



Are You Running Legal?

Drivers' Hours of Work: Driving, Breaks and Rest Periods

Do you fully understand the provisions of the various regulations, which cover the hours of work you are allowed to do?

The regulations which cover drivers are various and complex. However as we all know, ignorance of the law is no defence, and you are expected to have a clear understanding of these regulations.

Drivers can be covered by 3 different sets of regulations:

1. Drivers of vehicles under 3.5 tonne (i.e. non-tacho vehicles)
2. Drivers of vehicles over 3.5 tonne (i.e. tacho vehicles)
3. Drivers who switch between both types of vehicles

This newsletter will attempt to give a brief outline of the main provisions of the regulations, which cover each group. It will also reveal the stupidity of the laws we operate under and the very poor monitoring or policing of those regulations. Although there is a weak monitoring system if you ever fall foul of these regulations the consequences could be quite severe for both yourself and the employer.

However those regulations can also be of use to an individual to help protect them from being forced to work unacceptable long hours.

This is not a legal guide, the best guide is:

Rules on Drivers' Hours and Tachographs (Goods Vehicles in the UK and Europe) – VOSA (Revised 2009 GV262 – 02) available at:

http://online.businesslink.gov.uk/Transport_Theme_files/Rules_Drivers_Hours_Tachographs_Goods_vehicles.pdf

Or just Google it.

And, Working Time Guidance at:

<http://www.dft.gov.uk/pgr/freight/road/workingtime/rdtransportworkingtimeguidance>

1. Drivers of non-tacho Vehicles – under 3.5 tonnes

Drivers of these vehicle are covered by the **UK Domestic Drivers' Hours Rules and the Horizontal Amending Directive (HAD) part of the Working Time Directive (WTD)**.

UK Domestic Rules:

- 10 hours maximum driving in any working day
- 11 hours maximum duty in any working day (this does not include breaks) – you are exempt from this limit if you drive less than 4 hours on every day of the working week, or on any day you do not drive.
- There are no break requirements
- There are no daily rest requirements
- There are no weekly/fortnightly rest requirements
- There is no requirement to keep records (silly or what?)

The Horizontal Amending Directive (HAD):

The HAD was introduced in 2003 to bring the Transport Sector in line with all other workers who were covered by the Working Time Directive introduced in 1998. (Drivers of tacho-vehicles were later covered by the Road Transport Directive – see below)

- Weekly working time must not exceed an average of 48 hours per week over the reference period (17/18 weeks)
- An entitlement to 5.6 weeks paid annual leave
- Health checks for night workers
- An entitlement to adequate rest

What on earth does “**adequate rest**” mean? The VOSA guide says;

“**Adequate Rest**’ means that workers should have regular rest periods. These rest periods should be sufficiently long and continuous to ensure that workers do not harm themselves, fellow workers or others and that they do not damage their health in the short or long term.”

Oh so that's crystal clear then! More like a lawyers' paradise!

Employers have a responsibility under the regulations to keep records of employees' working hours. This includes all time at work, whether paid or unpaid, e.g. if you start work before your official start time or work through your rest breaks.

Unites policy: Is to demand a maximum working week (time) of no more than 48 hours per week, with NO LOSS OF PAY!

An end to the cheat of 'Periods of Availability'; all of a drivers time at work is working time!

Tired drivers are dangerous drivers and the law should eliminate the long hour's culture that exists in road transport.

2. Drivers of tacho vehicles – LGV over 3.5 tonne, C1 licence and above

Drivers of these vehicles are covered by the **EU Drivers Hours Regulations (EC) 561/2006 and the Road Transport Directive (RTD) on working hours.**

(EC) 561/2006 “the Tacho Regs”:

- Maximum of 9 hours driving per day, which can be extended, to 10 hours twice a week.
- Maximum weekly driving limit of 56 hours (4x9 + 2x10)
- Maximum driving time limit of 90 hours over any two consecutive weeks
- Minimum break of 45 minutes after 4.5 hours driving. This break can be split 15/30 but the second break must be a minimum 30 minutes.
- A regular daily rest period of at least 11 hours (a daily rest period can be reduced to no less than 9 hours but this can only be done a maximum of 3 times between to weekly rest periods)
- A regular weekly rest period of 45 hours
- If a driver takes a reduced weekly rest period it should be of a minimum of 24 hours and any reduced period must be compensated for in one block before the end of the third week following the week in question.
- Additional rules apply for double manning and ferry/train rest breaks.

The Road Transport Directive (RTD):

- Weekly working time must not exceed an average 48 hours per week over the reference period (17 weeks) and a maximum of 60 hours in any one week.
- Night work; working time must not exceed 10 hours in any 24 hour period. Night time is the period between 00.00 and 04.00. This may be exceeded if there is a collective agreement with the Union.
- Breaks: If your working hours total is between 6 and 9 hours your working time should be interrupted by a break or breaks totalling 30 minutes; if your working hours total more than 9 hours it should be interrupted by a break or breaks totalling at least 45 minutes. Breaks should be of at least 15 minutes duration.
- 5.6 weeks paid annual leave
- Health checks for night workers

N.B. You have to comply with both sets of regulations. There is no opt-out from the average 48-hour working week.

Derogations under a Collective Agreement:

An extension of the 17-week reference period and the 10-hour night limit can be agreed through a collective agreement with the Union.

The employer has a responsibility under the regulations to keep records of employees' working hours. This includes all time at work, whether paid or unpaid, e.g. if you start work before your official start time or work through your rest breaks.

3. Drivers operating under “mixed rules”

This is where things can get a little more complicated and it is best to quote the VOSA guide:

“Many drivers spend some of their time driving under one set of rules and some under another set, perhaps even on the same day. If you work partly under EU rules and partly under GB domestic rules during a day or a week, the following points must be considered:

- *The time you spend driving under EU rules cannot count as an off-duty period under GB domestic rules.*
- *Driving and other duty under GB domestic rules (including non-driving work in another employment) count as attendance at work but not as a break or rest period under the EU rules.*
- *Driving under EU rules counts towards the driving and duty limits under GB domestic rules.*
- *Any driving under EU rules in a week means that you must take a daily rest period on those days when you actually drive under EU rules, as well as a weekly rest period.*

Driving limits

GB domestic limit (a maximum of 10 hours of driving a day) must always be obeyed. But at any time when you are actually driving under the EU rules you must obey all the rules on EU driving limits.

Other duty limits

GB domestic limit (i.e. no more than 11 hours on duty) must always be obeyed. But when working under EU rules you must also obey all the rules on breaks, daily rest (only on those days when actually driving) and weekly rest.

Rest periods and breaks

Again, you must always obey the EU rules on rest periods and breaks on days and weeks in which driving in scope of EU rules are carried out.

A weekly rest period is not required in a fixed week where a driver does not drive under EU rules. Where a driver works under EU rules in one week and under GB domestic rules in the following week, the driver may take either a regular or a reduced weekly rest in the first week. If the driver takes a reduced weekly rest, compensation will be required by the end of the third week following the week in question. If this working pattern continues, the driver may take either a regular or reduced weekly rest period every other week.

Where a driver works under GB domestic rules in week one and the EU rules in the second week, the weekly rest required in week two must start no later than 144 hours following the commencement of duty on or after 00.00 hours on Monday.

Records

During a week in which the in-scope driving has taken place, any previous work (including out-of-scope driving since the last weekly rest period), would have to be recorded as “other work” on a tachograph chart, printout or a manual entry using the manual input facility of a digital tachograph, or a legally required GB domestic record on a log book (see page 36).

When driving a vehicle subject to EU or AETR rules, a driver is required to produce on request tachograph records (including other work records described above) for the current day and the previous 28 calendar days.”

Drivers who fall into this group are advised to operate under EU Regs and to complete a manual tacho record for days they drive non-tacho vehicles.