



Drivers' hours

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The European drivers' hours rules apply to all commercial drivers of heavy or large goods vehicles (HGVs and LGVs) weighing more than 3.5 tonnes and all drivers of passenger service vehicles (PSVs), i.e. coaches and buses, with more than nine seats. All those drivers exempt from the EU rules are subject to UK national rules set out in the *Transport Act 1968*. These include drivers of small goods vehicles, minibuses and regular bus services not exceeding 50km. The drivers' hours rules set out strict limits for the permitted amount of time spent driving and requirements relating to minimum breaks and daily and weekly rest periods. Enforcement is undertaken by both the police and the Vehicle and Operator Services Agency (VOSA).

[Comprehensive guidance](#) on the rules for all drivers is available from VOSA or the Transport Office.

There are separate 'working time' rules for 'mobile workers' in the road transport sector. This is dealt with in [Library Standard Note SN/BT/1758](#).

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1 Overview

There is little disagreement about the broad objectives of the drivers' hours and tachograph rules. Since the 1930s governments have recognised that commercial pressures can lead transport operators and drivers to indulge in excessive driving that can endanger both themselves and other road users. The dangers of fatigue and its effect on driving safety were recognised in the *Road and Rail Traffic Act 1933*.

The first objective is therefore to promote road safety by requiring drivers to have adequate rest and breaks and preventing excessive driving. There is also a desire for common international rules that can be applied to drivers irrespective of nationality, and to ensure that competition between hauliers and coach operators in this area is fair and on a common basis. Lastly, there is a wish to give drivers reasonable conditions of work and leisure and prevent their exploitation. To achieve these objectives it is vital that national governments provide efficient, effective and standardised checks of their haulage and bus and coach industries and of these vehicles while on the road, whatever their nation of origin.

UK legislation on drivers' hours was introduced by the *Transport Act 1968*, although this now applies only to the limited vehicle operations not covered by EU rules. The Government is currently [consulting](#) on the future of the 'domestic rules'.

The EEC, as it then was, adopted a social regulation governing the conditions of work of lorry and coach drivers in 1969; it was introduced in 1970. When the UK joined the EEC,¹ the regulation was accepted, with a long phasing-in period, as part of the UK's commitment under the Treaty of Accession. The use of tachographs has been compulsory in the EU since 1975. In February 1979 the UK was held to be in breach of the rules and as a result, new regulations were introduced making the fitting of tachographs to all vehicles and their use on domestic journeys compulsory by the end of 1981.

In December 1985 a further Regulation on drivers' hours, [3820/85/EEC](#), was adopted and was incorporated into UK legislation by the *Community Drivers' Hours and Recording Equipment Regulations 1986* (SI 1986/1457), which in turn amended section 97 of the 1968 Act and the earlier regulations on recording equipment. The 1985 Regulation was replaced in 2007 by Regulation [561/2006/EC](#) which extended the types of vehicle covered by the drivers' hours rules.

Separately, in March 2002 the EU adopted Directive 2002/15/EC on the organisation of the working time of persons performing mobile road transport activities. The Directive applies to those 'mobile workers' in the road transport sector who are covered by the 2006 Regulation – essentially, drivers of goods vehicles over 3.5 tonnes and drivers of passenger vehicles designed to carry more than 17 people (other than those used on regular services where the route does not exceed 50km). It came into force in the UK on 4 April 2005 under the *Road Transport (Working Time) Regulations 2005* (SI 2005/639). For more information, see [Library Standard Note SN/BT/1758](#).

¹ a nice summary of the UK's entry into the EEC is given in *Terms of Entry* by Simon Young (Heinemann, 1973)

2 European regulations

Since 11 April 2007 the drivers' hours rules have been set out in Regulation [561/2006/EC](#). This replaced the earlier [1985 Regulation](#). The 2006 Regulation was brought into force in the UK by the *Drivers' Hours and Recording Equipment Regulations 2007 (SI 2007/1819)*.² The 1985 Regulation applied to goods vehicles weighing more than 3.5 tonnes and passenger carrying vehicles with more than 17 seats; under the 2006 Regulation the goods vehicle weight remained unchanged but for passenger vehicles, the Regulation was extended to cover vehicles with more than nine seats.

The 2006 Regulation provides a common set of Community rules for maximum daily and fortnightly driving times as well as daily and weekly minimum rest periods for all HGV and PSV drivers, subject to specified exceptions and derogations. The scope of operations regulated is tremendously diverse – it includes passenger transport and road haulage operations, both international and national, long and short distance, drivers for own account and for hire and reward, employees and self-employed. The aims of the Regulation are to avoid distortion of competition; enhance road safety; and improve driver working conditions within the Community.

The Regulation defines 'driving time' as the duration of driving activity recorded on an electronic or manual tachograph; this change is reflected in the domestic legislation and applies not only to those falling within the EU rules but also to those drivers operating under the domestic rules who chose to use a tachograph in lieu of keeping weekly record sheets.

The general rules are as follows:

- the daily driving period shall not exceed nine hours, with an exemption of twice a week when it may be 10 hours;
- there can be six driving periods per week;
- the total weekly driving time may not exceed 56 hours and the total fortnightly driving time may not exceed 90 hours;
- the daily rest period shall be at least 11 hours, with an exception of going down to nine hours three times a week;
- there is provision for a split rest of three hours followed by nine hour rests to make a total of 12 hours rest per day;
- weekly rest is 45 continuous hours, which can be reduced to 24 hours;
- compensation arrangements apply for reduced weekly rest periods; and
- breaks of at least 45 minutes (separable into 15 minutes followed by 30 minutes) should be taken after 4.5 hours at the latest.

The implementation of the Regulation is the subject to a biennial report, which indicates the level of checks undertaken and offences detected, based on information provided in a

² the UK Government consulted on the implementation of the new Regulation in October 2006; see: DfT, [Legislative changes to comply with new Regulation on drivers' hours](#), 26 October 2006

common format by Member States. The most recent report is for period 2005-06 and was published by the European Commission in August 2009.³

The Regulation permits a number of exemptions, including an automatic exemption for non-commercially operated historic vehicles. There is a separate list of national derogations for which Member States may apply. The UK has adopted [all the national derogations](#) available, apart from that for specialised vehicles transporting money and/or valuables.

The most recent derogation secured by the UK Government was for reservists. There was some concern expressed in 2007 that the Regulation would have a negative impact on volunteers such as those in the Territorial Army, volunteer firefighters and special constables.⁴ In June 2007 the then Transport Minister, Dr Stephen Ladyman, announced that he had written to the European Commission to seek a derogation for these groups.⁵ In February 2009 the then Transport Minister, Jim Fitzpatrick, announced that a derogation had been secured for “professional drivers operating solely within the UK when they are reservists undergoing military training or providing instruction to members of a Cadet Corps approved by the Secretary of State for Defence”. This exemption will:

... enable a driver who finishes his normal driving duties on a Friday to complete a 34 hour period of military training as a volunteer reservist or as an instructor in the Cadet Corps and then resume his normal driving duties again on a Monday morning.

The following safeguards have been incorporated into the exemption to ensure that road safety is not jeopardised:

the exemption will apply to 15 days’ annual camp and 10 weekend training sessions per annum—a total of 35 days. Weekend training will not be allowed to take place on consecutive weeks (other than in respect of the 15-day annual camp);

a regular daily rest period of 11 hours must be taken between the end of weekend training and start of work for the primary employer;

a regular weekly rest period of 45 hours must be taken no later than at the end of the sixth day following a period of weekend training.⁶

3 Domestic regulations

Certain categories of HGV/LGV and PSV drivers are exempt from EU rules but are subject to UK domestic rules. The exemptions are set out in Schedule 1 to the *Drivers’ Hours and Recording Equipment Regulations 2007* ([SI 2007/1819](#)). The domestic drivers’ hours rules for those outside the scope of the EU Regulation is contained in Part VI of the *Transport Act 1968*, as amended; the *Drivers’ Hours (Harmonisation with Community Rules) Regulations 1986* (SI 1986/1458), as amended; and the *Community Drivers’ Hours and Recording Equipment Regulations 2007* ([SI 2007/1819](#)). Section 96 of the 1968 Act, as amended, sets the permitted driving time and periods of duty. Government guidance gives an overview of the domestic rules:

Driving is defined as being at the controls of a vehicle for the purposes of controlling its movement, whether it is moving or stationary with the engine running, even for a short period of time.

³ [COM \(2009\) 416 final](#), 3 August 2009

⁴ see, e.g.: [HL Deb 22 March 2007](#), cc1337-38

⁵ [HC Deb 11 June 2007](#), c38WS

⁶ [HC Deb 24 February 2009](#), cc21-22WS

Breaks and continuous driving

After 5.5 hours of driving a break of at least 30 minutes must be taken in which the driver is able to obtain rest and refreshment.

Alternatively, within any period of 8.5 hours in the working day, total breaks amounting to at least 45 minutes are taken so that the driver does not drive for more than 7 hours and 45 minutes.

The driver must in addition have a break of at least 30 minutes to obtain rest or refreshment at the end of this period, unless it is the end of the working day.

Daily driving

In any working day [the 24-hour period beginning with the start of duty time], the maximum amount of driving is 10 hours. The daily driving limit applies to time spent at the wheel, actually driving, and includes any driving done under EU or AETR rules.

Length of working day ('spreadover')

A driver should work no more than 16 hours between the times of starting and finishing work (including work other than driving and off-duty periods during the working day).

Daily rest periods

A continuous rest of 10 hours must be taken between two consecutive working days. This can be reduced to 8.5 hours up to three times a week.

Fortnightly rest periods

In any two consecutive weeks (Monday to Sunday) there must be at least one period of 24 hours off duty.⁷

In July 2009 the Government published a consultation paper asking for views on potential reforms to the domestic drivers' hours rules. The consultation is concerned with the following:

How far are the Domestic Rules known and understood by those who are required to adhere to them?

How clear is the evidence that the Domestic Rules are effective and enforceable?

What would happen if the Domestic Rules were strengthened, left un-modified or taken away?

Is there a case for continued regulatory intervention by some means - are there sufficient alternative safeguards in place or would additional measures (including voluntary measures) be required?

Can the UK learn from international experience in this area?

To what extent do the varying operational conditions justify different rules for the passenger vehicle and goods vehicle sectors?⁸

Responses are requested by 13 October 2009.

⁷ VOSA, *Rules on drivers' hours and tachographs*, 2009, pp23-24

⁸ DfT, *Review of the UK Domestic Drivers' Hours Rules: Consultation Document*, July 2009, p4

4 Enforcement

In order for the drivers' hours rules to work effectively, they must be properly enforced. The European Commission's biannual report on the implementation of the EU rules gives an idea of the extent of enforcement in the UK and other EU countries. The UK exceeds the minimum required number of checks by more than 50 per cent. In terms of the number of drivers' hours offences recorded, the UK recorded the sixth highest number of offences in 2005-06, over half of which were for domestic HGV/LGV drivers.⁹ In April 2008 the Government announced extra money for the enforcement of HGV offences, including breaches of the drivers' hours rules:

Goods vehicles crossing Britain's borders face tougher safety checks as Road Safety Minister Jim Fitzpatrick today announced an extra £24m to clampdown on unsafe HGVs on international journeys.

The investment will fund a 50% increase in the number of HGV checks carried out, as well as allow the Vehicle and Operator Services Agency (VOSA) to open two new enforcement sites. Enforcement figures show that HGVs from overseas are more likely to be unroadworthy, overloaded or being driven in excess of drivers' hours rules than their UK counterparts (...)

The £24.3m three-year package will fund:

- two new enforcement sites in locations with a high volume of high risk HGV traffic;
- a 50% increase in the number of HGV checks carried out;
- a near doubling of prohibitions, where a vehicle or driver is prevented from continuing their journey until the fault has been rectified;
- 97 additional enforcement staff;
- a move to '24/7' enforcement checking at two sites - on the M6 and in North Wales - very shortly;
- the introduction of '24/7' enforcement at other sites over the three year period.¹⁰

In addition, the Government hopes that the introduction of the Graduated Fixed Penalty, Financial Penalty Deposit and Immobilisation Scheme (GFP/DS) on 1 April 2009 will address the need for a real deterrent against non-compliance for foreign vehicles, including for drivers' hours offences. The scheme was initially legislated for in the *Road Safety Act 2006* and a consultation on the implementing regulations was held in 2008.¹¹ The Scheme enables police officers and VOSA examiners to:

- issue fixed penalties to non-UK-resident offenders;
- request immediate financial deposits from non-UK-resident offenders and those without a credible address within the UK - either in respect of a fixed penalty or as a form of surety in respect of an offence which is subsequently to be prosecuted in court; and

⁹ COM (2009) 416 final, 3 August 2009, section 2

¹⁰ DfT press notice, "Extra £24m funding to improve safety of trucks on International journeys", 8 April 2008

¹¹ DFT, *Graduated Fixed Penalties and Financial Penalty Deposit Schemes: A Consultation*, 24 July 2008

- immobilise vehicles in any case where a driver or vehicle has been prohibited from continuing a journey or in any case where a driver declines to pay the requested deposit.¹²

The UK road haulage industry has long been concerned between what it perceives as a discrepancy in enforcement priorities for drivers' hours offences. The Burns Inquiry report, published on behalf of the haulage industry in December 2005, recommended that Vehicle and Operator Services Agency (VOSA) enforcement resources should be extended and focused on drivers' hours and weight checks with transparency of data across Europe. It stated that in 2004 VOSA stopped only one percent of foreign vehicles visiting the UK, but that foreign lorry drivers were more than three and a half times as likely to be breaking the drivers' hours rules. The report stated:

This level of non-compliance calls for more focus on the part of VOSA towards drivers' hours and vehicle weight checks for all vehicles. VOSA now operates a system of targeted checks for UK-based operators, working on available intelligence to make maximum use of their scarce resources. An equitable and balanced framework between UK and foreign vehicle checking is required. A 1 per cent probability of detecting potentially illegal foreign vehicle operation is not high enough. VOSA resources should be extended, especially at main port entry routes and adequate space must be allocated at all main ports to permit 24 hour, 7 day week enforcement operations.¹³

5 Tachographs and 'local' bus services

An approved tachograph is the required instrument by which the activity of drivers subject to the EU drivers' hours rules, and the vehicle's speed, distance and the time, are recorded. There are two main types of tachograph – analogue and digital. The resulting record is to be used to monitor compliance with rules on drivers' hours. The rules on using these devices are set out in the 1985 Regulation, as amended, and depend on whether the vehicle is fitted with an analogue or digital tachograph. These rules must be observed by both drivers and operators of vehicles that fall within the scope of the 2006 Regulation. Vehicles first registered on or after 1 May 2006 must be fitted with a digital tachograph. Those vehicles registered before that date can be fitted with either analogue or digital equipment.

After the 2006 Regulation was brought into force in the UK on 2 July 2007 there were concerns about the impact of the electronic tachograph requirements on bus services, particularly in rural areas. There were several examples of bus service cuts across the country, with operators blaming the new requirements. Essentially, the 2006 Regulation brought, unintentionally, to the fore a pre-existing distinction in rules relating to drivers' hours for bus routes longer and shorter than 50km. For routes over 50km, changes were made in relation to mandatory rest breaks and there was also a new requirement for all buses on such routes to have a tachograph installed. This led to some bus operators finding that it was no longer practical or economical to operate buses on routes over 50km.¹⁴

Under the Regulation, vehicles travelling for more than 50km on a route were required to be fitted with tachographs by 31 December 2007. As stated above, a vehicle first registered

¹² the scheme was implemented via seven separate statutory instruments, [SIs 2009/483, 488, 491, 493, 494, 495, and 498](#)

¹³ [The Burns Freight Taxes Inquiry](#), 1 December 2005, p60

¹⁴ see, for example: "MP attacks bus ruling", *Standard & Guardian*, 28 June 2007; "Bus chief slams 'crass, idiotic laws' that hit rural travel", *Cornish Guardian*, 25 April 2007

before 1 May 2006 may be fitted with either an analogue or a digital tachograph. A vehicle first registered on or after 1 May 2006 must only be fitted with a digital tachograph. Between 11 April 2007 and the date a tachograph was fitted, drivers had to, in the case of passenger vehicles, keep an extract of the duty roster and service timetable.

As stated above, the Regulation was adopted in March 2006 and published in the EU Official Journal; the UK Government then conducted a consultation on the implementing regulations in October 2006. The potential effects on bus route length [do not appear to have discussed](#) at all by either the Government or the respondents to the consultation. The issue was raised, however, when the implementing regulations were debated in Committee in June 2007. The then Liberal Democrat Transport Spokesman, Alistair Carmichael, said:

To my mind, the law of unintended consequences is at work here, particularly in relation to rural bus services (...) For the bus and coach industry ... the process is more onerous, because the 50 km is measured by the total route length. That means that a person travelling for just one stop, but on a route that has an overall length of over 50 km, bears a greater cost simply because of the route length. That feature of rural bus services is growing in frequency.

There is a growing trend in the provision of many public services, such as health and education, for centralisation. In this case, that means that the people who rely on those services—those who are most socially excluded, to use the jargon—are increasingly reliant on bus services of a length greater than the 50 km limit. That particularly affects rural areas, because obviously not many urban bus routes would run to the extent of 50 km. People who rely on bus services most often use ones that are already on the margins of profitability and need public support, in some way, shape or form, for their operation, and they tend to be either the young—for the purpose of education—the old, or those who cannot afford a car.

Two essential sets of changes are covered by the statutory instrument—those which were introduced in April and those which will be introduced in December. The changes from April have had a major impact already on bus services in Devon and Cornwall and, to a lesser extent, in Norfolk. The changes have been negative, by and large, and have reduced accessibility for those who rely on travel for access to services. Negative changes are also being implemented to the network in Suffolk, and the further break-up of the network is being considered by managers of bus companies elsewhere, including in Hampshire, Sussex and Oxfordshire. The changes in April related to the rest periods for drivers employed on the EU in-scope work. Whereas the former rules required the driver to have two consecutive days off together once every three weeks, that has been reduced to once every two weeks. In other weeks there must be at least one day off and, if more than one, they do not have to be consecutive. Any shortfall in total hours caused by having one day off rather than two has always had to be made up under EU rules, hitherto within the three-week period, but now within the two-week period. I hope that the Committee is following this (...)

There will also be a cost implication and, putting it bluntly, the funding for higher costs in rural areas is simply not available, whether from the private sector or local authority budgets. The consequence is that bus services will be cut and fares will rise even further above inflation. Alternatively, as the hon. Member for North Shropshire has mentioned, bus services in rural areas are broken up and fragmented to avoid having to comply with the regulations.

The change at the end of the year, which will come into effect in December, relates to how records are kept. The explanatory memorandum refers to

“governing the installation and use of tachographs”.

To understand the full impact on local bus routes that are more than 50 km long, those words have to be read conjunction with paragraph 7.12 concerning the national derogation that will be withdrawn by the instrument. The current position for bus services, being made up of regular and pre-planned journeys, is that buses working on such routes do not have to have a tachograph fitted, but the driver must carry a timetable for the services being worked and a roster showing work and rest periods during the current week and the previous two weeks—a fairly sensible and flexible situation.

That derogation is being withdrawn. As things stand, it means that buses can be used efficiently and interchanged, on either a planned or emergency basis, between 50 km routes—those which are EU compliant—and drivers can undertake a mix of EU and non-EU work, so long as they carry the necessary timetables and rosters. That has been a long-established means of ensuring efficiency and flexibility in the rural bus sector. Coaching is generally not involved here as all routes are over 50 km and have services of sufficient frequency that dedicated vehicles and staff can be deployed.

At the end of the year, the derogation on timetables and rosters will be withdrawn. There will be no similar replacement. That means that all rural bus fleets will have to be fitted with a new style of EU-approved digital tachograph. Each piece of equipment involves money being spent, which the derogation allowed us to avoid. More significantly, the flexible use of drivers and vehicles between route types will be lost. That will probably lead to a greater administrative and cost burden to the operators—again, a significant cost burden on those most marginal routes.¹⁵

The Minister at the time responded that in his view the changes were not significant and that, anyway, there was no scope for changing the EU Regulation:

Representations have been made by people who operate rural bus services that the end of the world is nigh and that everything is doom and gloom, but it is not clear to me exactly why the EU regulation will have the negative impact that they claim. It will make some relatively modest changes to the core provisions on breaks and rest periods. People who operate bus services on routes of more than 50 km will have to fit tachographs to their vehicles, but, frankly, that is not the major burden that they are making it out to be (...) there is no opportunity at present for further changes to be made to the regulations because we would get no support for that from the rest of the EU.¹⁶

Subsequently, Ministers stated that no representations on this matter had been made to Ministers when the draft Regulation was being debated and there would have been time to do something about it.¹⁷

¹⁵ First Delegated Legislation Committee, *Draft Community Drivers' Hours and Recording Equipment Regulations 2007*, 12 June 2007, c10-12

¹⁶ *ibid.*, c17

¹⁷ see, e.g. *Letter from Jim Fitzpatrick to David Heath*, 17 July 2007 [DEP 07/1746] and [HC Deb 4 December 2007, cc669-670](#)