

Drivers hours - the changes explained

On 11 April 2007 Council Regulation (EC) No 3820/85 was replaced by Regulation (EC) No 561/2006. The implications are spelt out by

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THE big news on the legislation front over the last six months is the introduction of new drivers hours rules from 11 April.

route**one** published (route**one**, issue 165, 1 February 2007) a wall-planner type pamphlet entitled Drivers Hours - The Changes Explained, in association with Tangerine training.

Tangerine was established in September 1999, is based in Wembley, London, and has a UK-wide network of training associates. It provides NVQ and BTEC qualifications for the coach and bus industry, provided by Edexcel, EDI and Go Skills.

As this is probably the most important new legislation for the PSV industry for some time, we make no apologies for publishing it again in this issue of Contacts.

So what does it mean for commercial coach and bus operators when new drivers hours rules come into effect on 11 April 2007?

The good news for bus operators is that regular services that are 50km route length or below are still exempt from EC regulations. The bad news for those who run nine to 16 passenger seater vehicles is that they will be subject to EC rules when operated commercially whether in the UK or on mainland Europe. Operators who were previously covered by EC drivers hours rules are still covered by them.

Under the new EC rules, drivers may still drive for nine hours between two rest periods or 10 hours twice per week. In addition to the existing 90 hours two-weekly limit there will be a new weekly limit of 56 hours driving. Remember though, there is an absolute maximum 60 hours work per week under working time rules. A week is defined as 0000hrs on Monday to 2400hrs the following Sunday.

The basic break stays the same – maximum four-and-a-half hours driving followed by a single break of at least 45 minutes. Driving may be continuous or cumulative and so it is possible to have a work period of, say, five hours so long as total driving within that period doesn't exceed four-and-a-half hours. Working time rules limit the maximum work period to six hours after which a break must be taken.

There is a change to the rule on split breaks. Present rules allow up to three separate breaks. This is reduced to two breaks from April - 15 minutes minimum for the first break and 30 minutes minimum for the second. Take care – even if the first break is more than 15 minutes the second break must never fall below 30 minutes.

During a 'break' a driver is not allowed to do any driving or any other work such as loading cases or issuing tickets. The break must be reserved as a period which is *used exclusively for recuperation*.

It will no longer be permitted to take a reduced break of 30 minutes (with reduced driving period of four hours) at certain designated termini.

Surprisingly the rules on daily rest are better for operators. The basic daily rest stays at 11 hours within a 24-hour period and it is still possible to reduce this to nine hours on three occasions.

There is a simple change here in that the three occasions will apply between any two weekly rest periods whereas under the current rules it applies per week. The good news is that there will no longer be a need to compensate for any reduction.

It follows that maximum spreadover remains at 13 hours when associated with a regular daily rest, or 15 hours when associated with a reduced daily rest.

The 16-hour spreadover allowed for by the use of split daily rest has gone. At the moment daily rest may be broken up into three portions, the last portion being not less than eight hours. From April the daily rest may be split into only two portions and the last portion must not fall below nine hours.

The other portion taken during the working day must be at least three hours. A word of caution – if either period is above the minimum, the other period must never fall below the minimum, even if this means that total rest exceeds 12 hours. The good news is that this provision may be used every day if required. The

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maximum spreadover on split daily rest will be 15 hours.

There are big changes to the rules on weekly rest. In any two consecutive weeks, a driver must have taken two 'regular' rest periods of at least 45 hours. However, this can be modified so that in that two week period a driver may take one 'regular' weekly rest of 45 hours, and one 'reduced' weekly rest of not less than 24 hours.

Any reduction of a weekly rest below 45 hours must be compensated – i.e. paid back in full by the end of the third week following. The amount compensated is the actual amount of the reduction so, for example, if a reduced weekly rest is 41 hours only four hours needs to be paid back. Compensation doesn't necessarily have to be added to another weekly rest period – it can be added to a daily rest which is at least nine hours.

Remember that rest is still a period during which a driver must be free to dispose of his or her time.

It's bad news for tour operators. The 12 day work rule has gone and the present six day rule has been changed. Weekly rest must now start no later than the end of six 24-hour periods from the end of the previous weekly rest period. However, as in alternate weeks the rest period may be reduced to 24 hours (even when working from home base), a driver who while on tour, runs say, a morning excursion finishing at 1300hrs on the Wednesday and drives an afternoon excursion starting, say, at 1400hrs on the Thursday he/she will have had more than 24 hours rest.

In those circumstances it might be possible to work 12 consecutive days so long as the 6x24 hours part of the rule applies throughout.

The rules on ferries have changed. At the moment daily rest may be interrupted only once and total rest must be increased. Where a vehicle is carried on a ferry or a train, an 11 hour daily rest period may in future be interrupted on no more than two occasions of not more than one hour in total. This can't be used with a reduced daily rest. There is no requirement to increase total daily rest. This rule is only available if the driver has access to a bunk or couchette.

The new regulations now embody the rules on travel time, which at the moment are defined by case law. Where a driver has to travel (either as a passenger, or as driver of vehicle not covered by EC rules) in order to take over a vehicle to be used on EC work at other than the driver's home or the employer's operational centre where the driver is normally based, such travelling time is counted as 'other work'. It cannot be regarded as rest or break unless the driver is on a ferry or train and has access to a bunk or couchette. This applies also where a driver ends duty at a place other than the driver's home or the employer's operational centre where the driver is normally based.

The rules still do not allow for rest to be taken on a moving vehicle. However, they are modified so that only when working away from base and if a driver so chooses

(it is at the driver's discretion), a daily rest or a reduced weekly rest may be taken on the vehicle so long as the vehicle is stationary and has suitable sleeping facilities for every driver involved. Present rules simply refer to the vehicle having a 'bunk'.

At the moment the double manning rules enable a spreadover of 22 hours to be worked, followed by eight hours daily rest. Under the new rules maximum spreadover is reduced to 21 hours, which must be followed by a daily rest of at least nine hours. There is a slight improvement in that whereas presently the drivers must be together as a team for the duration, the new rules allow for an exception to be made for the first hour of operation when the vehicle may be manned by only one driver.

There have already been some changes concerning the production of records. Drivers are now required to make available for inspection at the roadside records (analogue or digital) for the current week and the previous 15 days. It is understood that VOSA are aware that this conflicts with a requirement to return tachograph discs after 21 days.

With effect from 1 January 2008 drivers are required to make available for inspection at the roadside records (analogue or digital) for the current day and the previous 28 days.

The provision for operators of regular services to make use of the service timetable and roster, instead of a tachograph ends in April. However, operators have until 31 December 2007 to fit tachographs to vehicles used on regular services and until the time of fitting a tachograph the service timetable and roster may be used as an alternative.

Drivers must be able to produce an extract of the duty roster for current day and the previous 28 days

Don't forget that there have been changes to the symbols used to record work. Other work is now indicated by crossed hammers and a 'period of availability' under working time rules is indicated by the box with a diagonal line through it.

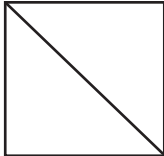


It's also important to remember that any work that cannot be recorded automatically must be recorded manually.

A final point. The rules on emergencies have not changed. It's only possible for a driver to disregard driving time and daily rest in emergency so long as road safety is not put at risk and the extension of hours is limited to the extent that it is necessary to ensure the safety of people or the vehicle. This effectively means that the first stopping place suitable for ensuring safety must be observed.

Details and reasons must be noted on the back of an analogue tachograph chart, or on the print out of a digital tachograph, or on an extract of the duty roster. This should be done at the latest on arrival at a suitable stopping place.

Drivers Hours Records

Recent and forthcoming changes to record keeping requirements

Previous requirement	<i>New requirement</i>
	<p>Digital tachographs New vehicles that enter service from 1 May 2006 onwards must be fitted with digital tachographs if they are to be used on passenger services that fall within the scope of Regulation EC 3820/85 and Regulation EC 561/2006. Drivers of such vehicles must have been issued with driver cards and must fulfil the requirements for use of such cards for recording drivers hours.</p>
<p>Service timetable and roster Drivers of vehicles that are not fitted with any type of recording equipment and which operate on Regular Services covered by EC Regulation 3820/85 may rely on the timetable and roster as a means of showing compliance with driver's hours rules.</p>	<p>Service timetable and roster This provision ends. However operators have until 31 December 2007 to fit tachographs to vehicles used on regular services and until the time of fitting a tachograph, the service timetable and roster may be used as an alternative. Drivers must be able to produce an extract of the duty roster for current day and the previous 28 days</p>
<p>Production of tachograph records A driver must have in his or her possession tachograph charts for the current week and for the last day of the previous week on which driving was undertaken. Operators were then required to ensure that drivers handed them in to the operator within 21 days of use at the latest.</p>	<p>Production of tachograph records Drivers are now required to make available for inspection at the roadside records (analogue or digital) for the current week and the previous 15 days. It is understood that VOSA is aware that this conflicts with a requirement to return tachograph discs after 21 days. With effect from 1 January 2008 drivers are required to make available for inspection at the roadside records (analogue or digital) for the current day and the previous 28 days.</p>
<p>Use of mode switch for record purposes Previously, "other work" was shown by selecting the box symbol with the diagonal line.</p> 	<p>Use of mode switch for record purposes Drivers are required to select modes as follows:</p> <ul style="list-style-type: none"> ● Other work – crossed hammers  <ul style="list-style-type: none"> ● Periods of availability [as defined under the Road Transport (Working Time) Regulations 2005 – box with diagonal line 

Below is a summary of the main provisions that came into effect from 11 April 2007.

Current requirement	<i>New requirement</i>
Service exempted from EC drivers hours rules <ul style="list-style-type: none"> ● Regular service where the single route length is 50kms or below – British domestic drivers hours rules apply 	Service to which EC rules apply No change
Vehicles to which EC rules apply <ul style="list-style-type: none"> ● Those with nine or more passenger seats when operating an international journey ● Those with 17 or more passenger seats when used entirely within the UK 	Vehicles to which EC rules apply <ul style="list-style-type: none"> ● Those with nine – 16 passenger seats when used commercially ● Those with 17 or more passenger seats
Daily driving Maximum nine hours driving between two rest periods that can be extended to 10 hours twice per week	Daily driving No change
Weekly driving Not directly specified	Weekly driving 56 hours maximum driving per week so long as the total working time does not exceed the maximum defined under the Road Transport (Working Time) Regulations 2005 i.e. 60 hours
Fortnightly driving Maximum 90 hours driving per fortnight	Fortnightly driving Maximum 90 hours driving in any two consecutive weeks
Basic break Minimum break of 45 minutes after no more than 4hrs 30mins driving	Basic break No change
Split break Two or three separate breaks none of which is less than 15 minutes and which in total are not less than 45 minutes	Split break Two separate breaks – the first one not less than 15 minutes and the second one not less than 30 minutes
Reduced break at certain termini A break of 30 minutes may be taken at certain designated termini but driving reduced to four hours max	Reduced break at certain termini Not allowed
Basic daily rest 11 hours uninterrupted rest in a period of 24 hours	Basic daily rest No change

This is NOT exhaustive and is intended to highlight the principal differences.

Current requirement	<i>New requirement</i>
<p>Reduced daily rest Nine hours uninterrupted rest on no more than three occasions per week. Any reduction must be compensated by end of following week and added to a rest of at least eight hours.</p>	<p>Reduced daily rest Nine hours uninterrupted rest on no more than three occasions between weekly rest periods. No compensation required</p>
<p>Split daily rest Can be split up into no more than three separate portions. No portion less than one hour, total rest increased to 12 hours, the last portion of rest not less than eight hours</p>	<p>Split daily rest Can be split into two portions only. The first portion (within duty) may not be less than three hours and the last portion may not be less than nine hours</p>
<p>Multiple manning Eight hours uninterrupted rest within a maximum period of 30 hours for each driver. Drivers must be a crew from start to finish</p>	<p>Multiple manning Nine hours uninterrupted rest within a maximum period of 30 hours for each driver. Drivers must be a crew for all but the first hour.</p>
<p>Weekly rest 45 hours uninterrupted rest each week that can be reduced to 36 hours when working from home base, or 24 hours when working away from base. Reduction must be compensated en bloc by end of third week following and added to a rest of at least eight hours.</p>	<p>Multiple manning 45 hours uninterrupted rest each week that can be reduced to 24 hours in alternate weeks. Reduction must be compensated en bloc by end of third week following and added to a rest of at least nine hours.</p>
<p>Maximum number of working days Weekly rest must be taken after no more than six driving periods but can be postponed until the end of the sixth calendar day. On non-regular services weekly rest can be taken after no more than 12 driving periods or extended until the end of the 12th calendar day after which a double weekly rest must be taken.</p>	<p>Maximum period between weekly rests Weekly rest must start no longer than six 24 hour periods from the end of the last weekly rest period. There is no provision for a 12 day rule</p>
<p>Ferries Daily rest may be interrupted on one occasion for no more than one hour. Total rest must be increased by two hours</p>	<p>Ferries An 11 hour rest period may be interrupted on no more than two occasions of no more than one hour in total. No need to increase rest. Cannot be used with a reduced rest of nine hours</p>