



FREIGHT TRANSPORT ASSOCIATION

FTA Compliance Guide

EU drivers' hours changes

effective 11 April 2007



Edition 3

Ensuring compliance, advancing performance



FREIGHT TRANSPORT ASSOCIATION

FTA compliance guide to EU drivers' hours changes

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FTA compliance guides are produced once legislative changes have been published and new requirements and responsibilities are known. Compliance guides are intended to provide clear guidance to members on what to do and how to comply.

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Introduction

This compliance guide is intended to give advice and information on the changes to the scope and rules of EU drivers' hours (tachograph) rules. These changes take effect from 11 April 2007. It should be read by anyone who is responsible for planning or managing drivers of goods vehicles.

Why change the regulation on drivers' hours?

The EU wanted to clarify and simplify the rules in order to make application, interpretation and enforcement of the rules easier and more uniform across member states. They also felt that the list of exemptions should be updated to reflect the developments in the road transport sector since the current rules were published in 1985.

A new European regulation (Regulation 561/2006) replaces Council Regulation 3820/85 on drivers' hours on 11 April 2007 and this guide details those changes.

The changes introduced fall into three main areas.

- 1 Exemptions and derogations
- 2 Drivers' hours rules
- 3 Definitions, responsibilities and liabilities

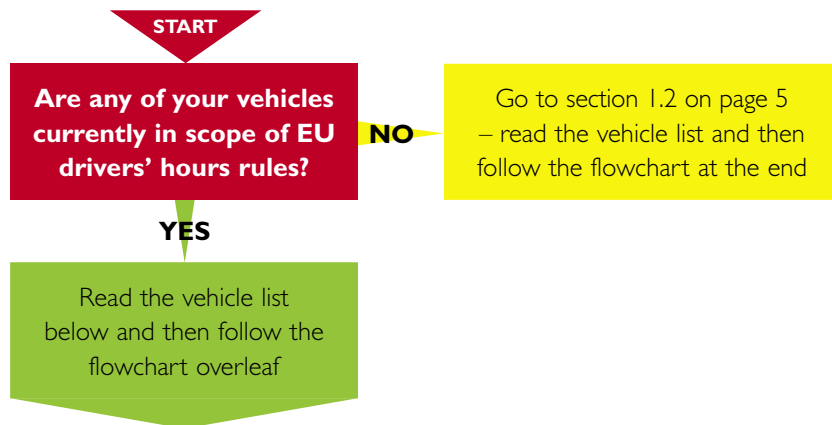
These three areas are covered in turn in the following sections.

Exemptions and derogations

What are exemptions and derogations and how do they differ?

The EU regulation contains two categories of concessions for specialised vehicles/operations, namely: exemptions and derogations. Exemptions are a list of types of vehicles that are automatically exempt from the rules whether they are on domestic journeys or operating internationally in Europe. Derogations, on the other hand, are a list of vehicles that member states of the EU are permitted to exclude from the tachograph rules within their own territories. Each country has the choice whether or not to adopt a derogation and, if they decide to adopt it, whether to add additional conditions to the concession. The Department for Transport (DfT) has stated that all but one of the permitted derogations will be included in UK law without further conditions. A detailed list of the current and expected exemptions and derogations is contained in Appendix A on page 18.

Follow the flowchart below to find out if and how your operations will be affected.



What do the changes to exemptions and derogations mean?

The exemption/derogation changes fall into three categories:

- 1 Vehicles currently in scope, which will be out of scope from April 2007 (new concessions)
- 2 Vehicles currently out of scope, which will be brought into scope from April 2007 (loss of concessions)
- 3 Vehicles currently out of scope, where there will be no change

Clearly, drivers of vehicles in categories 1 and, in particular, 2 above will be significantly affected by the changes introduced on 11 April 2007. **Goods vehicles up to 3.5 tonnes, and passenger vehicles with up to nine seats, remain out of scope of the EU rules.**

1.1 Vehicles currently in scope of EU rules, which will be out of scope from April 2007

Slow vehicles

- vehicles with a maximum authorised speed over 30 **but not over 40km per hour**, used both in the UK and internationally in the EU

Non-commercial carriage

- vehicles used in **the non-commercial transport of humanitarian aid**, used both in the UK and internationally in the EU
- vehicles used for non-commercial carriage of goods (**even where the goods are not for personal use**), where maximum permissible mass of the vehicle or combination does not exceed 7.5 tonnes, used both in the UK and internationally in the EU

Historic status

- commercial vehicles, which have a **historic status** according to the legislation of the member state in which they are being driven and which are used for the non-commercial carriage of passengers or goods internationally in the EU (DfT intends to define an historic vehicle as one which was manufactured more than 25 years before the occasion on which it is being driven)

Agriculture, horticulture etc

- vehicles used or hired without a driver by agricultural, horticultural, forestry, farming or fishery undertakings for carrying goods as part of their own entrepreneurial activity within a radius of **more than 50km but not more than 100km** from the base of the undertaking, used in the UK

Mobile project vehicles

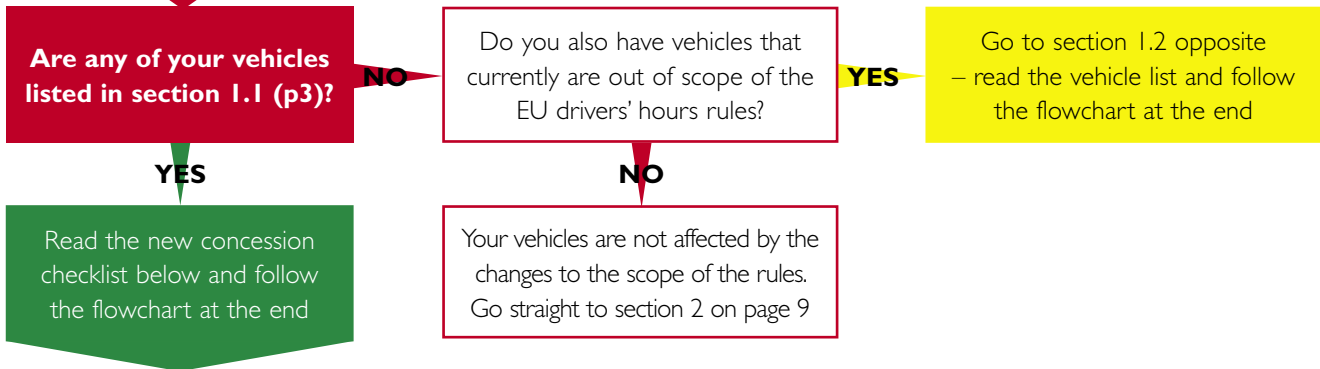
- specially fitted **mobile project vehicles**, the primary purpose of which is use as an educational facility. This includes play buses and mobile libraries

Instruction and examination

- vehicles used for driving **examination** in the UK with a view to obtaining a driving licence, provided that they are not being used for the commercial carriage of goods or passengers
- vehicles used for driving instruction and examination in the UK with a view to obtaining a **certificate of professional competence**, provided that they are not being used for the commercial carriage of goods or passengers. DfT says it sees no reason why this would not also include training to renew a Driver CPC

Hub facilities

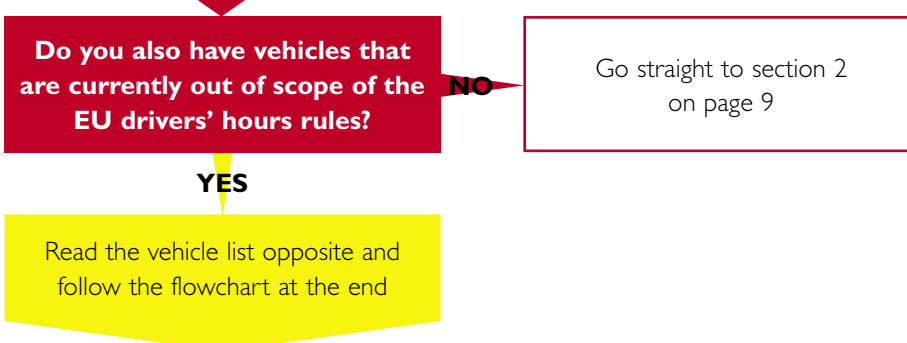
- vehicles used in the UK exclusively on roads **inside hub facilities** such as harbours, ports, airports, interports and railway terminals. DfT has indicated that only those vehicle being used within the perimeter of these areas (rather than those driving to or through these areas) can take advantage of this concession



New concession checklist

If your vehicles are listed above, they will be **out of scope** of EU drivers' hours rules from 11 April 2007. The drivers of these vehicles will be subject instead to the domestic drivers' hours rules. Drivers who are not subject to the EU rules are also excluded from the Road Transport (Working Time) Directive, but instead subject to the Horizontal Directive. You should:

- ✓ understand the domestic drivers' hours rules and any changes to working time rules (members can contact the Member Advice Centre on 0870 60 50 000 for full details)
- ✓ re-assess and re-plan your schedules
- ✓ communicate the impact to affected customers and negotiate changes to contracts if necessary
- ✓ amend contract terms as necessary
- ✓ communicate the impact to affected staff and negotiate changes to working practices with unions/workforce if necessary
- ✓ amend terms and conditions/employment contracts as necessary
- ✓ arrange to amend planning software if necessary
- ✓ arrange to amend record systems should you choose to use log books
- ✓ arrange to amend analysis systems
 - in-house – for example, amend software and train analysts
 - external analysis – advise service providers of change of rules
- ✓ arrange training for managers, supervisors and other office staff
- ✓ arrange training for drivers
- ✓ ensure any out-of-date information/literature/handbooks/posters are withdrawn and replaced if necessary



Minibuses

- vehicles with between 10 and 17 seats used in the UK for any **commercial carriage** of passengers. FTA has obtained further clarification from the Department for Transport (DfT). The Department has confirmed that the concession may be claimed by those 'section 19' permit vehicles driven by volunteer drivers and in line with current advice, will continue to consider teachers as volunteer drivers provided they are not required to drive a school minibus as part of their contract of employment and receive no payment for doing so. The Department also holds the view that employee drivers of section 19 and 22 permit operated minibuses would be able to take advantage of the derogation, provided the operation as a whole is carried out:

1 without a view to profit

2 nor incidentally to an activity which is itself carried out with a view to profit which would rule out a free minibus service to and from a local retail park for example

However, the DfT does not believe that minibuses used as crew buses (ie used to move their own staff around) by members can be operated out of scope, even where there is no direct or indirect payment for the carriage of passengers.

Members should be aware that this is the Department's opinion only and that ultimately interpretation is solely a matter for the courts.

Recovery vehicles

- specialised breakdown vehicles operating **outside a radius of 100km** (approximately 62 miles) of their base

Utilities, refuse collection and public bodies

- vehicles used in connection with the sewerage, flood protection, water, gas and electricity services, **but not in relation to maintenance services** (eg construction of new services, rather than maintenance of existing services)
- vehicles used in connection with refuse collection and disposal which are **not** engaged in **door-to-door household** refuse operations. At the time of writing, FTA awaits specific interpretation from DfT in relation to mixed household and trade collections
- vehicles used by public authorities to undertake carriage by road in the UK which do not compete with private transport undertakings, but are **not owned or hired without a driver by the authority**. See Appendix A for full details of what this concession covers
- vehicles used in connection with the sewerage, flood protection, water, gas and electricity maintenance services, **used on international journeys**
- vehicles used in connection with road maintenance and control, **used on international journeys**
- vehicles used in connection with door-to-door household refuse collection and disposal, **used on international journeys**
- vehicles used in connection with telegraph and telephone services, radio and television broadcasting, and the detection of radio or television transmitters or receivers, **used on international journeys**

Non commercial carriage of goods

- vehicles or vehicle combinations **over 7.5 tonnes maximum permissible mass** used for non-commercial carriage of goods. For example, holders of lgv licences must be made aware of this when they are considering hiring a vehicle to move house

Agriculture, forestry etc

- vehicles used for the carriage of live animals from farms to local markets and vice versa or from markets to local slaughterhouses in the UK **outside a radius of up to 50km** (approximately 31 miles)
- agricultural tractors and forestry tractors used for agricultural or forestry activities in the UK **outside a radius of up to 100km** (approximately 62 miles) from the base of the undertaking which owns, hires or leases the vehicle
- vehicles used for milk collection from farms and the return to farms of milk containers or milk products intended for animal feed, **used on international journeys**

Postal services

- vehicles used for the carriage of postal articles in the UK, which are vehicles or combinations of vehicles **over 7.5 tonnes**
- vehicles used for the carriage of postal articles in the UK which are used **outside a 50km radius** (approximately 31 miles) from the base of the undertaking
- vehicles used for the carriage of postal articles in the UK, **where driving constitutes the driver's main activity**. This condition in relation to what the driver's main activity is likely to prove problematic for many postal operations
- vehicles used for the carriage of postal articles in the UK, which are not used by **universal service providers of postal services to deliver items as part of the universal service**
- vehicles used for the carriage of postal articles **internationally**

Specially fitted vehicles

- specially fitted vehicles being used in the UK as a shop at a local market
- specially fitted vehicles being used in the UK for door-to-door selling

- specially fitted vehicles being used in the UK for mobile banking, exchange or saving transactions
- specially fitted vehicles being used in the UK for worship
- specially fitted vehicles being used in the UK for cultural events and exhibitions, where the vehicle does not fall into the definition of mobile project vehicle. 'Mobile project vehicle' includes mobile libraries and play buses and its primary purpose must be its use as an educational facility when stationary

Gas or electric vehicles

- gas or electric vehicles not over 7.5 tonnes used in the UK for the carriage of goods **outside a 50km radius** (approximately 31 miles) from the base of the undertaking

Military/emergency services

- vehicles used by or under the control of the armed services, civil defence, fire services and forces responsible for maintaining public order **which are not owned or hired without a driver by those bodies**

Are any of your vehicles listed above?

NO

Go to section 1.3 on page 7 – read the vehicle list then follow the flowchart at the end

YES

See loss of concession checklist below

- vehicles used by or under the control of the armed services, civil defence, fire services and forces responsible for maintaining public order where the carriage is **not undertaken as a consequence of the tasks assigned to these services**

Fun-fairs

- vehicles transporting circus and fun-fair equipment that are **not specialised vehicles**
- specialised vehicles for transporting circus and fun-fair equipment, **used on international journeys**

Loss of concession checklist

If your vehicles are listed above, they will be subject to EU drivers' hours rules from 11 April 2007. This means drivers of these vehicles will have to comply with EU drivers' hours regulations from 11 April, and (unless they only drive in-scope vehicles occasionally) will also be subject to the Road Transport (Working Time) Regulations.

You should:

- ✓ understand the new EU drivers' hours rules (see section 2 on page 9) and any changes to working time rules (members can contact the Member Advice Centre on 0870 60 50 000 for full details)
- ✓ arrange to have tachographs fitted to affected vehicles. Your drivers will be subject to EU drivers' hours rules from 11 April 2007, but you will have until 31 December 2007 to ensure your vehicles are fitted with a tachograph. A vehicle first registered before 1 May 2006 may be fitted with either an analogue or digital tachograph. A vehicle first registered on or after 1 May 2006 may only be fitted with digital equipment. In the meantime – between 11 April and the date you fit a tachograph – you must ensure that your drivers keep manual records using log books
- ✓ follow the checklist in section 4 on page 16

Do you have other vehicles currently out of scope of the EU drivers' hours rules, not listed above?

NO

Go straight to section 2 on page 9

YES

Read the vehicle list opposite and follow the flowchart at the end

Vehicles currently out of scope, where there will be no change

Small or slow goods vehicles

- goods vehicles not exceeding 3.5 tonnes, used both in the UK and internationally in the EU
- vehicles with a maximum authorised speed of not more than 30km per hour (although the new rules allow the maximum speed to be up to 40km per hour), used both in the UK and internationally in the EU

Passenger vehicles

- passenger vehicles with no more than 9 seats (including the driver's seat), used both in the UK and internationally in the EU
- passenger vehicles on regular services with a route of not more than 50km, used both in the UK and internationally in the EU
- vehicles with between 10 and 17 seats used exclusively for the **non-commercial carriage** of passengers, used in the UK

Medical vehicles

- specialised vehicles used for medical purposes, used both in the UK and internationally in the EU

Road tests and new vehicles

- vehicles undergoing road tests for technical development, repair or maintenance purposes, and new and rebuilt vehicles not yet put into service, used both in the UK and internationally in the EU

Military/emergency services

- vehicles **owned or hired without a driver** by the armed services, civil defence, fire services and forces responsible for maintaining public order when the **carriage is undertaken as a consequence of the tasks assigned to these services** and is under their control, used both in the UK and internationally in the EU
- vehicles used in emergencies or rescue operations, used both in the UK and internationally in the EU (the new rules also include the non-commercial transport of humanitarian aid)
- any vehicle which is being used by the Royal National Lifeboat Institution for the purpose of hauling lifeboats (subject to confirmation by the European Commission)

Recovery vehicles

- specialised breakdown vehicles **operating within a 100km radius of their base**, used both in the UK and internationally in the EU

Non-commercial carriage

- vehicles used for non-commercial carriage of goods, where maximum permissible mass of the vehicle or combination does not exceed 7.5 tonnes, used both in the UK and internationally in the EU

Utilities, refuse collection and public bodies

- vehicles used in connection with the sewerage, flood protection, water, gas and electricity **maintenance** services, used in the UK
- vehicles used in connection with road maintenance and control, used in the UK
- vehicles used in connection with **door-to-door household** refuse collection and disposal, used in the UK
- vehicles used in connection with telegraph and telephone services, radio and television broadcasting, and the detection of radio or television transmitters or receivers, used in the UK
- vehicles owned or hired without a driver by public authorities to undertake carriage by road which do not compete with private transport undertakings (see Appendix A on page 18 for the full list)

Mobile project vehicle

- specially fitted **mobile project vehicles**, the primary purpose of which is use as an educational facility. Along with play buses, this includes mobile libraries, which were previous exempt as specialised vehicles used in the UK for the lending of books, records or cassettes together with specially fitted vehicles being used in the UK for cultural events and exhibitions provided their primary purpose is for use as an educational facility

Funfairs

- specialised vehicles transporting circus and funfair equipment, used in the UK

Agriculture, horticulture etc

- vehicles used for milk collection from farms and the return to farms of milk containers or milk products intended for animal feed, used in the UK
- vehicles used or hired without a driver by agricultural, horticultural, forestry, farming or fishery undertakings for carrying goods as part of their own entrepreneurial activity within a radius of up to 50km from the base of the undertaking (the derogation has also been extended to a radius of 100km), used in the UK
- agricultural tractors and forestry tractors used for agricultural or forestry activities **within a radius of up to 100km from the base of the undertaking which owns, hires or leases the vehicle**, used in the UK

- vehicles being used to carry animal waste or carcasses which are not intended for human consumption, used in the UK
- vehicles used for the carriage of live animals from farms to local markets and vice versa or from markets to local slaughterhouses **within a radius of up to 50km**, used in the UK

Historic status

- commercial vehicles, which have a historic status according to the legislation of the member state in which they are being driven and which are used for the non-commercial carriage of passengers or goods used in the UK. Derogations currently exist in the UK for vehicles first manufactured before 1 January 1947, together with vintage passenger-carrying vehicles being used for specific purposes. (DfT intends to define historic vehicle as one which was manufactured more than 25 years before the occasion on which it is being driven)

Tools of the trade

- vehicles or combinations of vehicles not over 7.5 tonnes used (within a 50km radius from the base of the undertaking and where driving does not constitute the driver's main activity) for carrying materials, equipment or machinery for the driver's use in the course of his work, used in the UK

Postal services

- vehicles or combinations of vehicles **not over 7.5 tonnes used (within a 50km radius from the base of the undertaking and where driving does not constitute the driver's main activity) by universal service providers of postal services to deliver items as part of the universal service**, used in the UK

Small islands

- any vehicle which operates exclusively on an island which does not exceed 2,300 square kilometres in area and is not linked to the rest of Great Britain by a bridge, ford or tunnel open for use by motor vehicles, used in the UK

Vehicles powered by gas, electricity or steam

- gas or electric vehicles not over 7.5 tonnes used for the carriage of goods **within a 50km radius from the base of the undertaking**, used in the UK
- any vehicle which is propelled by steam (subject to confirmation by the European Commission)

Instruction and examination

- vehicles used for driving instruction with a view to obtaining a driving licence, provided that they are not being used for the commercial carriage of goods or passengers, used in the UK. (Vehicles can also be used for examination purposes and for instruction with a view to obtaining a Certificate of Professional Competence)

Are any of your vehicles listed above?

NO

Check the list in section 1.2 again, otherwise contact the Member Advice Centre on 0870 605 0000

YES

These vehicles will remain out of scope of the EU drivers' hours rules from April 2007

2 Drivers' hours rules

The 'simplification' of the rules has led to either a gain in terms of extra hours/flexibility for your drivers or a loss of flexibility. The current rules, the new rules and their effects are detailed in this section. A checklist to help you manage the changes can be found in section 4 on page 16.

2.1 Driving limits

Rules until 10 April 2007	Rules from 11 April 2007
Daily driving	
9 hours extendable to 10 hours twice a week	No change
Weekly driving	
A weekly limit is not currently specified in law but in practice it is 56 hours	Weekly limit of 56 hours is specified in the new rules. In practice no change
Fortnightly driving	
Maximum of 90 hours per fortnight	Maximum of 90 hours driving during any two consecutive weeks . In practice no change
Breaks from driving	
Total of 45 minutes at or before the end of 4.5 hours of continuous or cumulative driving. The 45-minute break may be split into breaks of at least 15 minutes each. Once a total of 45 minutes break has been completed, even if it is taken earlier than necessary, the driving time calculation begins again	Total of 45 minutes at or before the end of 4.5 hours continuous or cumulative driving. The 45-minute break may be split into two breaks, the first being at least 15 minutes long and the second at least 30 minutes . Once a total of 45 minutes break has been completed, even if it is taken earlier than necessary, the driving time calculation begins again

The key change here is in relation to the ability to split breaks from driving, reducing flexibility in two ways:

- breaks can only be split into two, rather than three separate periods. For some operations this could also mean that the allowance to split working time breaks into three periods may also in practice be negated
- the minimum length of each period of split break is stipulated and for the second break increased to at least 30 minutes

So from 11 April 2007 the following split break pattern is **illegal**.

3hrs drive	30 mins break	1.5hrs drive	15 mins break	1.5hrs drive
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The new rules only allow a break pattern that shows the second period of rest being at least 30 minutes, such as the following example.

3hrs drive	15 mins break	1.5hrs drive	30 mins break	1.5hrs drive
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2.2 Daily rest

Rules until 10 April 2007	Rules from 11 April 2007
Daily rest	
11 hours in the 24 hour period commencing at the end of the last daily or weekly rest. May be reduced to a minimum of 9 hours no more than three times per fixed week. Daily rest may be taken in a vehicle as long as it is fitted with a bunk and is stationary. Reductions must be compensated before the end of the following week and attached to another rest period of at least 8 hours long. Compensation shall be taken at the vehicle or driver's base at the driver's request	11 hours in the 24 hour period commencing at the end of the last daily or weekly rest. May be reduced to a minimum of 9 hours no more than three times between any two weekly rest periods. Where a driver chooses, daily rest periods away from base may be taken in a vehicle as long as it has suitable sleeping facilities for each driver and is stationary. Reductions no longer require compensation
Split daily rest	
12 hours in total in the 24 hour period. Can be taken in two or three periods, each at least 1 hour long with the last part at least 8 hours	Can be taken in two periods, the first period being at least 3 hours and the last at least 9 hours

The key gain here is that the removal of the requirement to compensate for reduced rests provides more flexibility as it means drivers can effectively work more hours within a given week – although the working time rules must still be observed. For example, if a driver reduces daily rest to 9 hours three times in week 1, under the existing rules an equivalent period of rest totalling 6 hours must be given as compensation by the end of week 2. As compensation is not required under the new rules, the driver will have the potential of an additional 6 hours of shift in week 2. Note that any reductions taken before 11 April must still be compensated – for example, a reduced daily rest on 10 April 2007 must be compensated by 22 April 2007.

Similarly to splitting breaks from driving, flexibility in relation to split daily rests has been reduced in two ways:

- daily rest may only be split into two, rather than three, periods
- the minimum length of each period of split daily rest is increased – the first must be at least 3 hours long and the second at least 9 hours, reducing flexibility for split shifts

Note that from 11 April drivers may choose whether or not to take a daily rest in a vehicle. Employers may still decide how much and when rest is to be taken, but effectively drivers can refuse to take the rest in the vehicle. Policies may need to be negotiated with drivers to maintain flexibility.

The new rules remove the potential to take six reduced daily rests consecutively, by changing the wording of the condition from 'no more than three times a week' to 'no more than three times between weekly rests'.

So, under the new rules the following pattern will be **illegal**.

Mon regular daily rest	Tues regular daily rest	Wed weekly rest	Thurs weekly rest	Fri reduced daily rest	Sat reduced daily rest	Sun reduced daily rest
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Mon reduced daily rest	Tues reduced daily rest	Wed reduced daily rest	Thurs weekly rest	Fri regular daily rest	Sat regular daily rest	Sun regular daily rest
--	---	--	--------------------------------	--	--	--

But in turn the following pattern, which is currently illegal, will be **legal** from 11 April.

Mon reduced daily rest	Tues reduced daily rest	Wed reduced daily rest	Thurs weekly rest	Fri reduced daily rest	Sat reduced daily rest	Sun reduced daily rest
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Mon regular daily rest	Tues regular daily rest	Wed weekly rest	Thurs weekly rest	Fri reduced daily rest	Sat reduced daily rest	Sun reduced daily rest
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2.3 Multi-manning and ferry/train daily rest concessions

Rules until 10 April 2007	Rules from 11 April 2007
Multi-manning daily rest concession	
During each period of 30 hours when a vehicle is manned by at least two drivers, each driver shall have a rest period of not less than 8 consecutive hours	Within 30 hours of the end of a daily or weekly rest period, a driver engaged in multi-manning must take a daily rest period of at least 9 hours . 'Multi-manning' is defined as where during each period of driving between any consecutive rest periods, there are at least two drivers in the vehicle – but for the first hour the presence of another driver is optional
Ferry/train daily rest concession	
Where a driver accompanies a vehicle which is transported by ferryboat or train, daily rest may be interrupted once provided part of the rest is taken on land, the interruption is no longer than 1 hour (including customs formalities), the driver has access to a bunk or couchette during both portions of rest, and the rest period is increased by 2 hours	Where a driver accompanies a vehicle, which is transported by ferry or train, a regular (at least 11 hour) daily rest may be interrupted not more than twice by other activities not exceeding 1 hour in total. During that regular daily rest the driver must have access to a bunk or couchette

For multi-manning operations, an important flexibility gained with the new rules is that the presence of another driver during the first hour of driving is optional. This allows a vehicle to be collected, or to pick up another driver within the first hour of an operation. However, the minimum daily rest is increased by one hour from eight to nine hours in a 30 hour period. This decreases the potential maximum driver shift from 22 to 21 hours.

The rules on ferry/train rests are relaxed in three ways:

- 1 rest does not have to be increased by 2 hours, but instead it must be at least 11 hours long. This means that an 11 hour ferry rest no longer counts as one of the three reductions permitted between weekly rests, increasing flexibility as drivers can effectively work more hours within a given week – although the working time rules must still be observed
- 2 daily rest can be interrupted twice, rather than once, increasing flexibility particularly for longer train or ferry journeys
- 3 there is no longer a need to take part of the rest on land – providing greater flexibility for longer train or ferry journeys

2.4 Weekly rest

Rules until 10 April 2007	Rules from 11 April 2007
Weekly rest	
Must be taken after no more than six successive periods of 24 hours following the last weekly rest period (provided the total driving time does not exceed the maximum corresponding to six daily driving periods). At least 45 consecutive hours, which can be reduced to 36 hours at base or 24 hours away from drivers' and vehicle's base. Reductions must be compensated en bloc before the end of the third week following the week of reduction and attached to another rest period of at least 8 hours long. Compensation must be taken at the vehicle or driver's base at the driver's request. A weekly rest that begins in one week and continues in the following week may be attached to either of these weeks	Must be taken after no more than six successive periods of 24 hours following the last weekly rest period. In any two consecutive weeks a driver must take at least two regular (at least 45 hours) weekly rests OR one regular and one reduced (at least 24 hours) rest. Reductions must be compensated en bloc before the end of the third week following the week of reduction and attached to another rest period of at least 9 hours long. Where a driver chooses, reduced weekly rest periods away from base may be taken in a vehicle as long as it has suitable sleeping facilities for each driver and is stationary. A weekly rest period that falls in two weeks may be counted in either week, but not in both

The key gain in relation to the changes to weekly rest is that any driver, whether away from home or base or not, may reduce weekly rest to 24 hours.

The key loss is that the new requirement to take at least one 45 hour rest in any two-week period effectively removes the ability to work a regular six-day working pattern. It also means that shift patterns and rotas need to be assessed in a completely different way. The following section explains the new rules in more detail.

2.4.1 The new rules on weekly rest

- 1 A weekly rest period shall start no later than at the end of six 24-hour periods from the end of the previous weekly rest period

- 2 In any two consecutive weeks* a driver shall take at least:
 - a two regular weekly rest periods (of at least 45 hours each), OR
 - b one regular weekly rest period and one reduced weekly rest period of at least 24 hours
- 3 A weekly rest period that falls in two weeks may be counted in either week*, but not in both
- 4 Any reductions shall be compensated by an equivalent period of rest taken en bloc before the end of the third week* following the week* in which the reduction

occurred. Rest taken as compensation must be attached to another rest period of at least 9 hours

* Note: a week is defined as the period of time between 00.00 on Monday and 24.00 on Sunday.

Although all the rules above must be complied with, rule number 2 represents the most significant change in relation to the long-term planning of drivers' rotas. When looking at certain shift patterns, this rule together with rule 3 can cause confusion, and this note aims to explain how the two rules must be viewed together.

Examples

The issue of looking at rules 2 and 3 together needs to be especially considered when looking at certain rotas and this is shown in the following examples.

EXAMPLE 1 – 6-ON, 2-OFF – ILLEGAL

	Mon	Tues	Wed	Thurs	Fri	Sat	Sun	Rule 2 Check	
Wk 1	A	A	6am					A & B	
Wk 2	3pm	B	B	6am					B & C
Wk 3		3pm	C	C	6am			C & D	
Wk 4			3pm	D	D	6am			D & E
Wk 5				3pm	E	E	6am	E & F	
Wk 6					3pm	F	F		F & G
Wk 7	6am					3pm	G	G&H	
Wk 8	G	6am					3pm		H – illegal
Wk 9	H	H	6am						

In the example above, a driver works a six-days-on, two-days-off rota. The days off are shown in red and the weekly rest always starts at 3pm the day before and finishes at 6am the day after. The final two columns in the table above show a check to ensure that rule 2 has been complied with – that the driver has taken at least two weekly rests in any two consecutive weeks. Two columns are needed to check this rules as it must be done on a rolling basis.

Although the driver takes a weekly rest of 63 hours every eight days, the shift pattern falls into difficulties when considering the two consecutive week period of weeks 6 and 7, followed by the two-weekly period of weeks 8 and 9 (week 9 being a repeat of week 1). Weekly rest G is a rest period which starts in week 7 and finishes in week 8 and may be counted in either of those weeks, but not in both. When looking for a minimum of two weekly rests in weeks 6 and 7 (in the final column), weekly rests F and G satisfy this rule. However, when looking at weeks 8 and 9, because rest G has already been counted in week 7, it may not be counted in week 8. This means that, when looking at the two-weekly period of weeks 8 and 9, only one weekly rest (rest H) can be counted.

EXAMPLE 2 – 6-ON, 2-OFF – LEGAL

	Mon	Tues	Wed	Thurs	Fri	Sat	Sun	Rule 2 Check	
Wk 1	A	A	6am					A & B	
Wk 2	3pm	B	B	6am					B & C
Wk 3		3pm	C	C	6am			C & D	
Wk 4			3pm	D	D	6am			D & E
Wk 5				3pm	E	E	6am	E & F	
Wk 6					3pm	F	F		F & G
Wk 7	6am					3pm	G	G & H	
Wk 8	G	6am	3pm	H	6am		3pm		H & I
Wk 9	I	I	6am						

In the example above, the illegal rota of example 3 has been rectified by adding an extra weekly rest of 39 hours in week 8 (rest H). This six hour reduction is immediately compensated in weekly rest I.

Weekly rest H is shown as reduced weekly rest of 39 hours long. This six-hour reduction must be compensated en bloc by the end of the third week following the week in which the reduction occurred. The compensation must be added to another period of rest of at least nine hours long. This compensation occurs in rest I, which is 63 hours long (57 hours of rest plus six hours of compensation).

EXAMPLE 3 – SUNDAY OFF – ILLEGAL

	Mon	Tues	Wed	Thurs	Fri	Sat	Sun	Rule 2 Check
Wk 1							A	A & B*
Wk 2							B	
Wk 3	B						C	C & D illegal
Wk 4							D	
Wk 5		E	E				F	E* & F
Wk 6							G	
Wk 7				H	H		I	

In this example above, although there are always two weekly rest periods in each consecutive two-weekly period, the difficulty occurs when looking for one of those weekly rests to be at least 45 hours long.

For weeks 1 and 2, weekly rest B has been counted in week 2, which means that when looking at weeks 3 and 4 it cannot also be counted in week 3. This only leaves rests C and D for weeks 3 and 4, neither of which are a minimum of 45 hours. An example of a solution to this problem is shown in example 4.

EXAMPLE 4 – SUNDAY OFF – LEGAL

	Mon	Tues	Wed	Thurs	Fri	Sat	Sun	Rule 2 Check
Wk 1							A	A & B*
Wk 2							B	
Wk 3	B						C	C & D*
Wk 4						D	D	
Wk 5							E	E & F*
Wk 6							F	
Wk 7	F						G	

In this example above, the example 3 pattern has been re-arranged to use the usual Sunday off to form the basis of the rota, without the need to double-count any weekly rests. However, the disadvantage of this pattern is that the days off are not spread across the week – they are always either on a Monday or Saturday.

Weekly rests A, C, E and G are shown as reduced weekly rests (less than 45 hours long). These reductions must be compensated en bloc by the end of the third week following the week in which the reduction occurred. The compensation must be added to another period of rest of at least nine hours long. Example 5 below shows another possible solution to the problem in example 3.

EXAMPLE 5 – SUNDAY OFF – LEGAL

	Mon	Tues	Wed	Thurs	Fri	Sat	Sun	Rule 2 Check
Wk 1							A	A & B*
Wk 2							B	
Wk 3	B						C	C & D*
Wk 4		D	D				E	
Wk 5							F	F & G*
Wk 6						G	G	
Wk 7							H	H & I*
Wk 8							I	
Wk 9	I						J	J & K*
Wk 10				K	K		L	
Wk 11							M	M & N*
Wk 12						N	N	
Wk 13							O	

The above pattern is a variation on example 4 – spreading the days off more evenly over the week. This provides a more flexible pattern option when scheduling rota-based drivers.

Weekly rests A, C, E, F, H, J, L, M and O are shown as reduced weekly rests (less than 45 hours long). These reductions must be compensated en bloc by the end of the third week following the week in which the reduction occurred. The compensation must be added to another period of rest of at least nine hours long.

Rest periods of at least 69 hours long

DfT has confirmed the view that periods of at least 69 hours of uninterrupted rest may be counted as two qualifying rest periods (for example, 45 hours plus 24 hours), provided the driver in question does not exceed six days work either before or after the rest period and all other conditions are met.

Alternate weeks of EU and domestic rules

In a week where a goods vehicle driver does not drive under the EU rules he is not required to take a weekly rest period. So, for example, where a driver works under the EU rules in week one and the domestic rules in week 2, all the driver will need to do is take a reduced weekly rest period (minimum of 24 hours) in week one (plus compensation by the end of the third following week) – and he will be able to take a reduced weekly rest period every other week if this working pattern continues.

2.5 Passenger vehicles rules concessions

Rules until 10 April 2007	Rules from 11 April 2007
Non-regular international carriage of passengers – weekly rest concession	
Must be taken after no more than 12 successive periods of 24 hours following the last weekly rest period (provided the total driving time does not exceed the maximum corresponding to 12 daily driving periods) in the case of the international carriage of passengers, other than on regular services	Concession deleted
Regular national carriage of passengers – breaks from driving concession	
Where breaks in driving over 30 minutes could hamper the flow of urban traffic and where it is not possible for drivers to take a 15-minute break within four and a half hours of driving prior to a 30-minute break, drivers of passenger vehicles on regular national journey may take a break of not less than 30 minutes after a driving period not exceeding 4 hours	Concession deleted

The concessions to delay taking weekly rest for an additional six days (after a maximum of 12, rather than six), and to take reduced breaks from driving for specific passenger operations are removed from 11 April 2007. This brings the hours' rules for passenger vehicle drivers in line with those for drivers of goods vehicles.

3 Definitions, responsibilities and liabilities

There are many changes in the text of the new regulation, which affect the way terms are defined together with the responsibilities and liabilities for drivers, transport undertakings, as well as consigners, freight forwarders and driver agencies. These changes are detailed in this section and a checklist to help you manage the changes can be found in section 4 on page 16.

3.1 Definitions

Other work

'Other work' means all activities which are defined as working time under the Working Time Directive except driving. The definition in the new rules also includes any work for the same or another employer, within or **outside** the transport sector. This confirms that work for any other employer cannot be counted as rest for the purposes of drivers' hours. However, DfT has stated that this should not be seen as affecting the advice given in relation to working time, where only work for other road transport employers needs to be added to the calculation of working time. (See Appendix C) There are also changes to the responsibility to record other work (see page 14).

Off-road driving

'Carriage by road' is re-defined as 'any journey made entirely or in part on roads open to the public by a vehicle, whether laden or not, used for the carriage of passengers or goods'. This means that where a vehicle travels on both public and private roads, all of the driving must be counted as such - vehicles delivering to private sites may no longer count the site driving as 'other work' rather than driving time. However, operations that take place entirely off public roads will not come in scope of the rules.

Drivers affected by this change will have less driving time available to them during the day. They may need to take more breaks from driving, and take those breaks earlier. The example below shows a pattern for a tipper driver who drives on public roads to get to and from a site, but spends part of the day driving on site. He currently counts the onsite driving as other work (shown in yellow) and so can postpone his break until 6 hours after he began work. However, under the new rules, all his driving is classed as driving (shown in blue) which triggers a break from work requirement after 4.5 hours.

Current rules

3hrs driving on public road	1.5hrs driving on private site	1.5hrs driving on public road	45mins break from driving required
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Rules from April 2007

3hrs driving on public road	1.5hrs driving on private site	45mins break from driving	1.5hrs driving on public road
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Driving

'Driving' is defined as the duration of driving recorded by the recording equipment (whether analogue or digital) or, when it is impossible to use the tachograph, manually by the driver. This conflicts with, but will take precedence over, the existing UK definition of being at the controls of the vehicle with the engine running (either stationary or in motion) for the purpose of controlling the vehicle. DfT has recognised this and intends to amend the UK regulations accordingly. This change should make analysis of records easier – as currently under the UK definition there could be times where the vehicle is stationary that should be counted as driving, but which the tachograph does not record as such because the vehicle is not in motion. From April 2007 whatever the tachograph records as driving, is driving.

Breaks and multi-manning

'Break' is re-defined as 'any period during which the driver may not carry out any driving or any other work and which is used exclusively for recuperation'. This definition no longer expressly allows a second man to take a break in a moving vehicle, but equally there is nothing in the new regulation to prevent this. Therefore, in a multi-manning operation the second driver may count his time as a passenger as a break provided he is not carrying out any other work.

Some tachographs will automatically record all time spent as a second man as a period of availability and do not allow the second man to record break while the vehicle is in motion. DfT has confirmed that it will treat the first 45 minutes as a break provided the driver makes a written manual entry to this effect on an analogue chart or a printout from a digital tachograph. Any periods of other work must similarly be recorded by written manual entries.

If it is operationally possible and desirable, second men can avoid having to keep manual records to show breaks, if they ensure that they do not drive up to the 4.5 hour limit. If the drivers swap at, say, 4 hours and 25 minutes of driving – it is acceptable for the second man's record to show a period of availability, as a break is not required until 4.5 hours of driving has been completed. However, bear in mind that in this instance the driver has only five minutes of driving left before a full 45 minute break must be taken. If further driving is to be carried out a full break must be shown immediately after 4.5 hours' worth of driving has been reached.

Transport undertaking

The new regulations define a transport undertaking as 'any natural person, any legal person, any association or group of persons without legal personality, whether profit-making or not, or any official body, whether having its own legal personality or being dependent upon an authority having such a personality, **which engages in carriage by road**, whether for hire or reward or own account.' The transport undertaking has legal responsibilities and liabilities for drivers' compliance with the rules, and this definition confirms and clarifies that it is the undertaking, rather than the drivers' employer (for example, in the case of agency drivers), who is responsible

for the key obligations, such as downloading data and keeping records. (But see also 'Consignor, freight forwarder, agency, etc liabilities' on page 16)

3.2 Responsibilities

Recording of other work and periods of availability

Drivers are required to record all other work, including work for other employers for driving days **and** on non-driving days within a fixed week where in-scope driving has been undertaken. This new requirement was deemed necessary to check compliance with the weekly rest rules. So, where a driver has worked in a warehouse for two days in a week and he/she has also driven an in-scope vehicle.

He/she must record this other work either:

- written manually on a chart
- written manually on a printout, or
- by using the manual input facility on a digital tachograph

'Other work' also includes driving an out-of-scope vehicle. The driver must also record any periods of availability and should record break or rest periods taken during this time. You will need to consider which method(s) of recording this information will suit your operations. When driving an in-scope vehicle, drivers must be able to produce these records at the roadside for the relevant period.

When looking at the EU drivers' hours rules 'other work' includes time spent working for all employers, including time worked for **non-road transport employers**. However, time worked for non-road transport employers does **not** have to be included in your calculations under the road transport working time regulations. Therefore, where the same records are used to check for compliance with both the drivers' hours and working time rules, drivers should distinguish between the two types of employer (road transport or non-road transport) and indicate this on the record. This will allow analysts to disregard time spent working for a non-road transport employer in relation to working time calculations. See Appendix C for best practice advice on work for other employers in relation to working time and drivers' hours rules.

Drivers who work for more than one transport undertaking

The new rules also specifically require a driver who is at the disposal of more than one transport undertaking to provide sufficient information to each undertaking to allow them to comply with their obligations under the rules. See Appendix C for best practice advice on work for other employers in relation to working time and drivers' hours rules.

Recording travelling time

The regulations confirm that time spent travelling to or **from** a location to **take charge of an in-scope vehicle**, where the vehicle is neither at the driver's home or its employer's

operational centre where the driver is normally based, may not count as rest or break, unless the driver is in a ferry or train and has access to a bunk or couchette. However, where the driver is a passenger in another vehicle or on a ferry or train without access to a bunk this time may be counted as a period of availability provided the conditions of a period of availability are met.

The requirement to record travel time as work or POA is likely to occasionally cause a problem where, due to unforeseen circumstances earlier on in the day, a driver runs out of duty time when away from home or base. For example, where the driver has reached 15 hours of spreadover (ie the time from the beginning of his shift) on a day where a reduced daily rest is to be taken and he is still several miles from home/base. The emergency provision detailed below only allows the driver to depart from the rules in order to reach a suitable stopping place, when there is potential danger for the driver, vehicle or load. In this example, the problem occurred earlier on in the day, and so the emergency concession cannot be applied at the end of the shift.

In order to comply with the daily rest rules the driver must begin his rest immediately, during which he must be able to freely dispose of his time. However, under the new rules if he chooses to travel anywhere, such as home or back to base, by any method other than train or ferry with access to a bunk, this time must be recorded as either other work or availability, which would cause a breach in the daily rest requirements. This means that, although the driver must be able to freely dispose of his time during a daily rest, he is not permitted to travel home. This apparent anomaly may be an issue which is tested in court at a later date.

During a meeting with the Department for Transport (DfT) and the Vehicle and Operator Services Agency (VOSA) on 13 June 2006, both the Department and the Agency confirmed that any time spent on a moving vehicle as described above would not count as a rest period. It is clear, therefore, if a driver recorded this time as a rest period, he could be accused of creating a false record which is a serious offence liable to a maximum fine of £5,000 or imprisonment for up to two years.

When the above-mentioned travelling time is recorded as either other work or a period of availability (as required by the legislation) in the circumstances described, the daily rest requirements will be contravened. In this instance both the driver and undertaking could be liable to a fine of up to £2,500. Of course, enforcement officers can always look at the individual circumstances of each case and exercise their judgement when deciding whether or not to pursue a prosecution.

Operators should always endeavour to schedule journeys to ensure drivers have enough time to return to base. If, due to unforeseen circumstances, a driver runs out of duty hours while away from home or base, he is legally required

to start his daily rest immediately. If that is not possible, it is important to ensure that details of the circumstances of the unforeseen events and reasons for the departure from the rules are recorded and kept along with the tachograph record. Repeated problems, particularly on similar or regular routes, may attract the suspicion from authorities that operators are failing to properly schedule work and may increase the risk of prosecution.

Recording of emergencies

Provided that road safety is not jeopardised, it is permitted to exceed the rules in order to reach a suitable stopping place to the extent necessary to ensure the safety of persons, the vehicle or its load. The driver must indicate the reason manually on an analogue chart, a digital printout, or a duty roster. However the new rules state he must record this **at the latest on arrival at the suitable stopping place.**

Driving out of scope vehicles

The regulations confirm that driving out of scope vehicles (including light vans) must be recorded as other work.

Training

Transport undertakings must 'properly instruct' drivers to ensure the rules are complied with. However, the regulations do not lay down any specific detail on how this should be achieved, or that refresher courses must be provided. At first sight this appears to be a new requirement but the current regulation does require that where breaches are found to have occurred the employer shall take appropriate steps to prevent their repetition – depending on the individual circumstances, this could already imply a training requirement. The forthcoming driver training directive may provide a mechanism to test drivers' hours knowledge and update training.

Jurisdiction and evidence of penalties

The new regulations allow for a member state to impose a penalty on an employer and/or driver for an infringement detected on its territory, even where that infringement was committed in another country. To prevent further penalties being imposed for the same offence, enforcement agencies must provide the driver with evidence of the proceedings or penalty in writing. The driver will be required to carry this evidence until such time as the infringement cannot lead to further action. DfT has confirmed that within the UK it would expect the driver to retain the evidence for the same period he is required to be able to produce records at the roadside (currently the current fixed week and previous 15 calendar days, which will change to the current day plus the previous 28 days from 1 January 2008).

3.3 Liabilities

Transport undertaking absolute liability for driver offences

The new regulations contain a provision to hold a transport undertaking absolutely liable for infringements committed by

a driver. However, they also allow member states to make this liability conditional on an undertaking's conduct, ie the way in which work has been organised, compliance with the requirement to instruct drivers, and making regular checks will also be taken into account.

FTA's persistence paid off in the dispute with Government over how the automatic liability for driver infringement provisions and the transfer of the burden of proof onto operators would work under the new EU drivers' hours rules. FTA was concerned that operators could end up in court to prove they could satisfy the statutory defence. In February 2007 Transport Minister, Dr Stephen Ladyman confirmed to FTA that before proceeding with any prosecution VOSA would need to clearly assess its chances of success. This has removed the threat of automatic prosecution for generally compliant operators who properly instruct drivers and who can demonstrate to VOSA that they have good control systems in place.

The Department has agreed that enforcers will need to decide whether a prosecution under these provisions will succeed before the liability provisions are applied. It means that traffic examiners in VOSA will have to be certain that the company involved has a poor compliance record and/or is unlikely to have good control systems in place and has no valid defence before a prosecution goes ahead. Operators will, of course, need to follow up and challenge drivers over the original infringements, but the very act of doing so should suggest that they are on top of the problem.

Consignor, freight forwarder, agency, etc liability

The new rules state that undertakings, consignors, freight forwarders, tour operators, principle contractors, subcontractors, and driver employment agencies must ensure that 'contractually agreed transport time schedules' respect the rules on drivers' hours. This is the first time that those other than transport undertakings have been made specifically liable by regulation. The merits and ability for those in the transport chain not directly in control of the transport operations to comply with this requirement has been questioned by a number of member states. DfT's intention is to apply the European Commission's suggestion that for some it could mean including a reference to ensuring compliance with the EU rules in the contract with the operator or driver. Interpretation on this matter is likely to evolve over time.

4 New drivers' hours rules and regulations checklist

The new regulation will introduce significant changes in April 2007, which will require management actions taken in good time to ensure smooth implementation.

You should:

- ✓ understand the new EU drivers' hours rules, definitions responsibilities and liabilities
- ✓ re-assess and re-plan your schedules
- ✓ communicate the impact to affected customers and negotiate changes to contracts if necessary, including ensuring that 'contractually agreed transport time schedules' comply with the rules
- ✓ amend contract terms as necessary including a statement that 'contractually agreed transport time schedules' comply with the rules
- ✓ decide how work for you or other employers on non-driving days will be recorded
- ✓ communicate the impact to affected staff – an example letter to drivers is contained in Appendix B – and negotiate changes to working practices with unions/ workforce if necessary
- ✓ amend terms and conditions/employment contracts as necessary
- ✓ arrange to amend planning software as necessary
- ✓ arrange to amend analysis systems
 - in-house – for example, amend software of anything that is used for analysis (including any electronic calculating aids used by drivers on board vehicles) and train analysts
 - external analysis – ensure service providers have procedures in place to take account of the new rules
- ✓ arrange training for managers, supervisors and other office staff
- ✓ arrange training for drivers
- ✓ ensure any literature or documentation is updated (ie handbooks, posters or guidance notes)

5 How can FTA help?

FTA can provide a range of products and services to help members manage the changes to EU drivers' hours rules, from information and advice through to training, consultancy and analysis.

5.1 Information and advice

FTA wants to ensure all members fully understand the implications of the changes and how to manage those changes within their operations.

In addition to this 24 page compliance guide detailing the changes to EU drivers' hours rules, FTA provides:

- weekly e-mail news bulletins as developments occur
- free member briefings to keep members up-to-date
- a dedicated Member Advice Centre (tel: 0870 60 50 000) for any queries you may have in terms of legislation or your operations
- a regularly updated website at www.fta.co.uk
- analysis and news in FTA's monthly journal Freight

5.2 Analysis and interpretation

Tachofa has been helping members comply with their operator licence obligations for over 25 years. With over 130 drivers' hours experts, FTA analyses and interprets over five million tachograph charts every year, checking companies' records for drivers' hours (whether you are on domestic or EU rules) and working time compliance. FTA's analysis software will allow for a natural transition when the new drivers' hours regulations come into play in April 2007.

Tachofa offers:

- analysis of digital data through either FTA's customer data upload software (CDU) which enables the data to be uploaded directly to FTA for analysis or via FTA's digital data postbox where digital data is uploaded to FTA's servers through GPRS or broadband network
- analysis through one of our bureaux by either scanning your charts to FTA or posting them in. The data is then merged with any digital data already uploaded to FTA
- analysis through one of our drivers' hours experts on site to analyse analogue charts and combine the data with any digital data you have already uploaded to FTA
- one seamless management report either by e-mail, on-line or in hard copy

5.3 FTA Consultancy

FTA's culture of clear, accessible and understandable compliance advice places FTA Consultancy in a strong position to help members with the implementation of the new EU drivers' hours rules. We will work alongside organisations to develop detailed plans to ensure implementation in the most cost effective and efficient manner.

5.4 Training

To understand the impact of the drivers' hours changes, training of managers, staff and drivers will be essential. All FTA training is delivered by drivers' hours experts at venues across the UK.

Courses include:

- drivers' hours and working time workshop – 1/2 day workshop for drivers
- management of drivers' hours and records – 2 day course for managers/supervisors
- in-company drivers' hours training (bespoke courses designed round a company's individual needs)

Check www.fta.co.uk/training for latest dates on the 2007 training prospectus.

5.5 Shopfta

This one-stop shop for all your transport stationery supplies includes specific products to help members with the implementation of drivers' hours changes.

- EU drivers' hours rules poster
- EU drivers' hours cab sticker (updated to include new rules)
- Driver's card covering drivers' hours rules, and working time rules

For further information on any of the above call FTA's Member Service Centre on 08717 11 22 22*



*Please note calls may be recorded for training purposes

Appendix A

Exemptions and derogations table

EXEMPTIONS	
Current exemption	Change from 11 April 2007
Vehicles used for the carriage of goods not exceeding 3.5 tonne	<i>This is a technical legislative change only. Although the exemption has been removed, the regulation itself only applies its scope to the carriage of goods in vehicles over 3.5 tonne</i>
Vehicles used for the carriage of passengers with no more than 9 seats (including the driver's seat)	<i>This is a technical legislative change only. Although the exemption has been removed, the regulation itself only applies in its scope to the carriage of passengers in vehicles with more than 9 seats (including the driver's seat)</i>
Vehicles used for the carriage of passengers on regular services with a route of not more than 50km	No change
Specialised vehicles used for medical purposes	No change
Vehicles undergoing road tests for technical development, repair or maintenance purposes, and new or rebuilt vehicles which have not yet been put into service	No change
Vehicles with a maximum authorised speed not exceeding 30kph	Vehicles with a maximum authorised speed not exceeding 40kph
Vehicles used by or under the control of the armed services, civil defence, fire services and forces responsible for maintaining public order	Vehicles owned or hired without a driver by the armed services, civil defence, fire services and forces responsible for maintaining public order when the carriage is undertaken as a consequence of the tasks assigned to these services and is under their control
Vehicles used in emergencies or rescue operations	Vehicles, including vehicles used in the non-commercial transport of humanitarian aid , used in emergency and rescue operations
Specialised breakdown vehicles	Specialised breakdown vehicles operating within a 100km radius of their base
Vehicles used for non-commercial carriage of goods and for personal use	Vehicles or combinations of vehicles with a maximum permissible mass not exceeding 7.5 tonne used for the non-commercial carriage of goods
Vehicles used in connection with the sewerage, flood protection, water, gas and electricity services, highway maintenance and control, refuse collection and disposal, telegraph and telephone services, carriage of postal articles, radio and television broadcasting and the detection of radio or television transmitters or receivers	<i>This exemption has been reworded and moved to the list of derogations (see opposite). The concession for the carriage of postal articles has been placed into a different, more restrictive derogation</i>
Vehicles transporting circus and funfair equipment	<i>This exemption has been reworded and moved to the list of derogations (see below)</i>
Vehicles used for milk collection from farms and the return to farms of milk containers or milk products intended for animal feed	<i>This exemption has been moved to the list of derogations (see below)</i>
	<p><i>New exemption</i></p> <p>Commercial vehicles, which have a historic status according to the legislation of the member state in which they are being driven and which are used for the non-commercial carriage of passengers or goods.</p> <p><i>The UK currently has derogations for vehicles first manufactured before 1 January 1947, together with vintage passenger-carrying vehicles being used for specific purposes (see list of derogations). DfT intends to define an historic vehicle as one which was manufactured more than 25 years before the occasion on which it is being driven.</i></p>
DEROGATIONS	
Current exemption	Change from 11 April 2007
Any vehicle used for the carriage of passengers which is by virtue of its construction and equipment suitable for carrying of passengers not more than 17 persons including the driver and is intended for that purpose	<p>Vehicles with between 10 and 17 seats used exclusively for the non-commercial carriage of passengers. DfT has given an early view that this is likely to apply to those vehicles operated under a permit scheme driven by volunteer drivers. It has also indicated that in line with current advice, it will continue to consider teachers as 'volunteer' drivers, provided they are not required to drive a school minibus as part of their contract of employment and receive no payment for doing so.</p> <p>The Department also holds the view that employee drivers of section 19 and 22 permit operated minibuses would be able to take advantage of the derogation, provided the operation as a whole is carried out:</p> <ol style="list-style-type: none"> 1 without a view to profit 2 nor incidentally to an activity which is itself carried out with a view to profit which would rule out a free minibus service to and from a local retail park for example <p>However, the DfT does not believe that minibuses used as crew buses (ie used to move their own staff around) by members can be operated out of scope, even where there is no direct or indirect payment for the carriage of passengers.</p> <p>Members should be aware that this is the Department's opinion only and that ultimately interpretation is solely a matter for the courts.</p>

Current exemption	Change from 11 April 2007
<p>Vehicles used by public authorities to provide public services which are not in competition with professional road hauliers. In the UK this is limited to the use by:</p> <ol style="list-style-type: none"> 1 a health body or ambulances or vehicles used to carry staff, patients, medical supplies or equipment 2 local authority for social services for old people (and certain welfare provisions) 3 the coastguard and lighthouse authorities 4 harbour authorities for the improvement, maintenance or management within the limits of the harbour 5 airport authorities within the perimeter of the airport owned and managed by it 6 the British Railways Board, Transport for London, a passenger transport executive or local authority for railway maintenance purposes 7 the British Waterways Board for the purpose of maintaining navigable waterways 	<p>Vehicles owned or hired without a driver by public authorities to undertake carriage by road which do not compete with private transport undertakings. DfT intends to include in this list any vehicle which is being used by:</p> <ol style="list-style-type: none"> 1 a health body for ambulances or vehicles used to carry staff, patients, medical supplies or equipment 2 local authority for social services for old people (and certain welfare provisions) 3 the coastguard and lighthouse authorities 4 the British Railways Board, Transport for London, a Passenger Transport Executive or local authority for railway maintenance purposes, or 5 the British Waterways Board for the purpose of maintaining navigable waterways
<p>Any vehicle which is being used by an agricultural, horticultural, forestry or fishery undertaking (carrying live fish or a catch of fish from the place of landing to a processing place) to carry goods within a 50km radius of the place where the vehicle is normally based, including local administrative areas the centres of which are situated within that radius</p>	<p>Vehicles used or hired without a driver by agricultural, horticultural, forestry, farming or fishery undertakings (carrying live fish or a catch of fish from the place of landing to a processing place) for carrying goods as part of their own entrepreneurial activity within a radius of up to 100km from the base of the undertaking</p>
<p>Any tractor which is used exclusively for agricultural and forestry work</p>	<p>Agricultural tractors and forestry tractors used for agricultural or forestry activities within a radius of up to 100km from the base of the undertaking which owns, hires or leases the vehicle</p>
<p>Vehicles being used to carry animal waste or carcasses which are not intended for human consumption</p>	<p>No change</p>
<p>Any vehicle which is being used to carry live animals between a farm and a local market or from a market to a local slaughterhouse</p>	<p>Vehicles used for the carriage of live animals from farms to local markets and vice versa or from markets to local slaughterhouses within a radius of up to 50km</p>
<p>Any vehicle which is being used (and is specially fitted for that use):</p> <ol style="list-style-type: none"> 1 as a shop at a local market 2 for door-to-door selling 3 for mobile banking, exchange or saving transactions 4 for worship 5 for the lending of books, records or cassettes 6 for cultural events or exhibitions 	<p>Specially fitted mobile project vehicles, the primary purpose of which is use as an educational facility when stationary.</p> <p>DfT has indicated that the term 'mobile project vehicle' would include play buses and mobile libraries.</p> <p>Significantly, most other types of vehicles in the existing derogation (left) will be brought into scope of the rules in April 2007</p>
<p>Any vehicle used for the carriage of goods which has a maximum permissible weight not exceeding 7.5 tonne and is carrying material or equipment for the driver's use in the course of his work within a 50km radius of the place where the vehicle is normally based provided driving the vehicle does not constitute the driver's main activity</p>	<p>Vehicles or combinations of vehicles not over 7.5 tonne used within a 50km radius from the base of the undertaking and where driving does not constitute the driver's main activity:</p> <ol style="list-style-type: none"> 1 by universal service providers of postal services to deliver items as part of the universal service 2 for carrying materials, equipment or machinery for the driver's use in the course of his work <p>Currently, vehicles used in connection with the carriage of postal articles are exempt (see page 5)</p>
<p>Any vehicle which operates exclusively on an island which does not exceed 2,300 square kilometres in area and is not linked to the rest of Great Britain by a bridge, ford or tunnel open for use by motor vehicles</p>	<p>No change</p>
<p>Any vehicle used for the carriage of goods which has a permissible maximum weight not exceeding 7.5 tonne and is propelled by means of gas produced on the vehicle or by means of electricity</p>	<p>Gas or electric vehicles not over 7.5 tonne used for the carriage of goods within a 50km radius from the base of the undertaking</p>
<p>Any vehicle which is being used for driving instruction with a view to obtaining a driving licence, provided the vehicle or any trailer or semi-trailer drawn by it is not being used for carriage of goods for hire or reward; or for or in connection with any trade or business</p>	<p>Vehicles used for driving instruction and examination with a view to obtaining a driving licence or certificate of professional competence, provided that they are not being used for the commercial carriage of goods or passengers. DfT says it sees no reason why this would not also include training to renew a Driver CPC</p>
<p>The regulations permit, after authorisation from the European Commission, member states to exempt transport operations carried out in exceptional circumstances. In the UK this covers:</p> <ol style="list-style-type: none"> 1 any vehicle which is being used by the Royal National Lifeboat Institution for the purpose of hauling lifeboats 2 any vehicle which was manufactured before 1 January 1947 3 any vehicle which is propelled by steam 4 passenger-carrying vintage vehicles, being driven in specific circumstances 	<p>The new regulations also permit exemptions in exceptional circumstances, after authorisation from the European Commission. There is already a new exemption for historic vehicles, and, subject to confirmation by the European Commission, DfT intends to exempt steam vehicles and vehicles used for hauling lifeboats</p>
<p>Currently a similar exemption (rather than derogation) exists (see page 7)</p>	<p>Vehicles used in connection with sewerage, flood protection, water, gas and electricity maintenance services, road maintenance and control, door-to-door household refuse collection and disposal, telegraph and telephone services, radio and television broadcasting, and the detection of radio or television transmitters or receivers</p>
<p>Currently a similar exemption (rather than derogation) exists (see page 7)</p>	<p>Specialised vehicles transporting circus and funfair equipment</p>
<p>Currently an exemption (rather than derogation) exists (see page 7)</p>	<p>Vehicles used for milk collection from farms and the return to farms of milk containers or milk products intended for animal feed</p>
<p>No exemption or derogation currently exists</p>	<p>Vehicles used exclusively on roads inside hub facilities such as ports, interports and railway terminals. We are awaiting further clarification on this from DfT</p>
<p></p>	<p>UK ministers have stated that the UK will not be adopting the derogation for specialised vehicles transporting money and/or valuables</p>

Appendix B

Sample letter to goods vehicle drivers

Note that members can download a word version of this document from www.fta.co.uk

Dear

CHANGES TO DRIVERS' HOURS RULES

As you may be aware the European Union (EU) drivers' hours (tachograph) rules will change on 11 April 2007. The purpose of this letter is to tell you about these changes.

Why are the rules changing?

The EU wanted to clarify and simplify the rules in order to make them easier to apply and enforce.

What are the main changes to the rules?

The current and new rules are summarised below.

	Current rules	New rules from 11 April 2007
Breaks from driving	Total of 45 minutes break to be taken at or before the end of 4.5 hours' continuous or cumulative driving. The 45-minute break may be split into breaks of at least 15 minutes each	Total of 45 minutes break to be taken at or before the end of 4.5 hours' continuous or cumulative driving. The 45-minute break may be split into two breaks, the first at least 15 minutes long, the second at least 30 minutes long
Daily rest	11 hours rest in the 24-hour period, which begins at the end of the last daily/weekly rest period. May be reduced to a minimum of 9 hours no more than three times a week. Reductions must be compensated by the end of the following week	11 hours rest in the 24 hour period, which begins at the end of the last daily/weekly rest period. May be reduced to a minimum of 9 hours no more than three times between weekly rests. Reductions no longer require compensation
Split daily rest	12 hours rest must be taken in total, where a daily rest has been split. It can be taken in two or three periods, each at least 1 hour long, with the last part being at least 8 hours long	Split daily rest can be taken in two periods, the first period being at least 3 hours long and the second at least 9 hours long
Weekly rest	45 hours can be reduced to 36 hours at driver/vehicle's base or 24 hours away from base. Reductions must be compensated by the end of the third week following the week of reduction	45 hours can be reduced to 24 hours at base or away from base. Reductions must be compensated by the end of the third week following the week of reduction. A full regular 45-hour rest is required in any two weeks
Double manning daily rest concession	Within 30 hours of the end of a daily/weekly rest period, when a vehicle is manned by at least two drivers, each driver must have at least 8 hours rest	Within 30 hours of the end of a daily/weekly rest period, when a vehicle is multi-manned, each driver must have at least 9 hours rest
Ferry/train daily rest concession	Daily rest can be interrupted once provided part of the rest is taken on land, the interruption is no longer than 1 hour; you have access to a bunk or couchette, and the rest period is increased by 2 hours	A regular (at least 11 hour) daily rest may be interrupted not more than twice by other activities not exceeding one hour in total. During the rest you must have access to a bunk or couchette

Are there any other changes?

There are some other changes to the definitions in the regulations and some new responsibilities. The main changes are summarised below.

OFF-ROAD DRIVING

The new rules include any driving done partly on public roads and partly off public roads as 'carriage by road'. This means that when you drive a vehicle on both public and private roads, all of the driving must be counted as such. So vehicles delivering to private sites will not be able to count the site driving as 'other work' from 11 April 2007.

RECORDING OTHER WORK ON DRIVING AND NON-DRIVING DAYS

From 11 April you must record all other work, including any work for other employers, for driving days and non-driving days within any fixed week where you have driven a vehicle in-scope of the tachograph rules. You must also record any periods of availability and should record rest or break periods taken during this time. We will advise you how we will be asking you to record this in due course.

If you work for another transport company, the new rules also specifically require you to provide us with enough information so we can make sure you are complying with the rules.

RECORDING OF EMERGENCIES

Provided that road safety is not jeopardised, you are allowed to exceed the rules only to the extent necessary to safeguard people, the vehicle or its load in order to reach a suitable stopping place. You must indicate the reason for exceeding the rules by writing on a tachograph chart or a digital printout at the latest on arrival at the suitable stopping place.

EVIDENCE OF PENALTIES

The new regulations allow a country to impose a penalty on a driver or employer for an infringement detected on its territory, even if the rules were broken in another country. To prevent further penalties being imposed for the same offence, enforcement officers must provide you with written evidence of the penalty or proceedings. You will need to carry this with you for at least the same period of time you must be able to produce records at the roadside – currently the current fixed week and previous 15 calendar days, which will change to the current day plus the previous 28 days from 1 January 2008.

Thank you for taking the time to read this letter. If you have any questions in relation to the new rules please contact

.....

Yours sincerely/faithfully

Appendix C

Best practice advice. Work for other employers – working time and drivers' hours rules

Working time

In July 2005 the Department for Transport (DfT) issued guidance on which type of work needs to be included in your Road Transport Regulations (RTR) working time calculations.

Charitable work, work for the territorial army, and work as special constables or retained firefighters does not have to be included in working time calculations. You only need to include in working time calculations work for road transport employers. In other words work for employers for whom a mobile worker carries out any in-scope road transport activities (ie work covered by EU Regulation 3820/85/EC). It includes both road transport activities and any other work for such employers (for instance when a driver also works in an employer's warehouse).

Therefore you do not need to include work performed for employers who are not involved in road transport activities (for instance bar work), or work for employers who may run transport operation, but where the worker does not carry out any road transport-related work for them.

EU drivers' hours

EU drivers' hours rules impose minimum rest requirements for drivers. Rest is defined as a period where the driver is freely able to dispose of his time, and this is interpreted as excluding any periods where he is under instruction or obligation. It is important that you ask drivers whether they are carrying out any work for **any** other employer as this may interfere with EU hours' weekly and daily rest requirements. Also from 11 April 2007 the new EU drivers' hours rules require your drivers to record any other work carried out for any employer on driving and non-driving days.

BEST PRACTICE

- 1 Regularly ask employees about ALL other work (see sample declaration in Appendix D)
- 2 Ask them to give details of other work in writing or sign to confirm they do not undertake any other work
- 3 Monitor responses to ensure you can account for everyone
- 4 Analyse responses in terms of:
 - EU drivers' hours rules – set up procedures to ensure this work will be recorded manually on tachograph records (see page 14) from 11 April 2007
 - working time
- 5 Investigate and take necessary action where problems found
- 6 Document any action taken

Appendix D

Employee declaration – other work

Please fill out this form to provide details of any work undertaken, sign and return to as soon as possible.

Please note that charitable work and work undertaken as a special constable, retained firefighter or in the territorial army, together with any work undertaken for a non-road transport employer; will not count towards working time calculations. However, if you are engaged in any of these activities you still need to inform us as this may affect your rest requirements under EU drivers' hours rules.

Employee declaration

Option A – no other work

I (name)..... hereby declare that I **AM NOT** currently engaged in any work outside of my commitments to (company name). I undertake to inform (company name) immediately if this situation should change at any point during my employment.

Signed

Date

Option B – other work

I (name)..... hereby declare that I **AM** currently engaged in work outside of my commitments to (company name). I undertake to keep (company name) informed in writing of the hours worked.

Please provide basic details of any other employers

1 Employer name and address

Type of work Date started

Hours worked per week

2 Employer name and address

Type of work Date started

Hours worked per week

3 Employer name and address

Type of work Date started

Hours worked per week

Signed

Date



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