

POLICY

D7 Working time and drivers' hours

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REV	Date	Status / Description of Changes
01	05/08/2019	Updating all laws/regulations dates to the current standard. <u>Adjusting template, for a more clear layout.</u>
02	14/08/2020	Updated Template Minor changes
03	07/12/2020	Minor adjustment to template
04	01/11/2021	Minor adjustment to template, laws/regulations checked

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Requirement

To manage drivers' working time and driving hours.

Policy

The Company ensures that drivers are not subjected to excessive work, not fatigued whilst driving and comply with the rules on working time and drivers' hours. The Company has in place a policy on working time, drivers' hours and their alignment. This policy ensures that the rules on drivers' hours and tachographs, including working time regulations, are observed and that appropriate records are kept. Drivers and other relevant staff will receive instruction, and training, to enable them to understand and comply with this policy.

The policy and supporting procedures includes:

- Planning daily and weekly work schedules and rest breaks to minimise fatigue
- How the risks associated with long journeys and night driving are managed
- Compliance with the Road Transport (Working Time) Regulations 2005, including the average 48-hour working week limit, where relevant
- How total working and driving time is monitored and enforced
- The requirement to report any fatigue or sleep related issues

The working time and drivers' hours policy and supporting procedures include adherence to the relevant rules, which will depend on the specific vehicle and journey type:

- For HGV and PCV drivers, EU drivers' hours and mobile working time rules may apply - these rules require tachograph records to be kept
- For van, car and P2W drivers (and drivers of HGVs and PCVs that are out of scope or exempt from the EU rules), GB domestic drivers' hours rules may apply- these rules require written records to be kept

A procedure for obtaining, processing and analysing the relevant drivers' hours records must be in place. Where relevant, the procedure must include information on:

- The recording method and the supply of log books, print rolls or charts
- Monitoring and managing driver and company tachograph card expiry dates
- Dealing with lost or defective tachograph cards
- Identifying and dealing with driver infringements to prevent recurrence

The policy also includes:

- Travel to and from work and drivers with no fixed or habitual place of work
- Overnight accommodation or alternative transport arrangements as required
- Secondary employment and any impact this has on working time and drivers' hours

Exemptions to drivers' hours rules

There are a number of exemptions to the EU drivers' hours and mobile working time rules, such as for vehicles up to 7.5 tonnes which are electrically powered and operate within a 100km radius.

There are also a number of exemptions from Great Britain domestic drivers' hours rules, such as for goods vehicles that are driven for less than four hours in a day.

A full list of exemptions is available at <https://www.gov.uk/drivers-hours>

The policy, procedures and records relevant to working time and drivers' hours must be:

- Documented and reviewed in accordance with requirement M1
- Retained in accordance with requirement M2
- Communicated in accordance with M5

Procedure

1. Properly schedule work so the rules are met
2. The Company will plan shifts or general work to ensure that drivers' hours and working time regulations for applicable vehicles are not compromised or exceeded (including where drivers work for more than one employer)
3. The Company will give due consideration to these rules when planning journeys and scheduling drivers' work
4. In all cases (including those drivers who do not require use of a tachograph or log book) the total working time (including driving activities) will be considered
5. Operators will also evidence recording and examining driver hours (via tachographs for relevant operations, but other means for non-tachograph operations), and evidence of addressing incidents where driver hours are exceeded
6. Where relevant, analogue tachograph charts, digital printouts and log books will be kept for at least 15 months for drivers' hours rules and for 24 months for Working Time Directive purposes, with a suitable system for keeping these records
7. Van drivers and those who are out of scope of EU Drivers' Hours should be made aware that there are legal limits on the hours of work undertaken by mobile workers
8. All drivers are subject to either EU Directive, GB rules and or Working Time Directive. Drivers are expected to know that rules apply to them. Training will be provided through Driver CPC training, tachograph analysis
9. Apply GB domestic rules to Van drivers where required
10. Ensure that tachographs have been calibrated, inspected and re-calibrated in line with the rules
11. Supply sufficient quantity of type-approved charts, print roll and logbooks to drivers
12. Ensure the return of used tachograph charts from drivers. Note, this responsibility continues after a driver has left employment until all charts are returned
13. Not make payments to drivers related to distances travelled and/or the amount of goods carried if that would encourage breaches of the rules
14. Download data from the Vehicle Unit and drivers' smart cards as frequently every 28 days and for VU's to be downloaded every 56 days, but in any case often enough to ensure that no data is lost. Downloading merely copies the information from the VU and card - it does not delete it. The VU holds 365 days and the driver card holds 28 days of average data, after which their memories are full and the oldest data is overwritten. In certain operations a driver card may hold less than 28 days of data. It has the capacity to record 93 activity changes per day; where more than this occurs the number of days held on the card will reduce
15. The analysis reports must be read by the responsible person and any infringements discussed with the driver
16. Make regular checks of charts and digital data to ensure compliance
17. Store all records according to storage procedures
18. Be able to produce records to enforcement officers for 15 months and take all reasonable steps to prevent breaches of the rules
19. Collect/collate charts and digital card information monthly from drivers

EU Hours rules

Vehicles used for the carriage of goods by road and with a maximum permissible weight (including any trailer or semi-trailer) of over 3.5 tonnes are in scope of the EU rules. 'Carriage by road' is defined as any journey entirely or in part made on roads open to the public of a vehicle, laden or unladen, used for the carriage of passengers or goods. 'Off-road' driving is in scope where it forms part of a journey that also takes place on public roads. Journeys made that are entirely 'Off-road' are out of scope of the EU rules.

Breaks from driving

After a driving period of no more than 4.5 hours, a driver must immediately take a break of at least 45 minutes unless they take a rest period. A break taken in this way must not be interrupted.

Alternatively, a full 45 minute break can be replaced by one break of at least 15 minutes followed by another break of at least 30 minutes. These breaks must be distributed over the 4.5 hour period. Breaks of less than 15 minutes will not contribute towards a qualifying break, but neither will they be counted as duty or driving time. The EU rules will only allow a split-break pattern that shows the second period of break being at least 30 minutes.

Daily driving limit

The maximum daily driving time is 9 hours.

The maximum daily driving time can be increased to 10 hours twice in a fixed week

Weekly Driving limit

You can drive up to 56 hours in a fixed week. You can accumulate this drive over no more than 6 consecutive duties within a fixed week.

Two-weekly driving limit

You can drive no more than 90 hours within 2 consecutive weeks. This is any 2 weeks together, and the rolling total must not exceed 90 hours.

Daily rest periods

The standard daily rest requirement is 11 hours uninterrupted within a 24 hour period. This means the rest must begin no later than 13 hours after the duty has begun.

E.G. If you began at 6:00 am you must finish by 19:00 in order to have 11 hours daily rest. Even if you actually take off more than 11 hours, you cannot physically record 11 hours if you work more than 13 hours.

You can reduce your daily rest to no less than 9 hours within a 24 hour period up to 3 times in a week. This means your total duty cannot exceed 15 hours in total. There is no compensation required for this reduction.

Note – When reducing your rest period don't forget to keep track of your weekly and fortnightly driving hours.

Splitting Your Daily Rest

Alternatively, a driver can split a regular daily rest period into two periods. The first period must be at least 3 hours of uninterrupted rest and can be taken at any time during the day. The second must be at least 9 hours of uninterrupted rest, giving a total minimum rest of 12 hours.

Weekly Rest

A weekly rest period is the weekly period during which drivers may freely dispose of their time.

A regular weekly rest period is a period of at least 45 consecutive hours after no more than 6 consecutive duties.

A driver may reduce this to a minimum of 24 hours which must then be compensated for by the end of the third week in question following the reduced weekly rest.

A driver may compensate before this time, and it must be compensated for in full on the end of another daily or weekly rest period.

Warning – You must not have 2 reduced weekly rests in a row, even if you have immediately compensated in between.

Multi Manning

When involving a second driver the period for calculating daily rest becomes a 30 hour period instead of a 24 hour period. This means that the total duty cannot exceed 21 hours.

In order to qualify for double manning, both drivers have to be present for the entire duty. The one exception to this is the first hour for which first driver has the opportunity to prepare the vehicle or collect the second driver.

Both drivers must commence their daily rest at the same time, which means the vehicle cannot be moving at this time.

It is possible for one driver to be on break while the other drives, unless the idle driver is doing any form of work such as navigation or paperwork.

Note – All of the rules for breaks are the same as in a single man operation.

Ferry Journeys

When taking part in a Ferry Crossing you may ignore interruptions to your daily rest as long as you do not interrupt it more than twice (Once to get on the ferry and once to get off).

These interruptions may not exceed more than 1 hour in total. These interruptions do not count towards your rest period.

If you have interrupted your rest in this way, then you must take a regular daily rest period of at least 11 hours. You may not have a reduced daily rest.

In a situation where your interruptions exceed 1 hour in total you will be required to take your full daily rest as normal and all events prior to the rest will be included in your previous duty.

Out of Scope Working Rules

Out of scope driving is driving that takes place on roads which are not the public highway. All driving done out of scope does not count towards your driving time and instead counts as other work.

Note – If you drive for any amount of time on a public highway, then all driving you for the remainder of that day will count as driving, even if it is off road.

Van drivers & GB Domestic rules

The GB domestic drivers' hours rules apply to most passenger-carrying vehicles and goods vehicles that don't have to follow the EU rules. Van drivers fall under the GB Domestic Driving rules for drivers who drive a van not over 3.5 tonnes and a journey is exclusively in the UK (GB rules also apply if your vehicle is exempt from EU rules, such as agricultural vehicles, breakdown vehicles, non-commercial minibuses and circus vehicles).

The GB Domestic driving rules don't apply if you drive less than 4 hours per day or if your driving is not on roads.

Daily driving limit	In any working day (24 hours from start of duty) the maximum amount of driving is 10 Hours. Applies to driving on or off public roads.
Daily Duty limit	In any working day (24 hours from start of Duty) the maximum amount of duty time 11 hours. For employee drivers 'Duty' means being on duty (driving or otherwise) for anyone who employs him/her as a driver including all periods of work and driving, but excluding rest and breaks, for self-employed drivers, 'Duty' means driving a vehicle connected to their business, or doing any other work connected with the vehicle and its load.

Road Transport (Working Time) Regulations

The regulations implement EC Directive 2002/15/EC which seeks to establish minimum requirements for drivers and crew of HGVs and PSVs who are subject to EU drivers' hours rules (3820/85). The Directive is designed to improve health and safety protection for health and safety for mobile workers and thereby improve road safety. The EU Drivers hours' rules affect workers who operate vehicles which are fitted with a tachograph i.e. goods vehicles over 3.5tonnes, coaches and inter-urban buses. The Regulations do not apply to stage-carriage drivers.

The Company will:

- Ensure working time is taken into account at driver scheduling stage
- Collect and record working time data
- Keep working time records (for two years)
- Provided records on request to a worker and/or the enforcement agency
- Inform employees of their rights under the regulations and details of any agreements that have been negotiated with the union.
- Notify workers in writing that they need to provide an account, also in writing, of working time undertaken for another transport employer
- Issue log books to drivers to record working hours
- Use analysis reports to manage drivers working time
- Cross reference analysis reports with drivers log books

Drivers are required to:

- Ensure planned schedules are in accordance with working time regulations
- Record working time in log books which are issued from the office
- Collect new log books when required
- Ensure you are adhering to working time regulations as set out below at all times

Who is covered?

Anyone who is required to use a Tachograph under **EU Drivers Hours** Regulations is subject to working time.

Mobile Workers

The regulations also cover other "**mobile**" workers who are involved in operations subject to EU Drivers Hours Regulations and will include non-driving crew members such as porters, drivers-mates, draymen, attendants, security staff (carrying high value goods) and conductors (in passenger operations).

Occasional Workers

Workers that occasionally drive under EU Drivers Hours Regulations e.g. fitters, warehouse workers, drivers of light van etc, will be covered by the Road Transport (Working Time) Regulations if they drive vehicles under EU Drivers Hours Regulations on fewer than 11 days in a 17 week reference period or on fewer than 16 days in a 26 week reference period.

BE AWARE: both driver and employer are liable for all sections, if you are found to be breaking the Road Transport (Working Time) Regulations.

The Road Transport (Working Time) Regulations define working time as the time from the beginning of work, during which the mobile worker, are at the workstation and at the disposal of the employer and exercising functions or activities - the time devoted to all road transport activities including:

- Driving
- Loading/unloading
- Training that is part of your normal day and is part of the commercial operation
- Cleaning, maintenance of vehicle
- Work intended to ensure safety of the vehicle you are operating and its cargo; (e.g. monitoring loading and unloading and carrying out daily defect checks and reporting)
- Time during which you, as the mobile worker, cannot freely dispose of your time and are required to be at the workstation ready to take up normal work, with tasks associated with being on duty
- Waiting periods where the foreseeable duration is not known in advance, either before departure or just before the start of the period in question

WTD Does **NOT** Include:

- Routine travel between your home and where the truck is normally parked/based
- Rest and breaks when no work is being done
- Periods of availability (see information below)
- Evening classes or day-release courses
- Voluntary work and activities outside the definition of working time (such as a Retained Fire Fighter, a Special Constable, or member of the Reserve Forces etc.)

Periods of Availability (PoA)

Waiting time whose duration is known about in advance by the mobile worker, as long as they are available to answer calls to start work or resume driving on request; and they have been made aware of how long they are likely to be waiting, either before departure or just before the start of the period of availability in question.

Rest Breaks (Daily and Weekly)

The Working Time (Road Transport) Regulations do not make provision for daily and weekly rest.

The minimum daily and weekly rest provisions you must adhere to are as in the EU Drivers' Hours Rules.

However, some additional break requirements under these regulations do apply. The regulations require:

- Not to work more than 6 consecutive hours without taking a break
- If working hours (not just driving periods) total between 6 and 9 hours a day, a break(s) of at least 30 minutes in total is required
- Working time should be interrupted with a break(s) of 45 minutes in total if working hours total more than 9 hours a day
- Breaks can be divided up into 15-minute intervals
- When taking a break, cannot perform anything that might be regarded as 'other work' during this period
- Breaks taken under these regulations may be taken at the workstation

Workstation

Refers to:

- Your employer's premises.
- In and around the vehicle you are to drive or are driving.
- Any other places where you, as the mobile worker, might be expected to work (e.g. at a pick up / delivery point),

Weekly working limits

- The mobile worker may not work for more than 48-hours a week on average, nor work more than 60-hours in a single week (i.e. starting at 00.00 on Monday morning)
- Workers covered by the Road Transport (Working Time) Regulations **cannot** opt-out from the average 48-hour weekly limit. The average weekly working time should be calculated over 4 months (up to 18 weeks). This can be extended by up to 6 months (26 weeks) under a relevant agreement (See information on relevant agreement below)
- Employers/operators and employees/mobile workers must agree on the reference period to be used when calculating the average weekly working time
- Generally speaking, any time off work, through sick days or annual leave entitlement, may not be used to bring down the average weekly working time
- Any additional annual leave over and above the 4 week entitlement as specified in the Working Time Regulations 1998 can be used to bring down the average working time, but only once the 4 weeks leave entitlement has been used up.

Relevant Agreement (Please see Appendix B)

There are 2 types of agreement covered by the term "Relevant Agreement". There is a 'collective agreement' between the employer and an independent trade union or a 'workforce agreement', which is between the employer and group of employees.

If any worker has their conditions determined by a collective agreement they cannot be subject to a workforce agreement.

Reference Period

"Reference Period" is the period of time over which your working time is averaged. The number of hours worked each week should normally be averaged out over 17 weeks.

The reference period can be extended to 26 weeks by a collective or workforce agreement (relevant agreement as above).

Night Working

Night time is defined as including any duty between midnight (00.00) and 4am (04.00) for mobile workers who are drivers or crew involved in operating goods vehicles.

The daily working time should not exceed 10 hours in any 24-hour period. If a mobile worker does any work during the night time period, they will be subject to the night work limit.

The night work limit can be exceeded where this is permitted by a relevant agreement. Regular night work drivers are entitled to a free health assessment from their employer.

Working for Two or more Employers or Another Organisation

If a mobile worker works for two or more employers in the road transport sector, then the weekly working time is the combined total of the hours worked (excluding breaks, rest and periods of availability) for all the employers.

The mobile worker is responsible for notifying an employer (in writing) of work performed for another employer.

Record Keeping

The company will inform the mobile worker:

- Of rights under the regulations of any relevant agreement that is in place
- Which records / systems are to be used to record working time
- To use a different mode switch to distinguish "other work- from "periods of availability"
- To keep a separate record of working time if a vehicle is not used with a Tachograph on any day.

The company will:

- Keep an overall record of working time to ensure compliance
- Analysis reports are to be cross-referenced against working time records
- Should there be any anomalies investigations will take place and take appropriate action if necessary.

All drivers **MUST** keep a record of working time. This will be achieved by using tachograph charts, tachograph card and or written records.

Data Collection & Analysis

Responsibility & Proper Use of Digital Cards

NOTE – It is the legal requirement and responsibility of the driver to ensure that they have a Digital Driver Card if they are required to use on.

A driver may not use a digitally equipped vehicle without a card, so you must ensure that a driver has his with them; be it a new, temporary or agency driver. Additionally, a driver issued with a digital card must have it with him at all times, irrespective of whether the vehicle they are driving is digitally equipped or not.

The only reason a driver may drive a digital vehicle without a card is in the event that it is lost, damaged or stolen and only if the driver has applied for a new one.

After apply for a replacement card, the driver may driver the vehicle for no more than 15 days; after which they must stop using digitally equipped vehicles. In order to do this, the driver must produce printouts **before and after** each shift or change of vehicle; they must also sign and date these printouts and submitted them in place of charts upon request.

These printouts must be treated as per analogue charts and are subject to all terms of storage and treatment that would apply.

Company Cards

A Company Card will be required to lock in or lock out vehicles to your company data and is necessary to download that data. It is advisable that as a company, that you obtain three to four copies of your company card and keep one or two in safe storage or offsite to avoid lose and/or damage.

In the event that a card is given into the care of a member of staff, a checking procedure should be installed to unsure that cards are not lost, damaged or stolen.

Collecting, Processing and Storing Digital Data

As part of your Operator License Undertakings; in relation to Drivers' Hours and Tachograph , you are required to download, store and archive the data from both the Digital Vehicle Unit (VU) and the Drivers' Cards.

It should be noted that the VU can store roughly 365 days' worth of data and the card holds roughly 28 days' worth of data. The legal requirement for downloading the data is within 28 days for the driver cards and within 56 days for the VU data. It is advisable that you carry out these downloads sooner to avoid issues.

You are required to store all digital data for a minimum of 12 months and it must be readily available for enforcement officers upon request.

Driver Cards

- You must download the cards at least every 28 calendar days,
- If a driver leaves your employment, you must download their card immediately,
- If you have been made aware that a card or VU is damaged, immediately attempt to download the data and make a record of the results,

Vehicle Unit

- You must download the VU at least every 90 calendar days,
- If you have been made aware that a card or VU is damaged, immediately attempt to download the data and make a record of the results,
- In the event that you will be releasing control of a vehicle; either due to damage or selling it, download and lock-out the VU immediately,
- If you are required to replace a VU unit, attempt to download the previous unit before this occurs,
- Data will be sent off for analysis at the same time as the card data for the corresponding month

Spare paper rolls & charts

The Company ensures there are spare paper rolls & charts on hand at any point for the drivers and that spares can be collected from the office.

Collecting and storage of Analogue Tachograph Charts

Chart Retention

Unless they are also used to record working time, the operator must keep all charts in chronological order and in a legible form for at least one year (we would advocate 15 months) after their use. Where charts are used to record Road Transport Working Time they have to be kept for two years. Keeping photocopies of charts is unacceptable.

Chart Storage

Tachograph chart drop files should be (in our view) used for all fleet operations. These are heavy duty (plastic) drop files with pockets set into them marked by Month, allowing each months charts to be retained securely and cleanly. One file should be used for each driver with the drivers name marked clearly in the tab. The best type are those that can hold a tachograph envelope with the drivers entire months charts inside, which results in charts being kept in pristine condition.

Agency Drivers

Who Retains Agency Drivers Charts?

As the operator of the vehicle(s), you are legally obliged to retain all agency drivers charts in exactly the same manner in which you retain your employed drivers charts. Effectively, an agency driver is your employee for whatever length of time he/she is working for your company and being paid by you, regardless of the fact that you're paying for his/her services through a third party.

Obtaining Agency Drivers Charts

It is your responsibility to ensure that you enter into an agreement with the agency you use to enable charts for any drivers supplied by them to be returned to you within the time frame outlined within the regulations.

Agency Drivers and your Compliance

Do not rely on an agency (or their drivers) to give you back your legal entitlement - some will not. This is a difficult area where your CPC and company's operator's licence needs to be protected at all times, in the best interests of your company and your own employees. We have put together a document which will go some way to assisting you in enforcing common sense practice here, and will also help support you in the event of a visit from DVSA.

Getting data analysed

Data must be sent for analysis on a monthly bases. The company will:

- Log results the MS when data has been sent
- Log when reports are returned
- Log any driver infringements
- Carry out driver discussion on any infringements
- Carry out any further training and or disciplinary action

Data and charts will be sent away for analysis for the following reasons:

- Analysis gives an accurate picture of what your drivers are doing
- It enables you to identify driver malpractice and determine whether further training is required
- Analysis produces various reports inc:
- Missing vehicle mileage - usually associated with missing charts
- Driver infringements - notably speed, breaks & rest

- Driver Reports - which can be signed off by each driver, thus notes can be made upon the operators copies of the driver reports ensuring DVSA's officers are aware that you're dealing with any issues that are apparent
- Copies of agency driver reports can be forwarded to the specific agency, to assist their own training requirements

Upon receiving Tachograph Analysis Report

- Compare the new report to any existing or previous report(s), highlighting repeated offences or infringements. i.e. insufficient breaks, damaged/missing charts, etc
- Keep a record of any and all infringements highlighted in the report for comparison with later reports
- Cross reference charts with analysis reports
- Return charts and records to their proper place in your archives/records system.
- Arrange a meeting with drivers to discuss the findings of the report.
- After discussing the reports' finding, ask them to sign and date the report stating they agree to the findings.
- If the driver requests copies of the report, make them available.
- It is prudent to review any discussed errors with the driver before the next report is produced.

Upon Further Review

- If a driver manages to rectify the issues and infringements they incur between reports, then no further action need be taken.
- If however, a driver persists in incurring the same breaches, the companies' disciplinary procedure should be followed, including written instructions and/or refresher training.

Formal Instructions

- Review the records and reports to ensure all drivers are fully aware of their responsibilities and are complying with the instructions they have received.
- If you can see no visible improvement following both the verbal and formal, written instruction, disciplinary action must be taken.

Keep a written record of any interviews, as inspecting officers will want to see evidence that appropriate action was taken.

Note – The transport undertaking of your license will result in you being held responsible as an operator unless you can demonstrate that:

- Drivers have been properly instructed in Drivers Hours, Tachograph Uses, etc
- The work is properly organised so as not to facilitate or cause breaches.
- That regular check of the charts and records are being made to ensure compliance.
- That drivers and/or staff are not being financially induced to breach the regulations.

Defect report book sign out

- Sign out books to drivers
- Collate weekly records
- Record defects
- File reports/books – keep for 15 months
- Sign in completed book
- Sign out books to drivers
- Collate weekly records
- Record working time on Tachomaster
- Total up weekly hours
- Keep an eye on average hours
- File reports/books – keep for 15 months
- Sign in completed books

Thomas Barrett – Director

A handwritten signature in black ink, appearing to read 'Thomas Barrett', with a stylized flourish at the end.