strictly local road toll systems for which the costs of complying with the requirements of these Regulations would be disproportionate to the benefits.

(2) These Regulations do not apply to parking fees.

Obligation to notify EETS user of obligation to pay

4. Where there is an obligation on an EETS user to pay a toll pursuant to bye-laws made under section 61 of the Roads Act 1993 (No. 14 of 1993), and where –

- (a) the person who is entitled to collect the toll is required by those bye-laws to notify the EETS user of his or her obligation to pay the toll in advance of a failure to pay the toll being established, and
- (b) there are no other means of identifying the owner or the holder of the vehicle,

Regulation 15 shall apply to identify the vehicle and the owner or the holder of that vehicle in order to notify the owner or holder of his or her obligation to pay the toll.

Technological solutions

5. (1) An electronic road toll system introduced after the coming into operation of these Regulations and which requires the installation or use of on-board equipment shall, for carrying out an electronic toll transaction, use one or more of the following technologies:

- (a) satellite positioning;
- (b) mobile communications;
- (c) 5.8 GHz microwave technology.

(2) An electronic road toll system which requires the installation or use of on-board equipment which was operating on or immediately before the coming into operation of these Regulations and which uses technologies other than those set out in paragraph (1) shall, where substantial improvements are carried out to the electronic road toll system, comply with the provisions of paragraph (1).

On-board equipment

6. On-board equipment shall –

- (a) be made available by EETS providers to EETS users and shall be suitable for use, interoperable and capable of communicating with the relevant electronic road toll systems in service in the Member States using the technologies set out in Regulation 7(1), and
- (b) when placed on the market after the coming into operation of these Regulations, be compatible with the positioning services provided by the Galileo and the European Geostationary Navigation Overlay Service (“EGNOS”) systems.

7. Any on-board equipment made available by an EETS provider –

- (a) shall be capable of using its own hardware and software, elements of other hardware and software present in the vehicle, or both and
- (b) may be capable of –
 - (i) for the purpose of communicating with other hardware systems present in the vehicle, using technologies other than those set out in Regulation 5(1), provided that security, quality of service and privacy are ensured, and
 - (ii) facilitating services other than tolling, provided that the operation of such services does not interfere with the toll services in any EETS domain.

Use of microwave technology

8. An EETS provider registered in the State may, until 31 December 2027, provide users of light-duty vehicles with on-board equipment suitable for use with 5.8 GHz microwave technology only, to be used in EETS domains which do not require satellite positioning or mobile communications technologies.

Registration of EETS providers

9. (1) The Minister shall establish a register of EETS providers in the State (in these Regulations referred to as the “register of EETS providers”).

(2) The Minister shall be responsible for maintaining and updating the register of EETS providers.

(3) An entity which is established in the State may make an application in writing to the Minister, accompanied by a fee as may be specified by the Minister, to be registered as an EETS provider in the State.

(4) An entity applying to be registered under paragraph (3) is required to fulfil the following requirements:

- (a) hold EN ISO 9001 certification or equivalent;
- (b) have the technical equipment and the EC Declaration or certificate attesting the conformity of the interoperability constituents to specifications;
- (c) have competence in the provision of electronic toll services or in other relevant domains;
- (d) have appropriate financial standing;
- (e) maintain a global risk management plan, which is audited at least every two years;
- (f) be of good repute.

(5) The Minister shall consider an application under paragraph (3) and, where he or she is satisfied that the entity fulfils the requirements in paragraph (4), shall enter the name of that entity on the register of EETS providers and shall notify the entity in writing of its registration as an EETS provider.

(6) Where the Minister is not satisfied that an entity fulfils the requirements in paragraph (4), he or she shall so notify the entity and give his or her reasons to the entity.

(7) An entity registered as an EETS provider shall, within 30 days of each anniversary date of the registration, make a declaration in such form as may be specified by the Minister as to whether the entity continues to meet each of the requirements of paragraph (4) and, from the second anniversary of the date of registration, provide the audit referred to in subparagraph (e) of that paragraph every two years.

(8) The Minister may cancel registration of an EETS provider after giving formal notice detailing the concerns about failure to comply with one or more of the ongoing EETS provider registration requirements and giving 30 days from the date of the notice to rectify the concerns and submit a statement indicating how the non-compliance has been remedied.

(9) Where an EETS provider disagrees with the content of the formal notice referred to in paragraph (8), it shall respond within 30 days with evidence disputing the Minister's concerns and the Minister reserves the right to ask for oral representations where he or she is not satisfied with the written representations are provided by the EETS provider.

Rights and obligations of EETS providers

10. (1) Within 36 months of being entered on the register of EETS providers, an EETS provider shall conclude contracts with toll chargers covering all EETS domains on the territories of at least four Member States and, subject to paragraph (2), the last such contract in any one Member State shall be concluded within 24 months of the conclusion of the first contract in that Member State.

(2) An EETS provider registered in the State shall not be obliged to conclude contracts where toll chargers do not comply with Regulation 20.

(3) An EETS provider registered in the State shall maintain coverage of all EETS domains where it has concluded contracts with toll chargers.

(4) Where an EETS provider registered in the State is unable to maintain coverage of an EETS domain as a result of non-compliance by a toll charger with these Regulations or the law of a Member State other than the State giving effect to the Directive, that EETS provider shall re-establish coverage of the relevant EETS domain as soon as possible.

Publication

11. (1) An EETS provider registered in the State shall publish information in relation to EETS domain coverage and any changes thereto.

(2) Within one month of registration under Regulation 9, an EETS provider shall publish detailed plans regarding any extension of its service to further EETS domains.

(3) The plans referred to in paragraph (2) shall be reviewed annually and any revision of the plans arising from the review shall also be published.

(4) An EETS provider registered in the State shall publish its contracting policy towards EETS users.

Provision of on-board equipment to EETS users

12. (1) An EETS provider registered in the State or providing EETS in the State shall, where necessary, provide EETS users with on-board equipment which fulfils the requirements set out in –

- (a) these Regulations,
- (b) the European Union (Radio Equipment) Regulations 2017 (S.I. No. 248 of 2017), in so far as those Regulations give effect to Directive 2014/53/EU of the European Parliament and of the Council of 16 April 2014⁷, and
- (c) the European Communities (Electromagnetic Compatibility) Regulations 2016 (S.I. No. 145 of 2016) and (S.I. No. 69 of 2017).

(2) A notified body may request an EETS provider to whom paragraph (1) applies to provide evidence that the requirements set out in paragraph (1) are being fulfilled.

Invalidated on-board equipment

13. (1) An EETS provider who provides EETS in the State shall keep a record of invalidated on-board equipment related to their EETS contracts with EETS users.

(2) In maintaining a record referred to in paragraph (1), the EETS provider shall ensure that it complies with Union rules on the protection of personal data, including those set out in the General Data Protection Regulation and the European Communities (Electronic Communications Networks and Services) (Privacy and Electronic Communications) Regulations 2011 (S.I. No. 336 of 2011).

Provision of information by EETS provider

14. An EETS provider who provides EETS in the State shall provide toll chargers with the information they need to –

- (a) calculate and apply a toll to the vehicles of EETS users, or
- (b) where the EETS provider applies the toll to the vehicles of EETS users, verify the calculation of the toll applied by the EETS provider.

⁷ OJ No. L.153, 22.5.2014, p. 62

Assistance in identification

15. (1) Where requested by a toll charger that suspects that an EETS user has failed to pay a toll, an EETS provider shall cooperate with the toll charger in its efforts to identify the vehicle and the owner or holder of that vehicle in respect of which the toll was not paid.

(2) Where requested under paragraph (1), an EETS provider shall instantly provide to the toll charger data relating to –

- (a) the vehicle involved in the suspected failure to pay a toll, and
- (b) the owner or holder of that vehicle who is a client of the EETS provider.

(3) A toll charger that is provided with data under paragraph (2) –

- (a) shall not disclose the data to any other toll service provider, and
- (b) where the toll charger is integrated with a toll service provider in one entity, shall ensure that the data are only used to identify persons suspected of failing to pay a toll or in accordance with Regulation 57(6).

Provision of data to Revenue Commissioners

16. (1) An EETS provider registered in the State shall, where requested by a toll charger on whose domain it is operating and where that toll charger requires this data in order to comply with its statutory obligations vis-à-vis the Revenue Commissioners, provide to the toll charger data relating to –

- (a) all vehicles owned or held by clients of the EETS provider which have, in a given period of time, driven on the EETS domain for which the toll charger is responsible, and
- (b) the owners or holders of the vehicles referred to in subparagraph (a).

(2) An EETS provider who receives a request under this Regulation shall provide to the toll charger the data requested no later than two days after receiving the request.

(3) A toll charger who is provided with data under this Regulation –

- (a) shall not disclose the data to any other toll service provider, and
- (b) where the toll charger is integrated with a toll service provider in one entity, shall ensure that the data are only used in order to comply with its statutory obligations to the Revenue Commissioners.

Processing of data

17. Data provided by an EETS provider to a toll charger shall be processed in compliance with Union rules on the protection of personal data, including those set out in the General Data Protection Regulation, the European Communities (Electronic Communications Networks and Services) (Privacy

and Electronic Communications) Regulations 2011 (S.I. No. 336 of 2011) and the Data Protection Act 2018 in so far as it gives effect or further effect to Directive (EU) 2016/680 of the European Parliament and of the Council of 27 April 2016⁶.

Rights and obligations of toll chargers

18. (1) Where an EETS domain is not in compliance with the technical and procedural EETS interoperability conditions or interoperability requirements provided for in these Regulations and the Commission Implementing Regulation the toll charger responsible for that EETS domain shall consult with the EETS provider in relation to the non-compliance with those conditions and take remedial action with a view to ensuring EETS interoperability of the toll system.

(2) Following consultation under paragraph (1), the Minister shall be informed by the toll charger of any non-compliance and the Minister shall, where he or she considers it necessary, update the national electronic register for the EETS referred to in Regulation 50 in respect of the non-compliance of the EETS domain.

EETS domain statement

19. (1) A toll charger responsible for an EETS domain in the State shall develop and maintain an EETS domain statement setting out the general conditions for an EETS provider to access an EETS domain in accordance with Article 1 and Annex II to the Commission Implementing Regulation.

(2) Where a new electronic road toll system is created in the State, the toll charger responsible for the system shall publish the EETS domain statement allowing sufficient notice for the accreditation of interested EETS providers, at the latest one month before the operational launch of the new system, having due regard to the length of the process of assessment of conformity to specifications and of the suitability for use of interoperability constituents.

(3) Where an electronic road toll system in the State is substantially modified, the toll charger responsible for the system shall publish an updated EETS domain statement allowing sufficient notice for already accredited EETS providers to adapt their interoperability constituents to the new requirements of the electronic road toll system and to obtain re-accreditation, at the latest one month before the operational launch of the modified system, having due regard to the length of the process of assessment of the conformity to specifications and of the suitability for use of interoperability constituents.

Non-discrimination

20. (1) A toll charger responsible for an EETS domain in the State shall, subject to paragraph (2), accept on a non-discriminatory basis an EETS provider requesting to provide EETS on said EETS domain.

(2) An EETS provider requesting to provide or who is providing EETS in an EETS domain in the State shall comply with the obligations and general conditions set out in the EETS domain statement for that EETS domain.

(3) A toll charger shall not require an EETS provider to use specific technical solutions or processes that hinder the interoperability of an EETS provider's interoperability constituents with electronic road toll systems in other EETS domains.

(4) If a toll charger and an EETS provider cannot reach an agreement in relation to the provision of services under this Regulation, the matter may be referred to the conciliation body.

Invoicing

21. (1) A contract between a toll charger and an EETS provider regarding the provision of EETS in the State shall permit the invoice for the toll to be issued directly by the EETS provider to the EETS user.

(2) The toll charger may require that the EETS provider invoices the EETS user in the name and on behalf of the toll charger, and the EETS provider shall comply with that request.

Charging

22. (1) A toll charger shall not charge an EETS user more than the national or local toll provided in bye-laws made pursuant to section 61 of the Roads Act 1993.

(2) A toll charger may offer a rebate or discount to promote the use of electronic toll payments.

(3) Any rebates or discounts offered by a toll charger for users of on-board equipment shall be offered in a manner that is transparent, publicly announced by the toll charger and available under the same conditions to clients of EETS providers.

Obligation to accept certified on-board equipment

23. A toll charger shall accept on its EETS domains from an EETS provider with whom it has a contractual relationship any operational on-board equipment which has been certified in accordance with the procedure required by Article 5 and Annex III of the Commission Implementing Regulation and which do not appear on a list of invalidated on-board equipment referred to in Regulation 13(1).

Dysfunction event

24. In the event of an EETS dysfunction attributable to a toll charger, the toll charger shall provide for a degraded mode of service enabling vehicles with the on-board equipment referred to in Regulation 23 to circulate safely with minimum delay and without being suspected of a failure to pay a toll.

Collaboration

25. A toll charger shall collaborate in a non-discriminatory way with EETS providers or manufacturers or notified bodies with a view to assessing the suitability for use of interoperability constituents on its EETS domains.

Remuneration

26. (1) An EETS provider shall be remunerated by a toll charger in respect of the EETS that it provides on behalf of that toll charger.

(2) The methodology for determining the remuneration of an EETS provider shall be published by the toll charger as part of the commercial conditions in the EETS domain statement.

(3) The methodology referred to in paragraph (2) shall be transparent, non-discriminatory and identical for all EETS providers accredited to a given EETS domain.

Calculation of remuneration

27. (1) In an EETS domain with a main service provider, the methodology for calculating the remuneration of an EETS provider by a toll charger shall, subject to paragraph (2), follow the same structure as the remuneration of a comparable service provided by the main service provider.

(2) The amount of remuneration of an EETS provider may differ from the remuneration of the main service provider where it is justified by –

- (a) the cost of specific requirements and obligations of the main service provider which do not apply to the EETS provider, or
- (b) the need to deduct from the remuneration of the EETS provider fixed charges imposed by the toll charger on the EETS provider based on the costs for the toll charger of providing, operating and maintaining an EETS compliant system in its toll domain, including the costs of accreditation where such costs are not included in the toll.

Toll tariff

28. (1) Where, for the purpose of establishing the toll applicable to a given vehicle, there is any discrepancy between the vehicle classification used by the EETS provider and the toll charger, the toll charger's classification shall prevail, unless an error can be demonstrated by the EETS provider.

(2) For the purposes of paragraph (1) and Regulation 38, “vehicle classification” means vehicle classification to which Article 2 and Annex I of the Commission Delegated Regulation applies.

Toll declaration

29. (1) A toll charger may require, from an EETS provider, payment for any substantiated toll declaration and any substantiated toll non-declaration relating to any EETS user account managed by that EETS provider.

(2) In this Regulation a “toll declaration” means a statement to a toll charger that confirms the presence of a vehicle in an EETS domain in a format agreed between the toll service provider and the toll charger.

Invalidated on-board equipment

30. (1) Where an EETS provider has provided a toll charger with a list of invalidated on-board equipment referred to Regulation 13(1), the EETS provider shall not be held liable for any further toll incurred through the use of such invalidated on-board equipment.

(2) The toll charger and EETS provider shall agree the number of entries in the list of invalidated on-board equipment, the format of the list and how frequently it is to be updated.

Microwave-based toll systems

31. Where a toll charger operates a microwave-based toll system, the toll charger shall communicate to an EETS provider substantiated declarations for tolls incurred by their respective EETS users.

Accounting

32. (1) An entity which provides a toll service shall keep accounting records which make a clear distinction between the costs and revenues related to the provision of toll services, and the costs and revenues related to other activities.

(2) An entity referred to in paragraph (1) shall, upon request in that behalf by the conciliation body, provide the records referred to in paragraph (1) which relate to toll services to the conciliation body.

(3) An entity referred to in paragraph (1) shall ensure that there are no cross-subsidies between the activities performed in the role of toll service provider and other activities.

Rights and obligations of EETS users

33. (1) An EETS user may subscribe to EETS through any EETS provider, regardless of his or her nationality, Member State of residence or the Member State in which his or her vehicle is registered.

(2) When entering into a contract with an EETS provider, an EETS user shall be informed by the EETS provider about valid means of payment and, in accordance with the General Data Protection Regulation, about the processing

of his or her personal data and his or her rights in relation to the protection of his or her personal data.

Payment of toll

34. (1) Payment of a toll by an EETS user to an EETS provider shall fulfil that user's payment obligation to the relevant toll charger.

(2) Where more than one piece of on-board equipment is installed or carried on board a vehicle, the EETS user shall ensure that the correct on-board equipment is used or activated for the specific EETS domain.

Conciliation body

35. For the purposes of these Regulations and the Directive, the National Transport Authority –

- (a) is designated as the conciliation body, and
- (b) has the following functions:
 - (i) facilitating mediation between toll chargers with an EETS domain located within its territory and EETS providers that have contracts or are in contractual negotiations with those toll chargers,
 - (ii) verifying that the contractual conditions imposed by a toll charger on an EETS provider are non-discriminatory, and
 - (iii) verifying that an EETS provider is remunerated in accordance with Regulations 26 and 27.

Referral to mediation

36. (1) A toll charger or an EETS provider may request the conciliation body to intervene in any dispute relating to their contractual relations or negotiations.

(2) A request under paragraph (1) shall include a brief statement of the subject of the dispute and the redress sought.

(3) Following receipt of a request under paragraph (1), the conciliation body shall request each of the parties to the dispute to state whether he or she consents to the dispute being the subject of mediation under these Regulations.

(4) Where each party to the dispute states, in response to a request under paragraph (3), that he or she consents to the dispute being the subject of such mediation the conciliation body shall appoint a person who it considers to be suitably qualified to perform the functions of the mediator for the purposes of these Regulations and refer the dispute to mediation.

(5) Where any of the parties fails to respond to a request under paragraph (3) or responds by stating that he or she does not consent to the matter concerned being the subject of mediation under these Regulations, the

conciliation body shall inform each party to the dispute that the dispute is not being referred to mediation.

(6) Within one month of the receipt of a request for it to intervene under paragraph (1), the conciliation body shall inform each party to the mediation whether all documents which it requires for the purpose of the mediation are in its possession.

Mediation

37. (1) The person appointed to be the mediator under Regulation 36(4) shall inquire fully into each relevant aspect of the dispute concerned, and provide to and receive from each party such information as is appropriate and generally make such suggestions to each party and take such other actions as he or she considers appropriate with a view to having the issues between the parties resolved by agreement.

(2) The mediator may request relevant information from toll chargers, EETS providers and any third parties active in the provision of EETS in the State which it requires for the purpose of the mediation.

(3) A party to the mediation may add additional claims, disputes or parties to the dispute at any time during the process.

(4) Where requested to do so by either party, the mediator shall issue a recommendation setting out the mediator's solution to the dispute, based on his or her opinion as to how the parties can best dispose of the dispute between them.

(5) Where the parties reach a settlement, the parties shall enter into agreement incorporating the terms of the settlement.

(6) Where requested to do so by either party, in a timely manner with a view to the requirement of paragraph (8), the mediator shall issue a recommendation setting out the mediator's solution to the dispute, based on his or her opinion as to how the parties can best dispose of the dispute between them.

(7) A recommendation under paragraph (6) shall be issued no later than 6 months after a request under Regulation 36 (1).

(8) A mediation is deemed to have been concluded –

- (a) if an agreement is entered into under paragraph (5),
- (b) if settlement of the whole of the matters in dispute has not been achieved by the conclusion of each day of the mediation and the parties and the mediator do not agree a date on which to continue the mediation,
- (c) if the mediator informs the parties that, in his or her opinion, any further attempts at settlement seem unlikely to be successful, or
- (d) if a party to the mediation informs the mediator that it withdraws from the mediation.

(9) The conciliation body may exchange information with other conciliation bodies in the EU concerning their work, guiding principles and practices.

Technical provisions

38. An EETS provider shall provide an EETS user with a single continuous service, namely:

- (a) once the vehicle classification parameters, including the variable ones, have been stored or declared, or both, no further in-vehicle human intervention is required during a journey unless there is modification to the vehicle's characteristics;
- (b) human interaction with a particular piece of on-board equipment stays the same whatever the EETS domain.

Interaction with EETS users

39. Toll chargers shall not interact with EETS users as part of EETS other than in respect of invoicing under Regulation 21 and enforcement of a toll.

Traffic data

40. (1) Where requested by a public body, a toll service provider, including an EETS provider, shall provide traffic data in respect of its clients, subject to compliance the General Data Protection Regulation and the European Communities (Electronic Communications Networks and Services) (Privacy and Electronic Communications) Regulations 2011 (S.I. No. 336 of 2011).

(2) Traffic data provided under paragraph (1) shall be used by the person to whom it is provided only for the purpose of developing and implementing traffic policies and enhancing traffic management and shall not be used to identify EETS users.

(3) In this Regulation “public body” means –

- (a) a Department of State for which a Minister of the Government is responsible,
- (b) a local authority,
- (c) any other person, body or organisation established –
 - (i) by or under an enactment (other than the Companies Acts) or charter,
 - (ii) by any scheme administered by a Minister of the Government, or
 - (iii) under the Companies Acts in pursuance of powers conferred by or under another enactment, and financed wholly or partly by means of money provided, or loans made or guaranteed, by a Minister of the Government or

the issue of shares held by or on behalf of a Minister of the Government,

- (d) a company (within the meaning of the Companies Acts) a majority of the shares in which are held by or on behalf of a Minister of the Government,
- (e) any other person, body, organisation or group appointed by the Government of a Minister of the Government.

Interoperability constituents

41. (1) In respect of a new electronic road toll system, a toll charger shall establish and publish in its EETS domain statement the detailed planning of the process of assessment of conformity to specifications and of the suitability for use of interoperability constituents, which allows for the accreditation of interested EETS providers.

(2) The matters referred to in paragraph (1) shall be carried out in sufficient time in order to allow for the accreditation of interested EETS providers at the latest one month before the operational launch of the new system.

(3) Where an electronic road toll system is substantially modified, the toll charger responsible for the system shall establish and publish in the EETS domain statement, in addition to the elements referred to in paragraph (1), the detailed planning of the re-assessment of conformity to specifications and of the suitability for use of the interoperability constituents of EETS providers already accredited to the system before its substantial modification.

(4) The planning referred to in paragraph (3) shall allow for the re-accreditation of concerned EETS providers at least one month before the operations launch of the modified system.

(5) The toll charger shall respect the planning referred to in paragraph (3).

Setting up of test environment

42. (1) A toll charger who is responsible for an EETS domain in the State shall set up a test environment in which an EETS provider or its authorised representative can carry out a test to check that its on-board equipment is suitable for use in the EETS domain.

- (2) A toll charger shall provide certification to an EETS provider or its authorised representative upon successful completion of a test referred to in paragraph (1).
- (3) A toll charger may set up a single test environment for more than one EETS domain, and may allow one authorised representative to check the suitability for use of one type of on-board equipment on behalf of more than one EETS provider.
- (4) A toll charger may require the EETS provider or its authorised representative to pay to the toll charger the cost incurred in carrying out a test under this Regulation.

CE marking

43. (1) Interoperability constituents for use in EETS which bear the CE marking, a declaration of conformity to specifications or a declaration of suitability for use may be placed on the market in the State.

(2) Conformity to specification and suitability for use of interoperability constituents shall be assessed in compliance with Annex III of the Implementing Regulation.

(3) Checks which have already been carried out as part of the procedure for checking conformity to specifications or suitability for use shall not be required to be undertaken by the toll charger where the CE marking or declarations referred to in paragraph (1) are present.

Relevant requirements for interoperability constituents unlikely to be met

44. (1) Where he or she has reason to believe that interoperability constituents bearing a CE marking and placed on the market are unlikely, when used as intended, to meet the requirements under these Regulations, the Minister shall take all necessary steps to restrict their field of application, prohibit their use or withdraw them from the market.

(2) Where paragraph (1) applies, the Minister shall immediately inform the Commission of the measures taken and give the reasons for his or her decision, stating in particular whether failure to meet the requirements is due to –

- (a) incorrect application of technical specifications, or
- (b) inadequacy of technical specifications.

Failure to comply with interoperability requirements

45. Where interoperability constituents bearing the CE marking fail to comply with interoperability requirements, the Minister shall require the manufacturer or its authorised representative established in the Union to restore the interoperability constituent to a state of conformity to specifications or suitability for use, or both, under the conditions laid down by the Minister and the Minister shall inform the Commission and the other Member States thereof.

Reasons

46. (1) Where a toll charger makes a decision concerning the assessment of conformity to specifications under Regulation 41 or the Minister makes a decision concerning the suitability for use of interoperability constituents under Regulation 45, the toll charger, or the Minister, as the case may be, shall set out detailed reasons upon which the decision is based.

(2) The toll charger, or the Minister, as the case may be, shall notify the concerned manufacturer, EETS provider or its authorised representatives as soon as possible of the decision referred to in paragraph (1), together with an indication of the remedies available and the time limits allowed for the exercise of such remedies.

Single contact office

47. (1) Transport Infrastructure Ireland is designated as the single contact office for the purpose of these Regulations, and the Directive.

(2) The single contact office shall, upon request of an EETS provider, facilitate and coordinate early administrative contacts between the EETS provider and the toll charger responsible for an EETS domain.

Notified bodies

48. (1) The Minister shall determine that certain bodies (“notified bodies”) are entitled to carry out or supervise the procedure for the assessment of conformity to specifications and suitability for use of interoperability constituents.

(2) The Minister may appoint, in writing, one or more persons or bodies as satisfy the minimum eligibility criteria provided for in Article 5 of the Directive and Annex III of the Commission Delegated Regulation in the assessment of a notified body and shall notify the European Commission of same.

(3) The Minister shall, subject to paragraph (4) withdraw approval from a notified body where he or she forms a view that the notified body no longer meets the criteria referred to in paragraph (2) and shall immediately inform the Commission and the other Member States of the withdrawal.

(4) Prior to the withdrawal of approval from a notified body under paragraph (3), the Minister shall inform the notified body and give it an opportunity to respond.

(5) Where the Minister considers that a body notified to it by another Member State does not meet the criteria referred to in paragraph (2), he or she shall refer the matter to the Electronic Toll Committee referred to in Article 31(1) of the Directive.

(6) In this Regulation, assessment of conformity to specifications and suitability for use of interoperability constituents means the process carried out by a toll charger to enable the accreditation of an EETS provider in relation to an EETS domain, including the content and format of the declaration of conformity required by Article I and Article III of the Commission Implementing Regulation.

Appeal panel

49. (1) This Regulation applies to a notified body aggrieved by a decision of the Minister pursuant to Regulation 48(3).

(2) The Minister may establish an appeal panel consisting of at least 3 but not more than 5 persons, one of whom may be designated by the Minister as chairperson.

(3) An appeal may be made by a notified body which is aggrieved by a decision referred to in paragraph (1) no later than 14 days after receiving notification of the withdrawal of approval.

(4) An appeal under paragraph (3) shall be in writing and shall state all of the grounds on which the appeal is made and provide to the appeal panel all of the documents and evidence intended to be relied on to support those grounds.

(5) An appeal panel shall determine its own procedure.

(6) An appeal panel may –

- (a) affirm the withdrawal of approval, or
- (b) allow the appeal.

(7) An appeal panel shall notify the Minister and the notified body which made the appeal of its determination of under paragraph (6).

Register

50. (1) The Minister shall establish and maintain a register in electronic form, in these Regulations referred to as the “national electronic register for the EETS”, and in this Regulation referred to as the “register”.

(2) The following information shall be entered on the register:

- (a) the EETS domains within the territory of the State, including information relating to –
 - (i) the corresponding toll chargers,
 - (ii) the tolling technologies employed,
 - (iii) the toll context data,
 - (iv) the EETS domain statement, and
 - (v) the EETS providers having EETS contracts with the toll chargers active in the territory of the State;
- (b) the EETS providers registered under Regulation 9;
- (c) the details of the single contact office including a contact email address and telephone number.

(3) The Minister shall ensure that the register is kept up to date and is accurate.

(4) For the purpose of paragraph (3), the Minister shall, at least annually, verify the requirements set out in subparagraphs (a), (d) (e) and (f) of Regulation 9(4).

(5) The register shall be published on a website maintained by the Minister or the Government.

Pilot toll systems

51. (1) The Minister may, subject to paragraph (3), in order to allow for technical development, temporarily authorise on limited parts of a toll domain and in parallel with the EETS compliant system, pilot toll systems incorporating new technologies or concepts which do not comply with one or more provision of these Regulations.

(2) An EETS provider shall not be obliged to participate in a pilot toll system authorised under paragraph (1).

(3) Prior to taking an action under paragraph (1), the Minister shall obtain the authorisation of the European Commission in accordance with Article 22.3 of the Directive.

Exchange of information

52. (1) For the purposes of the exchange of data under this Regulation, the Minister is designated as the national contact point in the State.

(2) The Minister shall grant access to the national contact point in another Member State of certain national vehicle registration data where a failure to pay a toll has been established in that State, in order to identify the relevant vehicle, and the owner or holder of that vehicle.

(3) The national vehicle registration data referred to in paragraph (2) shall comprise the information set out in Annex I to the Directive and shall be made accessible to the national contact point referred to in paragraph (2) in such a manner as permits automated searches to be carried out thereon.

(4) The Minister shall take all measures as are necessary to ensure the proper protection of personal data in carrying out an exchange of data under this Regulation.

(5) The Minister shall request access from the national contact point in another Member State for access to the data referred to in paragraph (3) where there is a failure to pay a toll in the State by a vehicle registered in another Member State in order to identify the relevant vehicle, and the owner and holder of that vehicle.

(6) The Minister shall use a full registration number where conducting an automated search in another Member State in relation to an unpaid toll in the State.

(7) Automated searches under this Regulation shall be conducted in compliance with the procedures referred to in points 2 and 3 of Chapter 3 of the Annex to Council Decision 2008/616/JHA of 23 June 2008⁸ and with the requirements of Annex I to the Directive.

(8) The Minister shall ensure that the exchange of information is carried out using the European Vehicle and Driving Licence Information System (Eucaris) software application and amended versions of this software, in

⁸ OJ No. L.210, 6.8.2008, p.12

compliance with the requirements of Annex I to the Directive and points 2 and 3 of Chapter 3 of the Annex to Council Decision 2008/616/JHA of 23 June 2008.

Information letter on the failure to pay a toll

53. (1) Where there has been a failure to pay a toll in the State and a person from another Member State has been identified as the owner, holder or other person suspected of failing to pay the toll, and the toll charger decides to initiate proceedings, the toll charger shall notify the person in accordance with paragraph (2).

(2) The notification referred to in paragraph (1) shall include any relevant information in relation to the failure to pay the toll and the legal consequences of a failure to pay a toll pursuant to bye-laws made under section 61 of the Roads Act 1993 and shall in particular specify:

- (a) the nature of the failure to pay the toll;
- (b) the place, date and time of the failure to pay the toll;
- (c) the relevant enactment and the penalty for its breach;
- (d) the right to appeal and have access to information;
- (e) the sanction;
- (f) where appropriate, data concerning the device used for detecting the failure to pay a toll.

(3) The toll charger shall base the notification referred to in this Regulation on the template set out in Annex II to the Directive.

(4) The notification referred to in this Regulation shall be sent in the language of the registration document of the relevant vehicle, if available, or in one of the official languages of the Member State of registration.

Follow up proceedings by toll changer or EETS provider

54. (1) The Minister may provide the toll changer, EETS provider or other entity responsible for levying the toll with information obtained under Regulation 50(2) where –

- (a) the data transferred is limited to what is needed by the toll changer, EETS provider or other entity, as the case may be, to obtain the toll due,
- (b) the procedure for obtaining the toll due complies with the procedure provided for in Regulation 53,
- (c) the entity concerned is responsible for levying the toll, and
- (d) compliance with the payment order issued by the entity receiving the data puts an end to the failure to pay a toll.

(2) An entity to whom data is provided under paragraph (1) shall use the data solely for the purpose of obtaining the toll due and shall delete the data

after a period of 6 months once the toll is paid or, if the failure to pay persists, within such period after the transfer of the data as is required for the purpose of obtaining that toll due, or the finalisation of enforcement proceedings.

Reporting to the Commission

55. (1) The Minister shall send a comprehensive report to the Commission by 19 April 2023, and every three years thereafter, which shall indicate –

- (a) the number of requests made by the Minister under Regulation 52(5) and the number of automated searches conducted following a request under that provision,
- (b) the number of requests received by the Minister and the number of times access to data was granted to the national contact point of another Member State under Regulation 52(2), and
- (c) the number of requests made where access to data was not granted.

(2) The report referred to in paragraph (1) shall also include information in relation to the proportion of failures to pay tolls in the State in respect of which notifications under Regulation 52 were sent.

Data protection

56. The General Data Protection Regulation, the European Communities (Electronic Communications Networks and Services) (Privacy and Electronic Communications) Regulations 2011 (S.I. No. 336 of 2011) and the Data Protection Act 2018 in so far as it gives effect or further effect to Directive (EU) 2016/680 of the European Parliament and of the Council of 27 April 2016⁶ shall apply to personal data processed under this Regulation.

Processing of personal data

57. (1) The processing of personal data for the purposes of Regulation 52 to 54 is limited to the mandatory types of data listed in Annex I to the Directive.

(2) Personal data shall be accurate and kept up to date, and requests for rectification or erasure shall be handled without undue delay.

(3) Personal data processed under this Regulation shall be used only for the purposes of –

- (a) identification of suspected offenders as a result of the obligation to pay tolls,
- (b) ensuring the compliance of the toll charger regarding its statutory obligations to the Revenue Commissioners within the scope of Regulation 16(1), and

(c) identification of the vehicle and the owner or holder of the vehicle for which a failure to pay a toll has been established within the scope of Regulations 52 and 53.

(4) Data subjects shall have the same rights of information, access, rectification, erasure and restriction of processing, and to lodge a complaint with the Data Protection Commissioner, compensation and an effective judicial remedy as provided for in the General Data Protection Regulation and the Data Protection Act 2018 in so far as it gives effect or further effect to Directive (EU) 2016/680 of the European Parliament and of the Council of 27 April 2016⁶.

(5) The Minister shall provide any person affected by Regulations 52, 53 or 54, without undue delay, with information in respect of the transfer of his or her personal data under those Regulations, including the date of the request for the data and the competent authority of the Member State in whose territory there was a failure to pay a toll.

(6) The rights under Articles 18 and 21 of the General Data Protection Regulation, may be restricted in accordance with Article 23(1)(e) of that Regulation, where necessary and proportionate to achieve the purposes listed in the first paragraph of that Article.



GIVEN under my Official Seal,
13 April, 2023.

EAMON RYAN,
Minister for Transport.

EXPLANATORY NOTE

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

These Regulations transpose into Irish law European Directive (EU) 2019/520 in relation to electronic road toll systems and the exchange of cross-border information on the failure to pay road fees.

BAILE ÁTHA CLIATH
ARNA FHOILSIÚ AG OIFIG AN tSOLÁTHAIR
Le ceannach díreach 6
FOILSEACHÁIN RIALTAIS,
BÓTHAR BHAILE UÍ BHEOLÁIN,
CILL MHAIGHNEANN,
BAILE ÁTHA CLIATH 8,
D08 XAO6

Tel: 046 942 3100
r-phost: publications@opw.ie

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