

EU Drivers' Hours Rules changes from 20 August 2020

- August 20, 2020

A number of changes affecting Drivers' Hours Rules and tachographs have come into force through Regulation (EU) 2020/0154. Here are some highlights.

No regular weekly rests in cabs

Regular weekly rest periods and any weekly rest period of more than 45 hours taken in compensation for previous reduced weekly rest periods **may not be taken in a vehicle**. Instead, they must be taken in *'suitable gender-friendly accommodation with adequate sleeping and sanitary facilities.'* And, *'any costs for accommodation outside the vehicle shall be covered by the employer.'* A business also has to document how it fulfils this rule and keep the documentation at its premises for production on request e.g. to an enforcement agency such as DVSA. This formalises a European Court of Justice decision some time ago.

Operators must now also ***'organise the work of drivers in such a way that the drivers are able to return to the employer's operational centre where the driver is normally based and where the driver's weekly rest period begins, in the Member State of the employer's establishment, or to return to the drivers' place of residence, within each period of four consecutive weeks, in order to spend at least one regular weekly rest period or a weekly rest period of more than 45 hours taken in compensation for a reduced weekly rest period.'***

Any time that is spent in travel to or from a vehicle cannot be recorded as rest (unless where the driver has access to a bunk/sleeper cabin/courette) except when the vehicle is at the base or at a driver's home.

Regular/reduced weekly rests (international goods)

The basic rules remain the same: in any two consecutive weeks a driver must take at least:

1. two regular weekly rest periods; or
2. one regular weekly rest period and one reduced weekly rest period of at least 24 hours.

A weekly rest period must still start no later than at the end of six 24-hour periods from the end of the previous weekly rest period. Any deduction must still be compensated for by an equivalent period of rest taken en bloc before the end of the third week following the week in question. However, there is **a derogation (a relaxation): for drivers engaged in international transport of goods** who may, outside the Member State of the establishment

(i.e. outside the UK for a UK operator), **take two consecutive reduced weekly rest periods provided that the driver in any four consecutive weeks takes at least four weekly rest periods, of which at least two shall be regular weekly rest periods.** (NB a driver has to start the reduced rests outside the UK (for a UK-based operator) to be in-scope of this relaxation.) The compensation rest must be taken at home, given the requirement for operators to ensure drivers return home (see above).

Ferry/train rests

Currently, a driver can interrupt a regular rest period twice totalling no more than one hour (so long as there is a couchette/bunk.) Now, this can be applied to reduced rest periods. NB there is a change to the position with regard to regular weekly rest periods: these now only apply where the journey is scheduled for eight hours or more and the driver has access to a sleeper cabin in the ferry or on the train.

Exceeding daily/weekly drive time

Drivers are already permitted to depart from the rules in exceptional circumstances (Article 12.) It will now, in addition, be possible *'provided that road safety is not thereby jeopardised, in exceptional circumstances'*...

- to exceed daily and weekly driving time by up to 1 hour in order to reach the operating centre or the driver's place of residence to take a weekly rest period
- to exceed daily and weekly driving time by up to 2 hours so long as an uninterrupted break of 30 minutes is taken immediately prior to the additional driving, again to reach the operating centre or the driver's place of residence, to take a regular weekly rest period.

As now, the driver must manually record this on the tachograph chart or digital printout at the latest on arrival at the destination or the suitable stopping place. NB a failure to do this renders it impossible to claim the relaxation.

NB Where any period has been extended it has to be compensated by an equivalent period of rest attached to any other rest period by the end of the third week following the week in question.

Multi-manning/breaks

A driver will be able to take a break of 45 minutes in a vehicle that is driven by a different driver on condition that whilst taking the break he or she is not involved in assisting the driver who is actually driving the vehicle. (In practical terms this has been permitted in the UK in any event).

What is 'non-commercial carriage'?

Whether the installation and use of tachographs is required may turn on whether the journey is or is not commercial. Sometimes it can be hard to judge in particular sets of circumstances. The Regulation seeks to clarify what is meant as follows: it is *'any carriage by road, other than carriage for hire or reward or on own account, for which no direct or indirect*

remuneration is received and which does not directly or indirectly generate any income for the driver of the vehicle or for others and which is not linked to professional activity.'

Possible derogations (relaxations)

HM Gov has not indicated how it may proceed with regard to two types of vehicles that could become exempt from the drivers' hours rules. These are:

1. vehicles carrying construction machinery for a construction undertaking (max radius 100kms from the base) provided that driving is not the driver's main activity
2. vehicles used for the delivery of ready-mixed concrete. (We will update when there is any development.)