

Rules on Drivers' Hours and Tachographs

Passenger-carrying vehicles in GB and Europe



GUIDE

Disclaimer

This publication gives general guidance only and should not be regarded as a complete or authoritative statement of the law. The guidance will be updated to reflect any developments in new legislation or case law.

If you wish to check the legal position, you should refer to the main legislation listed in Annex 1 and, if necessary, seek your own legal advice. The guidance offered in this publication reflects VOSA's current enforcement policy. It does not reflect interpretation of the law in other countries.

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Foreword

by VOSA Chief Executive



Research shows that a considerable proportion of vehicle accidents, are sleep related, especially those on motorways. When drivers are fatigued, vigilance and alertness deteriorate. This results in adverse changes in performance, including increased line crossing and poor speed control. Driver fatigue can account for up to one in five serious crashes.

The drivers' hours rules are there to help ensure our roads are safe for people to use and reduce the many deaths and injuries which happen on the roads each year. This Vehicle and Operator Services Agency (VOSA) guide provides advice for drivers and operators of passenger-carrying vehicles on all aspects of the drivers' hours rules. It presents them in an understandable, usable way and provides advice on managing systems, record keeping and covers the rules governing vehicles used on international and domestic journeys.

This guide also includes an update on the revised AETR rules which have been amended to align closely with Council Regulation (EC) 561/2006 on EU drivers' hours, and the GB domestic rules. This makes all maximum driving times and limits and minimum break and rest times the same in each set of rules.

Previous versions of the guide have proved popular with drivers and operators alike, and I can fully recommend this revised edition as it provides high-quality, useful advice to help you operate safely and within the law.

A handwritten signature in black ink that reads "Alastair Peoples". The signature is written in a cursive, flowing style.

Alastair Peoples
VOSA Chief Executive

Foreword

by the Senior Traffic Commissioner



Historically speaking, the European Union has often been criticised for introducing legislation which appears to benefit few citizens of its member states. The rules relating to drivers' hours and tachograph use do not fall into that category. Having adequate controls on commercial vehicle driving and rest times is essential to safe operation as tired drivers are more likely to be involved in accidents.

This guide provides a comprehensive explanation of how drivers' hours and tachograph rules are applied. It should help operators refine and improve their systems for ensuring compliance - as well as assisting them with the collection and analysis of the information they need to ensure that their operations and their drivers comply with the law. VOSA will follow the guidance in respect of its enforcement activity on driving and rest times.

The guide is designed to provide practical assistance for those who have to secure and advise upon compliance with the legislation on a regular basis. I commend it as an essential tool for operators to ensure that they, and their drivers, understand and do not fall foul of the rules, thus putting their licences at risk.

A handwritten signature in black ink that reads "Philip Brown". The signature is written in a cursive style and is underlined with a single, long, horizontal stroke.

Philip Brown
Senior Traffic Commissioner
for Great Britain

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Introduction

About this publication

This guide provides advice to drivers and operators of passenger vehicles, whether used privately or commercially. It explains the rules for drivers' hours and the keeping of records, and updates previous guidance from 2009. The EU regulations also place a responsibility on others in the passenger transport industry such as tour organisers, contractors, sub-contractors and driver agencies. People working in these sectors of the passenger transport industry may benefit from an understanding of the guidance offered here.

Those who are involved in international operations are advised to check whether the other country or countries in which they operate produce equivalent guidance. We recommend that you contact the relevant embassy.

As with any legislation, previous and future court judgments may assist interpretation on a particular point. Where significant court judgments on interpretation are relevant, these have been incorporated in the text. Some important judgments are available – many in shortened form – in legal reference books held by larger reference libraries. If you are in doubt as to how these rules apply to you, seek your own legal advice.

Which rules apply?

Within Great Britain (GB), either GB domestic or European Union (EU) rules may apply. For international journeys, either the EU rules or the European Agreement Concerning the Work of Crews of Vehicles Engaged in International Road Transport (AETR) may apply. Which set of rules applies depends on the type of driving and the type of vehicle being used and, in the case of international journeys, the countries to be visited.

The carriage by road of passengers, by most vehicles that are constructed or permanently adapted for carrying more than nine people including the driver, and that are intended for that purpose, falls within the scope of the EU rules.

'Carriage by road' is defined as any journey, made entirely or in part 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 of the rules, where it forms part of a journey that also takes place on public roads. Journeys that are made entirely off road are out of scope of the EU rules.

International journeys to or through countries that are outside the EU but that are signatories to the AETR are subject to AETR rules.

For journeys that are partly in the EU and partly in countries that are neither in the EU nor signatories to AETR, EU rules will apply to that portion of the journey that is in the EU. Countries outside the EU and AETR are likely to have their own regulations governing drivers' hours, which should be adhered to while you are driving in that country.

Most vehicles that are exempted from the EU rules come under GB domestic rules on drivers' hours while engaged in domestic journeys.

The following table will help you determine which rules apply.

An **international journey** means a journey to or from another state, including the part of the journey within the UK.

Type of operation	Number of passenger seats			
	8 or less	9–12	13–16	17 or more
Private, non PSV and permit operations				
Police, fire and Armed Forces purposes	None	None	None	None
UK journeys – non-PSV public ‘services’ or ‘utilities’ purposes*	None	None**	Domestic	Domestic
UK journeys – non-PSV business use	None	EU/AETR rules	EU/AETR rules	EU/AETR rules
UK journeys – volunteer driving of Permit 19 and Permit 22 vehicles or private use	None	None	None	EU/AETR rules
UK journeys – employee driving Permit 19 and Permit 22 vehicles	None	Domestic rules	Domestic rules	EU/AETR rules
International journeys including private use	None in UK but must obey any domestic rules of country visited	EU/AETR rules	EU/AETR rules	EU/AETR rules
PSV operations				
Regular service on route not exceeding 50 km	Domestic rules	Domestic rules	Domestic rules	Domestic rules
National or international regular service on route exceeding 50 km	Domestic rules on journeys in UK***	EU/AETR rules	EU/AETR rules	EU/AETR rules
National or international non-regular service e.g. commercial excursions, tours or private hire	Domestic rules on journeys in UK***	EU/AETR rules	EU/AETR rules	EU/AETR rules

* There are a number of specific exemptions from the EU/AETR rules that may apply to operations by public authorities while operating in the UK. See page 9 for further exemptions that may apply.

** Public ‘services’ or ‘utilities’ purpose vehicles with 10 to 13 seats (including the driver) must comply with the GB domestic rules when operated under a permit by employee drivers.

A **public service vehicle (PSV)** is a motor vehicle that is adapted to carry more than eight passengers and is used to carry passengers for hire or reward or, if adapted to carry eight or fewer passengers is used to carry passengers, for hire or reward at separate fares.

A **regular service** (which includes special regular services) is a service that provides for the carriage of passengers at specified intervals along a specified route, passengers being picked up and set down at predetermined stopping points. It does not have to be a service for the general public. It may be a service provided exclusively for a particular category of passenger (e.g. it may take children to and from school or workers to and from work). A service may be varied according to the needs of those concerned and still remain a regular service.

If a journey is taken to an EU or European Economic Area (EEA) country or Switzerland then the EU rules apply to the whole journey.

If a journey is taken to or through an AETR country then AETR rules will apply to the whole journey. See the list overleaf to help identify which rules apply to which country. Vehicles with fewer than eight passenger seats travelling through other countries must obey the relevant domestic rules.

EU, AETR and EEA countries

For the purposes of the table above, please use the following lists of countries.

EU countries

Austria
Belgium
Bulgaria
Cyprus
Czech Republic
Denmark
Estonia
Finland
France
Germany
Greece
Hungary
Ireland
Italy
Latvia
Lithuania
Luxembourg
Malta
Netherlands
Poland
Portugal
Romania
Slovakia
Slovenia
Spain
Sweden
United Kingdom

AETR countries

Albania
Andorra
Armenia
Azerbaijan
Belarus
Bosnia and Herzegovina
Croatia
Kazakhstan
Liechtenstein
Macedonia
Moldova
Monaco
Montenegro
Russia
San Marino
Serbia
Switzerland
Turkey
Turkmenistan
Ukraine
Uzbekistan

EEA countries

All the EU countries plus:
Iceland
Liechtenstein
Norway

Reminder: Switzerland is not a member of the European Union

DRIVERS' HOURS RULES

Section 1:

EU & AETR rules on drivers' hours

The EU rules (Regulation (EC) 561/2006) apply to drivers of most passenger vehicles constructed or permanently adapted to carry more than nine people including the driver, used for the carriage of passengers within the UK or between the UK and other EU and EEA countries and Switzerland. Vehicle operations that take place off the public road or vehicles that are never used to carry passengers on a public road are out of scope.

A driver is anyone who drives a vehicle or is carried on the vehicle in order to be available for driving.

Exemptions and derogations

The following table contains a list extracted from the full list of exemptions in the EU rules and refers to those exemptions that might apply to passenger-carrying vehicles regardless of where they are driven within the EU (see also 'Unforeseen events' on page 18).

Note: In some cases, it may be necessary to refer to case law for definitive interpretations.

Exemptions	Notes
Vehicles used for the carriage of passengers on regular services with a route that does not exceed 50 km.	<i>This is the length of the route along which the vehicle travels, it does not include backtracking along the same route, or distance spent going to and from the depot from the start or end of the route.</i>
Vehicles not capable of exceeding 40 km/h.	<i>Includes vehicles incapable of exceeding 40 km/h by virtue of a set speed limiter.</i>
Vehicles owned or hired without a driver by the Armed Services, civil defence services, 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 undergoing road tests for technical development, repair or maintenance purposes, and new or rebuilt vehicles that have not yet been put into service.	<i>This would not apply to vehicles normally falling in scope of EU rules, on journeys to testing stations for the purposes of an annual test.</i>
Vehicles, including vehicles used in the non-commercial transport of humanitarian aid, used in emergencies or rescue operations.	<p><i>The EU rules do not define an 'emergency' but we consider this would certainly include any of the situations that would be considered an emergency for the purposes of the UK domestic drivers' hours legislation, namely:</i></p> <ul style="list-style-type: none"> ▶ <i>danger to the life or health of people or animals;</i> ▶ <i>serious interruption of essential public services (gas, water, electricity or drainage), of telecommunication and postal services, or in the use of roads, railways, ports or airports; or</i> ▶ <i>serious damage to property.</i> <p><i>Vehicles used in connection with emergency or rescue operations would be exempt from the EU rules for the duration of the emergency.</i></p>

Exemptions	Notes
Specialised vehicles used for medical purposes.	
Commercial vehicles that have a historic status according to the legislation of the member state in which they are driven and are used for the noncommercial carriage of passengers or goods.	<i>In the UK, a vehicle is considered to be historic if it was manufactured more than 25 years before the occasion on which it is being driven.</i>

The EU rules grant member states the power to apply derogations to further specific categories of vehicles and drivers while on **national** journeys. The following derogations have been implemented in the UK.

Note: In some cases, it may be necessary to refer to case law for definitive interpretations.

Derogations	Notes
Vehicles with between 10 and 17 seats used exclusively for the non-commercial carriage of passengers.	<i>This would apply to minibuses used by the voluntary and community sector (e.g. under section 19 and 22 permits) provided the operation as a whole is carried out without a view to profit, nor incidentally to an activity which is itself carried out with a view to profit.</i>
Vehicles owned or hired without a driver by public authorities that do not compete with private transport undertakings. The derogation only applies to vehicles being used: <ul style="list-style-type: none"> ▶ for the provision of ambulance services by or at the request of an NHS body; ▶ for the transport of organs, blood, equipment, medical supplies or personnel by or at the request of an NHS body; ▶ by a local authority to provide services for old people or for mentally or physically handicapped people; or ▶ by HM Coastguard or a general or local lighthouse authority. 	
Vehicles operated exclusively on islands whose area does not exceed 2,300 km ² and that are not linked to the rest of the national territory by a bridge, ford or tunnel open for use by a motor vehicle.	
Vehicles used for driving instruction and examination with a view to obtaining a driving licence or a certificate of professional competence, provided that they are not being used for the commercial carriage of goods or passengers.	<i>Including instruction in connection with Driver Certificate of Professional Competence (CPC) renewal.</i>
Vehicles used exclusively on roads inside hub facilities such as ports, airports, interports and railway terminals.	<i>This applies only to those vehicles being used within the perimeter of these areas (rather than those driving to or through the areas), although we accept that these vehicles may occasionally leave the site for vehicle maintenance purposes.</i>
Specially fitted mobile project vehicles, the primary purpose of which is use as an educational facility when stationary.	<i>For example, play buses and mobile libraries and classrooms.</i>

In addition, the following vehicles are exempt from the EU rules in GB after the European Commission granted a special authorisation:

- ▶ any vehicle that was manufactured before 1 January 1947; and
- ▶ any vehicle that is propelled by steam.

If it is exempt from the EU rules due to the provisions listed above then the vehicle will usually be in scope of the GB domestic rules when travelling in GB (see page 24).

Driving

'Driving time' is the duration of driving activity recorded either by the recording equipment or manually when the recording equipment is broken.

Even a short period of driving under EU rules during any day by a driver will mean that he is in scope of the EU rules for the whole of that day and must comply with the daily driving, break and rest requirements; he will also have to comply with the weekly rest requirement and driving limit.

Breaks and driving limits

Breaks

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

Driving 4.5 hours	Break 45 minutes		
Driving 2.5 hours	Other work 1 hour	Driving 2 hours	Break 45 minutes

A **break** is any period during which a driver may not carry out any driving or any other work and which is used exclusively for recuperation. A break may be taken in a moving vehicle, provided no other work is undertaken.

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, such as in the following examples:

Driving 2 hours	Break 15 minutes	Driving 2.5 hours	Break 30 minutes
Driving 2 hours	Break 34 minutes	Driving 2.5 hours	Break 30 minutes

The following split-break pattern is **illegal** because the second break is less than 30 minutes.

Driving 2 hours	Break 30 minutes	Driving 2.5 hours	Break 15 minutes	Driving
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A driver '**wipes the slate clean**' if he takes a 45-minute break (or qualifying breaks totalling 45 minutes before or at the end of a 4.5-hour driving period. This means that the next 4.5-hour driving period begins with the completion of that qualifying break, and in assessing break requirements for the new 4.5-hour period, no reference is to be made to driving time accumulated before this point. For example:

Driving 1.5 hours	Break 15 minutes	Driving 1.5 hours	Break 30 minutes	Driving 4.5 hours	Break 45 minutes
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Breaks may also be required under the separate Road Transport (Working Time) Regulations 2005. See Annex 2 on page 44 for further details.

Daily driving limit

The maximum daily driving time is **9 hours**; for example:

Driving 4.5 hours	Break 45 minutes	Driving 4.5 hours
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Driving 2 hours	Break 45 minutes	Driving 4.5 hours	Break 45 minutes	Driving 2.5 hours
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The maximum daily driving time can be increased to **10 hours twice a week**; for example:

Driving 4.5 hours	Break 45 minutes	Driving 4.5 hours	Break 45 minutes	Driving 1 hour
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Driving 2 hours	Break 45 minutes	Driving 4.5 hours	Break 45 minutes	Driving 3.5 hours
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Daily driving time is:

- ▶ the total accumulated driving time between the end of one daily rest period and the beginning of the following daily rest period; **or**
- ▶ the total accumulated driving time between a daily rest period and a weekly rest period.

Note: Driving time includes any off-road parts of a journey where the rest of that journey is made on the public highway. Journeys taking place entirely off road would be considered as 'other work'.

So, for example, any time spent driving off road between a parking/rest area and a passenger-loading area prior to travelling out onto a public road would constitute driving time. But it would be regarded as other work where all the passengers were picked up and dropped off on the same off-road site.

Weekly driving limit

The maximum weekly driving limit is **56 hours**, which applies to a fixed week (see below).

A **fixed week** starts at 00.00 on Monday and ends at 24.00 on the following Sunday.

The following diagram shows an example of how this might be achieved:

Sun	Weekly rest
Mon	9 hours' driving
Tue	10 hours' driving
Wed	9 hours' driving
Thu	9 hours' driving
Fri	10 hours' driving
Sat	9 hours' driving
Sun	Weekly rest

Total weekly hours = $(4 \times 9) + (2 \times 10) = 56$.

Two-weekly driving limit

The maximum driving time over any two-weekly period is **90 hours**; for example:

Week	Total hours of driving	Two-weekly totals
9	56 hours	90 hours
10	34 hours	
11	45 hours	79 hours
12	45 hours	
13	43 hours	90 hours
		88 hours
		(etc.)

The following is an example of how a driver's duties might be organised in compliance with the rules on weekly and two-weekly driving limits:

			Weekly	Two weeks	Between weekly rests
Mon	9 hours' driving	Daily rest	Total 56 hours' driving during fixed week 1	Total 90 hours' driving during fixed weeks 1 and 2	Total 58 hours' driving between weekly rests
Tue	9 hours' driving	Daily rest			
Wed	9 hours' driving	Daily rest			
Thu	Weekly rest (reduced)				
Fri	10 hours' driving	Daily rest			
Sat	10 hours' driving	Daily rest			
Sun	9 hours' driving	Daily rest			
Mon	9 hours' driving	Daily rest	Total 34 hours' driving during fixed week 2		
Tue	10 hours' driving	Daily rest			
Wed	10 hours' driving	Daily rest			
Thu	Weekly rest				
Fri	Weekly rest				
Sat	Compensation				
Sun	5 hours' driving	Daily rest			

Rest periods

Daily rest periods

A driver must take a daily rest period within each period of 24 hours after the end of the previous daily or weekly rest period. An 11-hour (or more) daily rest is called a regular daily rest period.

A **rest** is an uninterrupted period where a driver may freely dispose of his time. Time spent working in other employment or under obligation or instruction, regardless of the occupation type, cannot be counted as rest, including work where you are self-employed.

24-hour period	
Driving + other work + breaks = 13 hours	Regular daily rest 11 hours

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. For example:

24-hour period			
Driving + other work + breaks = 8 hours	Rest 3 hours	Driving + other work + breaks = 4 hours	Rest 9 hours

A driver may reduce his daily rest period to no less than **9** continuous hours, but this can be done no more than **three times** between **any two weekly rest periods**; **no compensation** for the reduction is required. A daily rest that is less than 11 hours but at least 9 hours long is called a **reduced daily rest period**.

24-hour period	
Driving + other work + breaks = 15 hours	Regular daily rest 9 hours

When a daily rest is taken, this may be taken in a vehicle, as long as it has suitable sleeping facilities and is stationary.

To summarise, a driver who begins work at 06.00 on day 1 must, by 06.00 on day 2 at the latest, have completed either:

- ▶ a regular daily rest period of at least **11** hours; **or**
- ▶ a split regular daily rest period of at least **12** hours; **or**
- ▶ if entitled, a reduced daily rest period of at least **9** hours.

Regular daily rest: A continuous period of at least 11 hours' rest.

Split daily rest period: A regular rest taken in two separate periods – the first at least 3 hours, and the second at least 9 hours.

Reduced daily rest period: A continuous rest period of at least 9 hours but less than 11 hours.

Multi-manning

'Multi-manning' is the situation where, during each period of driving between any two consecutive daily rest periods, or between a daily rest period and a weekly rest period, there are at least two drivers in the vehicle to do the driving. For the **first hour** of multi-manning the presence of another driver or drivers is **optional**, but for the remainder of the period it is **compulsory**. This allows for a vehicle to depart from its operating centre and collect a second driver along the way, providing that this is done within 1 hour of the first driver starting work.

If these strict conditions cannot be complied with, then drivers sharing duties on a journey will individually be governed by single manning rules and will not be able to use the following variation to the daily rest requirement – where a vehicle is manned by two or more drivers, each driver must have a daily rest period of at least **9** consecutive hours within the 30-hour period that starts at the end of the last daily or weekly rest period.

Organising drivers' duties and incorporating this concession enables a crew's duties to be spread over 21 hours.

This is an example of how the duties of a two-man crew could be organised to take maximum advantage of multi-manning rules:

	Driver 1	Driver 2
	Daily rest	Daily rest
30-hour period	Other work 1 hour	Daily rest (not on vehicle) 1 hour
	Driving 4.5 hours	Availability 4.5 hours
	Break + availability 4.5 hours	Driving 4.5 hours
	Driving 4.5 hours	Break + availability 4.5 hours
	Break + availability 4.5 hours	Driving 4.5 hours
	Driving 1 hour	Break + availability 1 hour
	Break 1 hour	Driving 1 hour
	Daily rest (9 hours)	Daily rest (9 hours)

The maximum driving time for a two-man crew taking advantage of this concession is 20 hours before a daily rest is required (although only if both drivers are entitled to drive 10 hours).

Under multi-manning, the 'second' driver in a crew may not necessarily be the same driver for the duration of the first driver's shift but could in principle be any number of drivers as long as the conditions are met. Whether these second drivers could claim the multi-manning concession in these circumstances would depend on their other duties.

On a multi-manning operation the first 45 minutes of a period of availability will be considered to be a break, so long as the co-driver does no work.

Journeys involving ferry or train transport

Where a driver accompanies a vehicle that is being transported by ferry or train, the daily rest requirements are more flexible.

A regular daily rest period may be interrupted no more than twice, but the total interruption must not exceed **1 hour** in total. This allows for a vehicle to be driven on to a ferry and off again at the end of the crossing. Where the rest period is interrupted in this way, the **total accumulated rest period must still be 11 hours**. A bunk or couchette must be available during the rest periods.

For example, a qualifying regular daily rest period could be interrupted in the following manner:

Rest 2 hours	Driving/other work (embarkation) 30 minutes	Rest (on ferry or train) 7 hours	Driving/other work (disembarkation) 30 minutes	Rest 2 hours
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Weekly rest periods

A driver must start a weekly rest period no later than at the end of six consecutive 24-hour periods from the end of the last weekly rest period.

Week 1				Week 2				Week 3			
		Rest				Rest				Rest	
45 hours		144 hours				45 hours		80 hours		45 hours	

A regular weekly rest period is a period of at least **45** consecutive hours.

A **weekly rest period** is the weekly period during which drivers may freely dispose of their time. It may be either a 'regular weekly rest period' or a 'reduced weekly rest period'.

Note: An actual working week starts at the end of a weekly rest period, and finishes when another weekly rest period is commenced, which may mean that weekly rest is taken in the middle of a fixed (Monday–Sunday) week. This is perfectly acceptable – the working week is not required to be aligned with the 'fixed' week defined in the rules, provided all the relevant limits are complied with.

Alternatively, a driver can take a reduced weekly rest period of a minimum of **24** consecutive hours. If a reduction is taken, it must be compensated for by an equivalent period of rest taken **in one block** before the end of the **third week** following the week in question. The compensating rest must be attached to a period of rest of at least **9 hours** – in effect either a weekly or a daily rest period.

For example, where a driver reduces a weekly rest period to 33 hours in week 1, he must compensate for this by attaching a 12-hour period of rest to another rest period of at least 9 hours before the end of week 4. This compensation cannot be taken in several smaller periods. (See example below.)

	Week 1	Week 2	Week 3	Week 4
Weekly rest	33 hours	45 hours	45 hours	45 hours + 12 hours' compensation

A **regular weekly rest** is a period of rest of at least 45 hours' duration.

A **reduced weekly rest** is a rest period of at least 24 but less than 45 hours' duration.

In any **two consecutive 'fixed' weeks** a driver must take at least:

- ▶ **two regular weekly rests;** or
- ▶ **one regular weekly rest and one reduced weekly rest.**

Note: Other weekly rests of any type may be taken in any two consecutive 'fixed weeks' in addition to this minimum requirement.

The following is an example of how a driver's duties might be organised in compliance with the rules on weekly rest, which allow two reduced weekly rest periods to be taken consecutively. This complies with the rules because at least one regular and one reduced weekly rest period have been taken in two consecutive fixed weeks.

Week 1					Week 2					Week 3					
45 hours' rest					24 hours' rest					27 hours' rest					45 hours' rest

A weekly rest period that falls in two weeks may be counted in either week but not in both. However a rest period of at least 69 hours in total may be counted as two back-to-back weekly rests (e.g. 45 hours' weekly rest followed by 24 hours) provided the driver in question does not exceed 144 hours' work either before or after the rest period in question.

Where reduced weekly rest periods are taken away from base, these may be taken in a vehicle, provided that it has suitable sleeping facilities and is stationary.

Note: Operators that utilise a cyclical shift pattern should take care that their shift patterns allow for compliance with the rolling two-weekly requirements for weekly rest and compensation.

With effect from 4 June 2010, drivers on international occasional coach journeys will be able to postpone the weekly rest period for up to 12 consecutive 24-hour periods following a previous regular weekly rest period. This applies to services which last at least 24 consecutive hours in another Member State or third country other than the one in which the service started. However, drivers who postpone their weekly rest period must either take at the end of the derogation;

- ▶ two weekly rest periods back to back, or
- ▶ one regular weekly rest period and one reduced weekly rest period of at least 24 hours back to back.

It should be noted that, as always, any reduction must be compensated by an equivalent period of rest taken en bloc before the end of the third week following the end of the derogation period.

Travelling time

Drivers of passenger-carrying vehicles are often required to be relocated to a vehicle they are required to drive or from a vehicle they have driven.

Where a vehicle coming within the scope of the EU rules is neither at the driver's home nor at the employer's operational centre where the driver is normally based, but is at a separate location, time spent travelling to or from that location to take charge of the vehicle may not be counted as a rest or break, unless the driver is in a ferry or train and has access to a bunk or couchette.

For example: If a coach driver had to drive for 1 hour by car to pick up a coach from a location that was not at the driver's home or his normal operating base then this driving would count as other work. Similarly, if he had to drive back by car from a location that was not his normal operating base, this would count as other work.

Driving car	Driving coach	Break	Driving coach	Driving car	Daily or weekly rest
Other work 1 hour	4.5 hours	4 hours	4 hours	Other work 30 minutes	

A driver who has driven a vehicle in scope of EU rules and has completed his maximum driving time (9 or 10 hours) may be driven back to base (e.g. by travelling on a coach as passenger), provided he is not required to start a daily rest period or a weekly rest period. He should record this activity as other work or availability, depending on whether he undertakes additional work, such as navigating, while a passenger.

24-hour period					
Driving 4.5 hours	Break 45 minutes	Driving 4.25 hours	Break 15 minutes	Other work 5.25 hours	Reduced daily rest 9 hours
				On coach as a passenger	For example, at a hotel

Unforeseen events

Provided that road safety is not jeopardised, and to enable a driver to reach a **suitable stopping place**, a departure from EU rules may be permitted to the extent necessary to ensure the safety of persons (including passengers) or the vehicle. Drivers must note all the reasons for doing so on the back of their tachograph record sheets (if using an analogue tachograph) or on a printout or temporary sheet (if using a digital tachograph), at the latest on reaching the suitable stopping place (see relevant sections covering manual entries, in Section 5, 'Tachograph rules'). Repeated and regular occurrences, however, might indicate to enforcement officers that employers were not in fact scheduling work to enable compliance with the applicable rules.

A judgment by the European Court of Justice dated 9 November 1995 provides a useful guide to how this provision should be interpreted. It can apply only in cases where it unexpectedly becomes impossible to comply with the rules on drivers' hours during the course of a journey. In other words, planned breaches of the rules are not allowed. This means that when an unforeseen event occurs, it is for the driver to decide whether it is necessary to depart from the rules. In doing so, a driver will have to take into account the need to ensure road safety in the process and any instruction that may be given by an enforcement officer (e.g. when under police escort).

Some examples of such events are delays caused by severe weather, road traffic accidents, mechanical breakdowns or interruptions of ferry services, and any event that causes or is likely to cause danger to the life or health of people or animals. Note that this concession only allows for drivers to reach a suitable stopping place, not necessarily to complete their planned journey. Drivers and operators are expected to reschedule any disrupted work to remain in compliance with the EU rules.

Summary of EU limits on drivers' hours

The current limits on drivers' hours as specified by the EU rules are summarised in the following table.

Breaks from driving	A break of no less than 45 minutes must be taken after no more than 4.5 hours of driving. The break can be divided into two periods – the first at least 15 minutes long and the second at least 30 minutes – taken over the 4.5 hours.
Daily driving	Maximum of 9 hours, extendable to 10 hours no more than twice a week.
Weekly driving	Maximum of 56 hours.
Two-weekly driving	Maximum of 90 hours in any two-week period.
Daily rest	Minimum of 11 hours, which can be reduced to a minimum of 9 hours no more than three times between weekly rests. May be taken in two periods, the first at least 3 hours long and the second at least 9 hours long. The rest must be completed within 24 hours of the end of the last daily or weekly rest period.
Multi-manning daily rest	A 9-hour daily rest must be taken within a period of 30 hours that starts from the end of the last daily or weekly rest period. For the first hour of multi-manning, the presence of another driver is optional, but for the remaining time it is compulsory.
Ferry/train daily rest	A regular daily rest period (of at least 11 hours) may be interrupted no more than twice by other activities of not more than 1 hour's duration in total, provided that the driver is accompanying a vehicle that is travelling by ferry or train and has access to a bunk or couchette.
Weekly rest	A regular weekly rest of at least 45 hours, or a reduced weekly rest of at least 24 hours, must be started no later than the end of six consecutive 24-hour periods from the end of the last weekly rest. In any two consecutive weeks a driver must have at least two weekly rests – one of which must be at least 45 hours long. A weekly rest that falls across two weeks may be counted in either week but not in both. Any reductions must be compensated in one block by an equivalent rest added to another rest period of at least 9 hours before the end of the third week following the week in question.

AETR Rules

Journeys to or through the countries that are signatories to the AETR Agreement (see list on page 12) are subject to AETR rules. AETR rules apply to the whole journey, including any EU countries passed through.

From September 2010, the AETR rules have been amended to recognise the digital tachograph and align closely with Council Regulation (EC) 561/2006. The changes include:

- ▶ defining the maximum weekly driving limit as 56 hours
- ▶ removing the compensation for reduced daily rest
- ▶ raising the minimum length of daily rest from 8 to 9 hours
- ▶ allowing the daily rest to be taken in two periods (instead of three as previously)
- ▶ permitting a regular daily rest period to be interrupted no more than twice for ferry journeys (rather than once as previously)
- ▶ introducing model attestation forms

Working Time Regulations

Drivers who are subject to the EU rules on drivers' hours and tachographs normally have also to comply with the rules on working time as laid out in the Road Transport (Working Time) Regulations, which were brought into force on 4 April 2005. (For the main provisions, see Annex 2.)

Section 2:

GB domestic rules

The GB domestic rules, as contained in the Transport Act 1968, apply to most vehicles that are exempt from the EU rules. Separate rules apply to Northern Ireland.

Domestic rules exemptions

The following exemptions apply to drivers who would otherwise be subject to the GB domestic rules:

- ▶ If they do not drive for more than **4 hours** a day in any week, drivers are exempt from any GB domestic rules for that week.
- ▶ If they drive for more than **4 hours** for up to two days in any week, they are still exempt from the rules, but on these two days:
 - all working duties must start and finish within a 24-hour period;
 - a 10-hour period of rest must be taken immediately before the first duty and immediately after the last duty; and
 - rules on driving times and length of working day must be obeyed.
- ▶ If any working day overlaps into a week in which drivers are not exempt from the rules, then on that day the limits on driving time and length of working day must be obeyed.
- ▶ An exemption from the rules on driving time and rest applies during any time spent dealing with an emergency.

Domestic driving limits

Driving is defined as being at the controls of a vehicle for the purposes of controlling its movement, whether it is moving or stationary with the engine running, even for a short period of time.

Breaks and continuous driving

- ▶ After **5.5 hours** of driving a break of at least **30 minutes** must be taken in which the driver is able to obtain rest and refreshment.
- ▶ Alternatively, within any period of **8.5 hours** in the working day, total breaks amounting to at least 45 minutes are taken so that the driver does not drive for more than **7 hours and 45 minutes**. The driver must in addition have a break of at least **30 minutes** to obtain rest or refreshment at the end of this period, unless it is the end of the working day.

Daily driving

In any working day, the maximum amount of driving is **10 hours**. The daily driving limit applies to time spent at the wheel, actually driving, and includes any driving done under EU or AETR rules.

Day: Is the period between two daily rest periods, or a daily rest period and a weekly rest period.

Length of working day ('spreadover')

A driver should work no more than **16 hours** between the times of starting and finishing work (including work other than driving and off-duty periods during the working day).

Daily rest periods

A continuous rest of **10 hours** must be taken between two consecutive working days. This can be reduced to **8.5 hours** up to **three times a week**.

Fortnightly rest periods

In any two consecutive weeks (Monday to Sunday) there must be at least **one period of 24 hours** off duty.

Record keeping

When driving a vehicle subject to EU or AETR rules, a driver is required to produce on request tachograph records (including other work records described above) for the current day and the previous 28 calendar days when he has driven in scope of the EU/AETR rules in the relevant week (under the EU rules this will change to the current day and the previous 28 days from 1 January 2008).

Travelling abroad

The GB domestic rules apply only in GB. However, you must observe the national rules of the countries in which you travel. The embassies of these countries will be able to assist you in establishing the rules that might apply.

Mixed vehicle types

If it occurs that a driver divides his time driving goods vehicles and passenger vehicles under GB domestic rules, then in any working day or week, if he spends most of his time driving passenger vehicles, then the appropriate GB rules for passenger vehicles apply for that day or week.

Working Time Regulations

Drivers who are subject to the GB domestic rules on drivers' hours are affected by four provisions under the UK's Working Time Regulations 1998 (as amended). See Annex 2 on page 44 for more details.

Section 3:

Mixed EU/AETR and GB domestic driving

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

- ▶ The time you spend driving or on duty under EU/AETR rules cannot count as a break or rest period under GB domestic rules.
- ▶ Driving and other duty under GB domestic rules (including non-driving work in another employment) count as other work but not as a break or rest period under EU/AETR rules.
- ▶ Driving and other duty under EU/AETR rules count towards the driving and duty limits under the GB domestic rules.
- ▶ When driving under each set of rules you must comply with the requirements of the rules being driven under e.g. the daily rest provisions for domestic and the daily and weekly rest requirements for EU/AETR driving.

Driving limits

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

Other duty limits

The GB domestic limit (i.e. no more than 16 hours on duty for drivers of passenger vehicles) must always be obeyed. But when working under EU/AETR rules you must also obey all the rules on breaks, daily rest (only on those days when actually driving) and weekly rest.

Rest periods and breaks

Again, you must always obey the EU/AETR rules on rest periods and breaks on days and weeks when driving in scope of EU/AETR rules is carried out.

Where a driver works under GB domestic rules in week 1 and the EU/AETR rules in the second week, the weekly rest required in week 2 must start no later than 144 hours following the commencement of duty on or after 00.00 on Monday.

Records

During a week in which the in-scope driving has taken place, any previous work (including out-of-scope driving in that week) would have to be recorded as 'other work' on a tachograph chart, printout or a manual input facility of a digital tachograph.

When driving a vehicle subject to EU or AETR rules, a driver is required to produce on request tachograph records (including other work records described above) for the current day and the previous 28 calendar days when he has driven in scope of the EU/AETR rules in the relevant week.

Section 4:

Tachograph rules



An approved tachograph is the required instrument by which the activity of drivers subject to the EU or AETR drivers' hours rules, and the vehicle's speed, distance and the time, are recorded. There are two main types of tachograph – analogue and digital.

The resulting record is to be used to monitor compliance with rules on drivers' hours. The rules on using the tachograph are contained in Regulation (EEC) 3821/85 (as amended), and depend on whether the vehicle is fitted with an analogue or digital tachograph. These rules must be observed by both drivers and operators of vehicles that fall within the scope of Regulation (EC) 561/2006 or the AETR rules.

Out of scope? The driver of a vehicle that is exempt from or out of scope of the EU rules (see page 9) is not required to use the recording equipment, even if it is fitted.

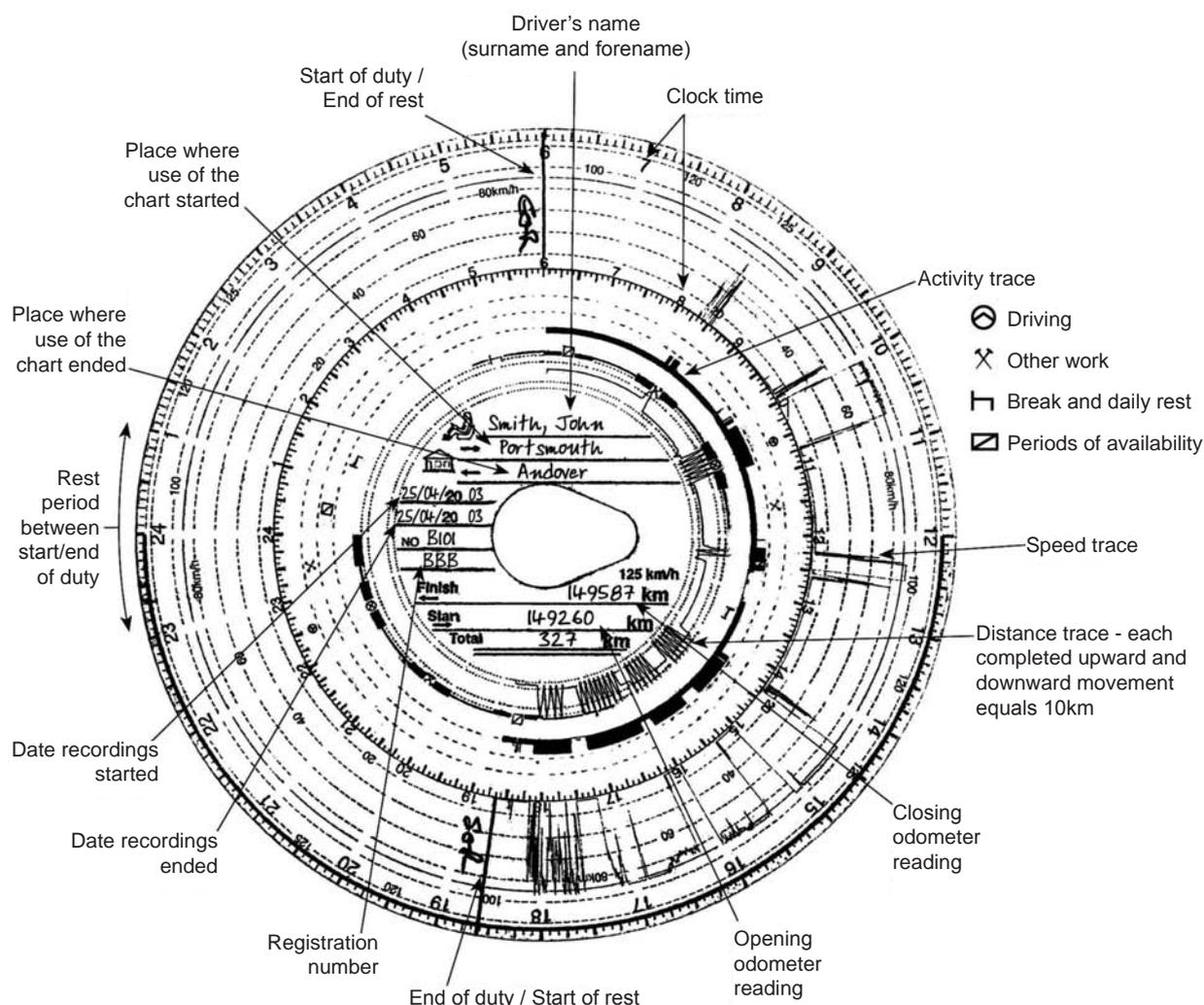
Analogue or digital? Vehicles first registered on or after 1 May 2006 must be fitted with a digital tachograph. Those vehicles registered before that date can be fitted with either analogue or digital equipment.

Analogue tachographs

Analogue tachograph recordings are made by a stylus cutting traces into a wax-coated chart. Three separate styluses mark recordings of speed, distance travelled and the driver's activity (known as the 'mode'). The inner part of the chart is used by the driver to write his name, the location of the start and end of the journey, the date and odometer readings.

The reverse of a tachograph chart normally contains an area for recording manual entries and details of other vehicles driven during the period covered.

The tachograph chart



Charts and records

Drivers are responsible for operating the tachograph correctly in order to record their activities accurately and fully. Specifically, drivers must:

- ▶ verify, before using an instrument, that it is correctly calibrated via the attached plaques and ensure that the time displayed is set to the official time of the country in which the vehicle is registered;
- ▶ carry enough charts for the whole journey, including spare charts in case any become damaged or dirty;
- ▶ use a second chart if a chart is damaged while in use and attach this one to the first chart on completion. There are other occasions when use of a second chart in a 24-hour period is unavoidable, namely when a driver changes to a vehicle with an incompatible tachograph to the chart in use or he changes vehicle so many times that all the details cannot be accommodated on one chart;
- ▶ ensure that the correct type of chart is being used for the specific model of tachograph in use and that enough spare charts are carried;
- ▶ not use a chart to cover a period longer than 24 hours;
- ▶ enter centrefield details at the first use of the chart, when changing vehicles and when completing the use of the chart (see 'Centrefield entries' section);

- ▶ correctly operate the mode switch in order to record their activities accurately (see page 36);
- ▶ make manual entries on the chart in respect of their activities away from the vehicle (see 'Manual entries' section opposite), where the rules have been departed from in an emergency, or to correct a recording;
- ▶ make manual entries when the equipment malfunctions and report any such malfunctions to the operator or employer;
- ▶ return used charts to the operator or employer within the 42 days. This requirement must be complied with even when a driver changes employer;
- ▶ permit an Authorised Examiner or police officer to examine the tachograph;
- ▶ not remove the chart from the tachograph before the end of their duty period unless authorised to do so. The rules do not specify who can authorise removal of the chart, but cases where charts can be removed include:
 - a change of vehicle;
 - to make manual entries in the event of an emergency, equipment malfunction etc.; and
- ▶ be able to produce at the roadside:
 - charts and any legally required manual records for the current day and the previous 28 calendar days; and
 - the driver's digital smart card if they hold one (see page 33).

Time tips: Make sure the time is correct for am or pm – both times are displayed identically on an analogue tachograph's 12-hour clock face. Analogue tachographs must continue to display the correct time – which for the UK includes adjustments for British Summer Time.

Activity record: Most analogue tachograph instruments in use are 'automatic'. This means that the instrument will automatically record activity as driving when the vehicle is moving and defaults to the mode switch setting when the vehicle stops.

Driver cards: Drivers who have been issued with a driver card are committing an offence if they are unable to produce this during a roadside inspection, even if they only drive analogue tachograph-equipped vehicles.

Centrefield entries

A driver is required to enter the following information on the centrefield of a tachograph chart that he is using to record his activities:

- ▶ surname and first name (the law does not stipulate which order the names are put in – but your employer may have a policy on this);
- ▶ the date and place where the use of the chart begins and ends. The year may be written in full or abbreviated – so both '2007' and '07' are acceptable. If the start and finish places are the same, both must be written on the chart – ditto marks are not acceptable;
- ▶ the registration number(s) of vehicle(s) driven (which should be entered before departing on a new vehicle);
- ▶ the time at which any change of vehicle takes place; and
- ▶ the odometer readings:
 - at the start of the first journey;
 - at the end of the last journey; and
 - at the time of any change of vehicle, recording the readings from both vehicles.

Note that the 'total km' field does not have to be completed.

It is not acceptable for written entries to extend outside the centrefield area, since they may interfere with chart recordings. If, for example, the driver's name or a place name is so long that it must be abbreviated in order to be accommodated in the space provided, the full name should be noted on the reverse of the chart.

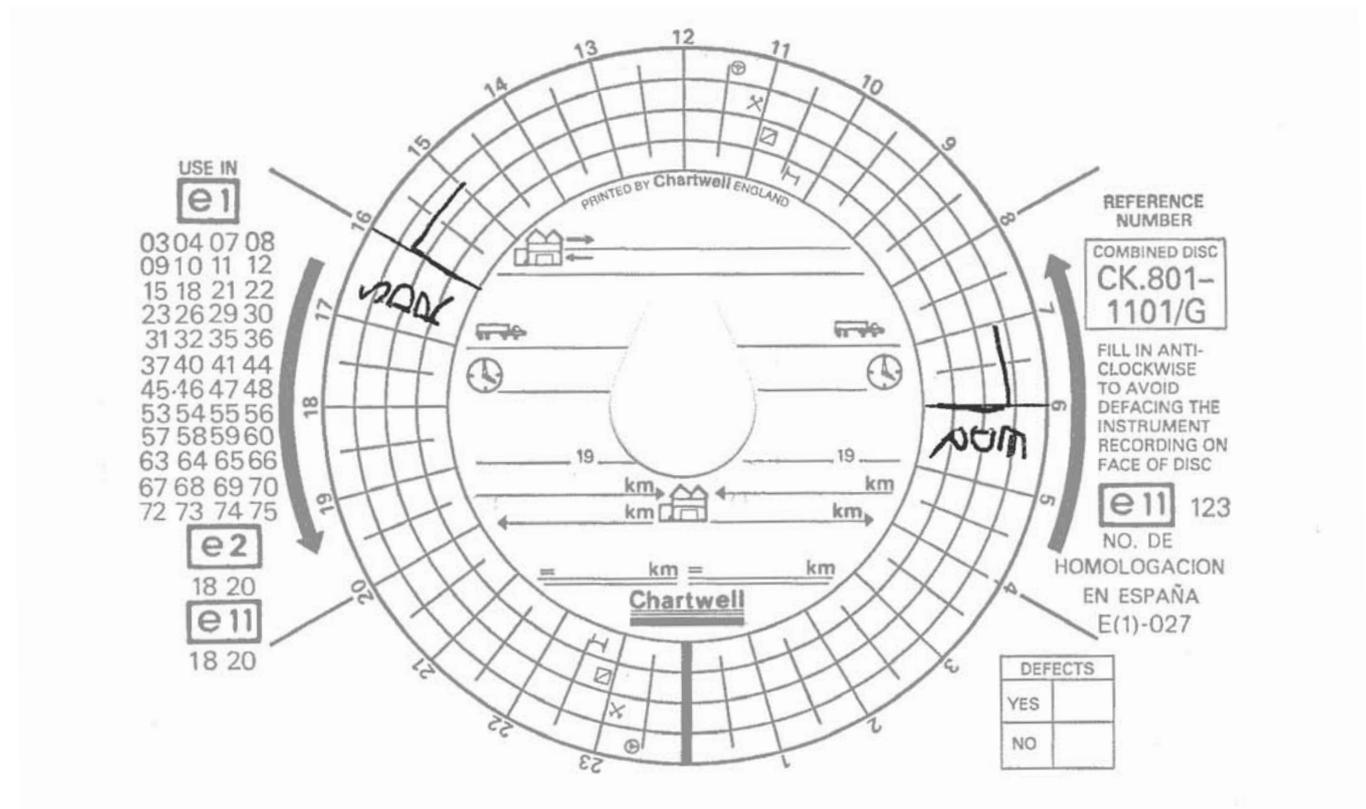
Tachograph charts are required to provide space on their reverse side for the driver to manually record the additional information that is required in connection with changes of vehicles (under the EU rules see example under 'Manual entries' below).

Manual entries

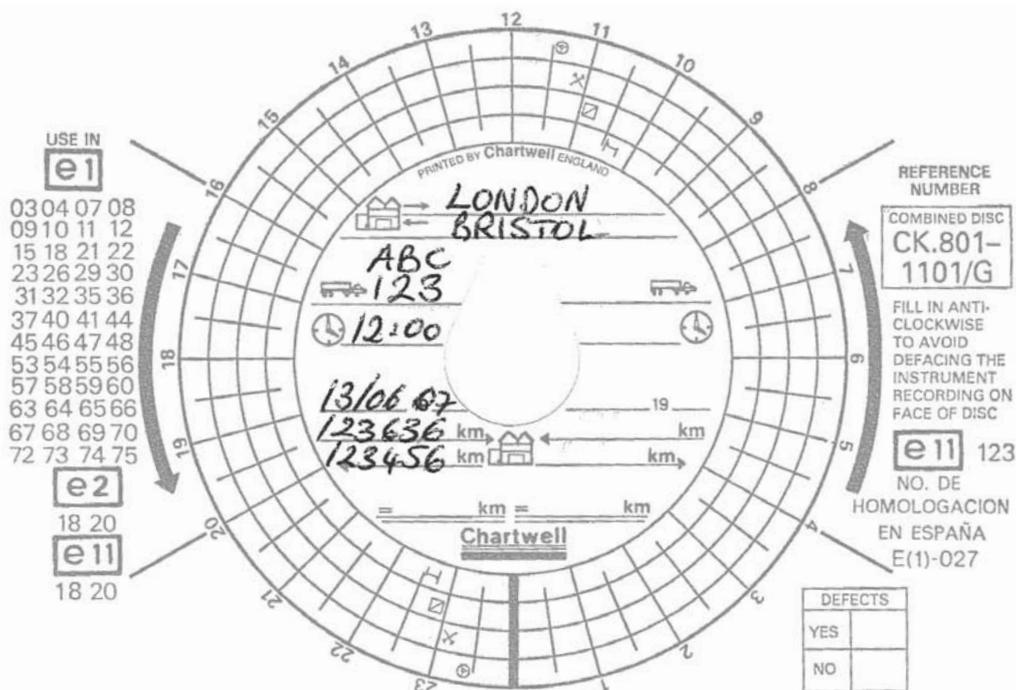
Drivers must produce a record of their whole daily working period. So when drivers are unable to operate the tachograph, have not been allocated a vehicle, or are working away from the vehicle and have had to remove their tachograph chart, they must manually record their activities on the chart. Manual entries may also be needed at other times – for example, if the tachograph develops a fault or in the event of an emergency (see page 22, 'Unforeseen events'). Employers may also ask drivers to indicate on a chart where their duty (or rest) begins and ends, so that they can ensure a full record has been submitted. Most analogue charts have a specified place to make manual entries (usually on the reverse).

However, manual entries can be made anywhere on the chart provided that they are clear and do not obliterate other recordings.

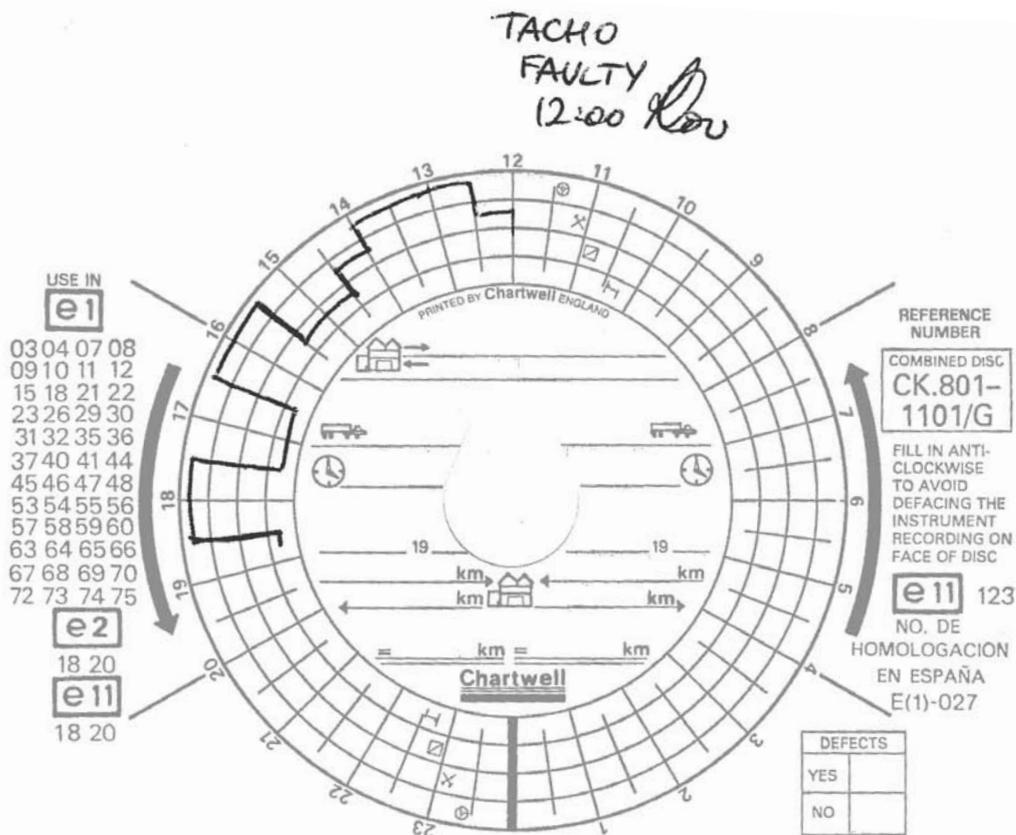
The following are examples of manual records.



This is an example of manual entries made on the rear of a tachograph chart by a driver who started his day at 06.00 with an hour's work doing other duties away from his vehicle. He also finished his day with an hour of other work away from his vehicle and has indicated both the end and the start of a daily rest period. His activities while with the vehicle are recorded by the instrument on the other side of the chart once it has been inserted.



This is an example of manual entries made by a driver who changed vehicles at 12.00 in London and continued his duties before finishing in Bristol. All the details of his activities and his name are entered on the other side of the chart.



This is an example of manual entries made by a driver who discovered a tachograph fault at 12.00. He has used the preprinted matrix to indicate his activities for the remainder of his duty until 18.30. He has also noted the reason for his keeping a manual record. All other details are entered on the other side of the chart.

Digital tachographs



Digital tachographs work by storing digital data on the driver and vehicle in their own memory and separately on a driver's smart card. Transport undertakings must periodically download this data from the digital tachograph (known as the Vehicle Unit or VU) every 56 days and from driver cards every 28 days, and analyse the information to ensure that the rules have been complied with.

Driver cards and records

It is a legal requirement for a digital tachograph-equipped vehicle driven in scope of EU rules that the driver must use a driver card.

If the vehicle is used without a card being inserted, the system will not prevent the vehicle from being driven, but the VU will record the fact that the vehicle has been used without a card.

Drivers may only be in possession of one driver's smart card, and must never use anyone else's card or allow another driver to use their card.

When driving a vehicle that is equipped with a digital tachograph, drivers should:

- ▶ ensure that the instrument is calibrated by inspecting the calibration plaque or interrogating the instrument;
- ▶ ensure that their driver card is inserted into the correct slot (driver in slot 1, second driver in slot 2) from the moment they take over the vehicle, and that it is ready for use, before the vehicle is moved;

- ▶ record the country in which they begin and end their daily work period. This must always be carried out at the time of the start or end of the period, even if the card is not to be withdrawn or inserted (for example if the card is left in overnight);
- ▶ carry sufficient supplies of type-approved print roll on board the vehicle so that a printout can be produced at an enforcement officer's request;
- ▶ ensure that all duties conducted since the driver card was last removed from a tachograph are manually entered onto the card record, using the manual entry facility on the tachograph;
- ▶ ensure that the tachograph is working properly;
- ▶ ensure that through the daily working period the mode switch is used correctly to record other work, periods of availability, and rest and breaks;
- ▶ take reasonable steps to protect their card from dirt and damage;
- ▶ use only their own personalised driver card to record driving and other activities they undertake;
- ▶ ensure that the card is not removed from the tachograph during the working day unless otherwise authorised. The rules are not specific on who can authorise removal of the card, but cases where cards can be removed include a change of vehicle, or where another driver will be using the vehicle during a break or rest period;
- ▶ on multi-manning operations ensure that their driver card is placed in the correct slot (slot 1 when they are acting as driver and slot 2 when co-driver on a double-manned journey) when they take over driving;
- ▶ make their cards available for downloading by their employer; and
- ▶ be able to produce at the roadside:
 - charts and any legally required manual records for the current day and the previous 28 calendar days; and
 - the driver's digital smart card if they hold one.

Mode switch default: Note that digital tachographs will default to recording 'other work' for driver 1 and 'availability' for driver 2 when the vehicle stops, and drivers must use the mode switch correctly to ensure that rest and break periods are recorded correctly.



How to apply for driver cards

You can get application forms and assistance from the Driver and Vehicle Licensing Agency (DVLA) by calling 0300 790 6109. Forms are available to order online at www.dvla.gov.uk. Alternatively, forms should be available from local DVLA offices and VOSA testing stations. DVLA will accept payment for up to 25 driver card applications on one company cheque. In Northern Ireland, application forms are available from Driver and Vehicle Licensing Northern Ireland (DVLNI) (call 028 7034 1589) and test centres of the Driver and Vehicle Agency (DVA).

Lost, stolen or malfunctioning driver cards

Where it is impossible to use a driver card (e.g. where it has been lost, stolen or damaged or is malfunctioning) a driver may drive without the card for a maximum of 15 calendar days (or longer if this is necessary for the vehicle to be returned to its premises) provided that he produces **two** printouts – one at the start of the journey and another at the end. Both printouts must be marked with:

- ▶ the driver's name or driver card or licence number, so the driver can be identified;
- ▶ any manual entries needed to show periods of other work, availability, and rest or break; and
- ▶ the driver's signature.

The driver must report the problem to DVLA and apply for a new card within seven calendar days.

UTC – the time set on a digital tachograph

The internal clock of a digital tachograph is set to Universal Time Co-ordinated (UTC). The time displayed on the clock face can be set by the driver either to local time or to UTC. However, all data will be recorded by the VU on the time set by the integral clock, which operates on UTC – this is the same as Greenwich Mean Time (GMT). You will need to remember that UTC is one hour behind British Summer Time (BST). So, between 01.00 on the last Sunday in **March** and 01.00 on the last Sunday in **October** drivers must account for the difference when manually inputting activity details in the digital tachograph.

For example, if drivers carried out other work for two hours between 06.00 and 08.00 in June before taking over the vehicle, they must enter this as between 05.00 and 07.00 in UTC time. As mentioned above, it is possible for drivers to set the display time on the VU to local BST, but this will not prevent the VU recording in UTC. Therefore, it is recommended that drivers leave the display time in UTC as a reminder of the difference.

Manual records

A digital tachograph offers the ability for a driver to enter activities carried out by him away from his vehicle. This is by means of the manual input facility offered by the instrument. A true 'manual' record will only be necessary if:

- ▶ an instrument malfunction occurs;
- ▶ the driver breaches the rules due to an unforeseen event; or
- ▶ to correct a record.

If this happens, a driver should record his activities or reasons on the reverse of a portion of print roll.

Common rules

Operation of the mode switch or button

Drivers must ensure that the mode switch on an analogue tachograph or the mode button on a digital tachograph is correctly set to record their activities.

Driving symbol		This is automatically recorded on most tachographs.
Other work		Covers all activities defined as work other than driving in scope of the EU/AETR rules. Includes any work for the same or another employer, within or outside the transport sector.
Availability		Covers periods of waiting time, the duration of which is known about in advance. Examples of what might count as a period of availability (POA) are accompanying a vehicle on a ferry crossing or waiting while other workers load/unload your vehicle. For mobile workers driving in a team, a POA would also include time spent sitting next to the driver while the vehicle is in motion (unless taking a break or performing other work, i.e. navigation).
Break or rest		Covers breaks in work and daily or weekly rest periods. Drivers may not carry out any driving or any other work. Break periods are to be used exclusively for recuperation. During a rest period a driver must be able to dispose freely of his time.

If for any reason the tachograph does not make an accurate record of activities (e.g. if the driver inadvertently makes an incorrect manual entry in a digital tachograph, or fails to correctly operate the mode button or switch), it is strongly recommended that the driver makes a manual tachograph record to this effect. For digital equipment, the driver should make and sign a printout for the relevant period with a note giving details of the error and reason at the time the error is made. For analogue equipment, the record should be made at the back of the chart.

Multi-manning – second driver record

Some analogue equipment and all digital tachographs will automatically record all time spent as a second driver when the vehicle is in motion as a period of availability and do not allow the mode to be changed to either 'break' or 'other work'. Provided the second driver is not required to carry out any work during this time, enforcement authorities will accept the first 45 minutes of this time as a break from driving. Any periods of other work, however, must be manually recorded on a printout or chart by the driver.

Travelling time

In cases where a vehicle that comes within the scope of EU rules is at a separate location that is neither the driver's home nor the employer's operational centre where the driver is normally based, the time the driver spends travelling to or from that location may not be counted as a rest or break, unless the driver is in a ferry or train and has access to a bunk or couchette.

Mixed records – analogue and digital equipment

It is possible that a driver may during the course of a day drive two or more vehicles where both types of recording equipment are used. Drivers in such a situation must use a driver card to record while driving a vehicle with a digital tachograph and a tachograph chart when driving a vehicle equipped with an analogue tachograph.

Note: A driver who is not in possession of a driver card cannot drive a vehicle equipped with a digital tachograph.

Recording other work

Drivers must record all other work and periods of availability – including work for other employers – on all driving and non-driving days within a week where they have undertaken driving that comes within the scope of the EU rules on drivers' hours.

For example, a driver who works in a warehouse on Monday, Tuesday and Wednesday and wishes to drive a vehicle within the scope of the EU rules on Thursday of the same week must complete records for Monday, Tuesday and Wednesday.

The record must be either:

- ▶ written manually on a chart;
- ▶ written manually on a printout from a digital tachograph;
- ▶ made by using the manual input facility of a digital tachograph; or
- ▶ for days where a driver has been subject to the domestic drivers' hours rules and a record is legally required (see page 25, 'Record keeping'), recorded in a domestic log book.

For the non-driving days, the record may simply show the driver's name, the date, and the start and finish of the shift. These records must be carried on the vehicle by the driver to be produced to enforcement officers for the relevant period (see individual sections on how to make manual entries).

Information to operators

A driver who is at the disposal of more than one transport undertaking must provide each undertaking with sufficient information to allow them to make sure the rules are being met.

Rest and other days off

The period of time unaccounted for between successive charts produced by a driver should normally be regarded as (unless there is evidence to the contrary) a rest period when drivers are able to dispose freely of their time. In the UK, drivers are not expected to account for this period, unless enforcement authorities have reason to believe that they were working. Nevertheless, on international journeys it is recommended that letters of attestation from the employer are provided for drivers travelling through other countries to cover any sick leave, annual leave and time spent driving a vehicle which is out of scope of EU/AETR rules during the preceding 28 days.

Responsibilities of operators

Operators of transport undertakings have legal responsibilities and liabilities for their own compliance with the regulations and that of the drivers under their control.

Transport undertakings must:

- ▶ ensure that tachographs have been calibrated, inspected and recalibrated in line with the rules;
- ▶ supply sufficient quantity of type-approved charts and printer rolls to drivers;
- ▶ ensure the return of used tachograph charts from drivers. Note that this responsibility continues after a driver has left employment until all charts are returned;
- ▶ properly instruct drivers on the rules;
- ▶ properly schedule work so the rules are met;
- ▶ not make payments to drivers related to distances travelled and/or the amount of goods carried if that would encourage breaches of the rules;
- ▶ download data from the Vehicle Unit and drivers' smart cards as frequently as stipulated in national law. In Great Britain it is a requirement that relevant data from VUs is downloaded at least every 56 days and relevant data from drivers' smart cards is downloaded at least every 28 days;
- ▶ make regular checks of charts and digital data to ensure compliance;
- ▶ be able to produce records to enforcement officers for 12 months; and
- ▶ take all reasonable steps to prevent breaches of the rules.

Tachograph calibration and inspection

All tachographs used for recording drivers' hours, whether analogue or digital, must be properly installed, calibrated and sealed. This task must be performed by either a vehicle manufacturer or an approved tachograph calibration centre (call VOSA on 0300 123 9000 to find your nearest approved tachograph centres). An installation plaque must be fixed to or near the tachograph. Tachograph calibration centres will issue a certificate showing details of any inspection conducted.

Analogue tachographs must be inspected every two years and recalibrated every six years.

Digital tachographs must be recalibrated:

- ▶ every two years;
- ▶ after any repair;
- ▶ if the vehicle registration number changes;
- ▶ if UTC is out by more than 20 minutes; and
- ▶ after an alteration to the circumference of the tyres or characteristic coefficient.

Inspection and recalibration dates are shown on the plaque and updated by calibration centres. Operators must ensure that these tachograph requirements are complied with before a new or used vehicle goes into service.

Breakdown of equipment

EU legislation requires that in the event of a breakdown or faulty operation of the equipment, it must be repaired as soon as possible. If the vehicle is unable to return to its base within a week the repair must be carried out en route.

UK legislation also provides that a driver or operator will not be liable to be convicted if they can prove to a court that the vehicle was on its way to a place where the recording equipment could be repaired, or that it was not immediately practicable for the equipment to be repaired and the driver was keeping a manual record. Additionally, they will not be liable where a seal is broken and the breaking of the seal was unavoidable and could not be immediately repaired, providing that all other aspects of the EU rules were being complied with.

For faults and breakdowns involving digital tachographs, operators should ask the repair centre to download any data held on the unit. If this is not possible the centre should issue the operator with a 'certificate of undownloadability' which must be kept for at least 12 months.

International journeys: Although this is the position under EU rules, it is not advisable to start or continue an international journey with a defective tachograph, even if manual records are kept. This is because many countries will not permit entry by such vehicles, since their own domestic laws require a fully functioning system.

Digital tachographs – company cards

Company cards are issued by DVLA in the company name. Company cards do not primarily hold data but act as an electronic key to protect and access data from the VU. A company can hold up to 2,232 cards, which will have identical card numbers – but different issue numbers at the end of the card number enable operators to tell them apart.

Company cards are needed to download data from the VU – they can be placed in either driver card slot. Company cards are not needed to access information from a driver card where it is being downloaded separately from the VU.

Operators may also use the company card to lock in (in other words, protect) their drivers' details. Once an operator has locked in, all subsequent data is protected and the full details may only be downloaded by inserting a company card with the same number. Locking in is particularly recommended, as failure to do it could lead to an operator being unable to download its data if the data held in the VU has been protected by a previous operator locking in with its card.

The cards can also be used to lock out when an operator has finished with a vehicle – for example, if it has been sold or if the operator has been using a hired vehicle. Locking out will signify the end of the operator's interest in the vehicle and its operations, although failing to do so will not prevent another company protecting its own data by locking in, as locking in will automatically lock out the previous protection.

Operators who use hired vehicles may need to train their drivers, and equip them with the means, to download VU data from vehicles at the point of de-hire where this occurs away from base.

Company cards: Operators can apply for company cards by calling DVLA at 0300 790 6109 to obtain an application form (form ST2A). In Northern Ireland, application forms are available from DVA by calling the Driver and Vehicle Licensing Enquiry Section on 0845 402 4000, emailing dvlni@doeni.gov.uk or visiting <http://www.dvlni.gov.uk/dvlni.aspx> or <http://www.nidirect.gov.uk/index/information-and-services/motoring.htm>.

Enforcement and penalties

Fixed penalties and deposits

Following the Road Safety Act 2006, fixed penalties and deposits were introduced during 2009. Infringing drivers with verifiable UK addresses are, in the most routine cases, dealt with by means of a fixed penalty which can be considered by the driver for up to 28 days. Drivers without a verifiable address are asked to pay a deposit equal to the fixed penalty and further driving will be prohibited pending receipt of that payment. VOSA can still take cases to court if it is deemed necessary.

Enforcement powers and sanctions

Powers

Legislation has provided VOSA Authorised Examiners with powers that include:

- ▶ the power to inspect vehicles;
- ▶ the power to prohibit and direct vehicles;
- ▶ powers relating to the investigation of possible breaches of regulations; and
- ▶ the power to instigate, conduct and appear in proceedings at a magistrates' court.

Sanctions

Action taken against drivers' hours and tachograph rules infringements is largely determined by the legislation, and includes the following:

- ▶ Verbal warnings

Minor infringements that appear to enforcement staff to have been committed either accidentally or due to the inexperience of the driver/operator and are isolated instances may be dealt with by means of a verbal warning. This will include a clarification of the infringement and an explanation of the consequences of continued infringement.
- ▶ Offence rectification notice

These may be issued to operators for a number of infringements not related to safety, and give them 21 days to carry out a rectification of the shortcoming otherwise prosecution will be considered.
- ▶ Prohibition

Many drivers' hours and tachograph rules infringements attract a prohibition. A prohibition is not strictly a 'sanction', rather an enforcement tool to remove an immediate threat to road safety. When issued, driving of the vehicle is prohibited for either a specified or an unspecified period until the conditions stated on the prohibition note are satisfied. Where the prohibition is issued for an unspecified period, a note indicating the removal of the prohibition must be issued before further use of the vehicle is permitted. In addition to attracting a prohibition, the matter will be considered for prosecution.
- ▶ Prosecution

If it's considered to be in the public interest, more serious infringements are considered for prosecution, either against the driver, the operator or other undertakings, or against all of them. (See also 'EU rules: co-liability' on page 41.)
- ▶ Referral to the Traffic Commissioner

Where the driver is the holder of a vocational licence and/or the operator is the holder of an operator's licence, enforcement staff may report infringements by either the driver or the operator to the Traffic Commissioner instead of, or as well as, prosecution. This may occur when enforcement

staff believe the matter under consideration brings into doubt the repute of the driver/operator and subsequently call on the Traffic Commissioner to decide whether any administrative action should be taken against their licences.

Infringements of domestic drivers' hours rules

Where an infringement of the domestic drivers' hours rules occurs, the law protects from conviction in court those drivers who can prove that because of unforeseen difficulties they were unavoidably delayed in finishing a journey and breached the rules. It also protects employers if any driver was involved in other driving jobs that the employer could not have known about.

Infringements of the EU drivers' hours rules

The law protects from conviction in court, those drivers who can prove that because of unforeseen difficulties they were unavoidably delayed in finishing a journey and breached the rules.

The EU rules make transport undertakings liable for any infringements committed by their drivers. However, transport undertakings will not be held responsible for these offences if they can show that at the time of the infringement the driver's work was being organised in full consideration of the rules, and in particular that:

- ▶ no payments were made that encouraged breaches;
- ▶ work was properly organised;
- ▶ the driver was properly instructed; and
- ▶ regular checks were made.

Transport undertakings must also show that they have taken all reasonable steps to avoid the contravention. Employers also have a defence if they can prove that the driver was involved in other driving jobs that the employer could not reasonably have known about. Where it is found that an undertaking has failed in its obligations, prosecution action may be considered against the undertaking for a driver's offence.

In the case of infringements concerning records, the law protects an employer from conviction if they can prove that they took all reasonable steps to make sure that the driver kept proper records.

Under the EU rules, enforcement action can be taken against operators and drivers for offences detected in GB but committed in another country, provided the offender has not already been penalised.

To prevent further penalties being imposed for the same offence, enforcement agencies must provide the driver with evidence of the proceedings or penalties in writing. The driver is required to carry the documentation until such time as the infringement cannot lead to further action.

EU rules: co-liability

The EU rules also make undertakings such as tour operators, principal contractors, sub-contractors and driver employment agencies responsible for ensuring that contractually agreed transport time schedules respect the rules on drivers' hours.

The undertaking must take all reasonable steps to comply with this requirement. If a contract with the customer includes a provision for transport time schedules to respect the EU rules, then the requirement would normally be satisfied. However, a driver employment agency is unlikely to absolve itself from the liability if it is found to have been offering back-to-back jobs to drivers where it will be impossible for the driver in question to take a daily or weekly rest in between those jobs.

We consider the term 'driver employment agency' to include employment businesses, as defined in the Employment Agencies Act 1973, Section 13(3).

Penalties for infringements of the drivers' hours rules in Great Britain

Maximum fines

As contained within Part VI of the Transport Act 1968 (as amended), the maximum fines that can be imposed by a court of law on conviction are as follows:

- ▶ failure to observe driving times, breaks or rest period rules: fine of up to £2,500 (Level 4);
- ▶ failure to make or keep records under the GB rules: fine of up to £2,500 (Level 4);
- ▶ failure to install a tachograph: fine of up to £5,000 (Level 5);
- ▶ failure to use a tachograph: fine of up to £5,000 (Level 5);
- ▶ failure to hand over records relating to recording equipment as requested by an enforcement officer: fine of up to £5,000;
- ▶ false entry or alteration of a record with the intent to deceive: on summary conviction fine of £5,000, on indictment two years' imprisonment;
- ▶ altering or forging the seal on a tachograph with the intent to deceive: on summary conviction fine of £5,000, on indictment two years' imprisonment; and
- ▶ failure to take all reasonable steps to ensure contractually agreed transport time schedules respect the EU rules: fine of up to £2,500 (Level 4).

Annex 1:

Legislation

For reference to the text of the relevant legislation the following links are useful.

United Kingdom

the National Archives, www.legislation.gov.uk

The Stationery Office, www.tsoshop.co.uk

European Union

Eur-Lex – the portal for European Union law, <http://eur-lex.europa.eu/en/index.htm>

Relevant legislation

EU rules

EC Regulation 561/2006 on drivers' hours and tachographs

EC Regulation 3820/85 on drivers' hours

EC Regulation 3821/85 on tachographs

EC Regulation 3314/90 on tachographs

EC Regulation 3688/92 on tachographs

EC Regulation 2479/95 on tachographs

EC Regulation 2135/98 and EC Regulation 1360/2002 (as amended)

Community Drivers' Hours and Recording Equipment Regulations 1986 (SI 1986/1457)

*Drivers' Hours (Harmonisation with Community Rules) Regulations 1986 (SI 1986/1458)

Passenger and Goods Vehicles (Recording Equipment) Regulations 1989 (SI 1989/2121)

Passenger and Goods Vehicles (Recording Equipment) Regulations 1996 (SI 1996/941)

Passenger and Goods Vehicles (Recording Equipment) (Tachograph Card Fees) Regulations 2005 (SI 2005/1140)

Passenger and Goods Vehicles (Recording Equipment) Regulations 2005 (SI 2005/1904)

Passenger and Goods Vehicles (Recording Equipment) (Tachograph Card) Regulations 2006 (SI 2006/1937)

Passenger and Goods Vehicles (Recording Equipment) (Fitting Date) Regulations 2006 (SI 2006/1117)

The Passenger and Goods Vehicles (Recording Equipment) (Downloading and Retention of Data) Regulations 2008 (SI 2008/198)

Community Drivers' Hours and Recording Equipment Regulations 2007 (SI 2007/1819)

The Passenger and Goods Vehicles (Community Recording Equipment Regulations) 2010 (SI 2010/892)

AETR rules

European Agreement Concerning the Work of Crews on Vehicles Engaged in International Road Transport (AETR) (Cm 7401) (as amended by Cm 9037)

Domestic rules

Transport Act 1968 (Part VI as amended)

Drivers' Hours (Goods Vehicles) (Modifications) Order 1970 (SI 1970/257)

Drivers' Hours (Passenger and Goods Vehicles) (Modifications) Order 1971 (SI 1971/818)

Drivers' Hours (Goods Vehicles) (Modifications) Order 1986 (SI 1986/1459)

Drivers' Hours (Goods Vehicles) (Exemptions) Regulations 1986 (SI 1986/1492)

Drivers' Hours (Goods Vehicles) (Keeping of Records) Regulations 1987 (SI 1987/1421)

*Applicable to both EU and domestic rules.

Annex 2:

Working time rules

The working time rules that apply to you depend on whether you drive a vehicle in scope of the EU or GB domestic drivers' hours rules.

If you are driving under the EU drivers' hours rules

If you operate a vehicle in scope of the EU drivers' hours rules, then you are subject to the Road Transport (Working Time) Regulations 2005 (as amended – 'the 2005 Regulations'), unless you are an occasional mobile worker (see text boxes at the end of this Annex for definitions).

The main provisions of the 2005 Regulations are as follows

- ▶ **Weekly working time** must not exceed an average of 48 hours per week over the reference period. A maximum working time of 60 hours can be performed in any single week providing the average 48-hour limit is not exceeded.
- ▶ **Night work:** if night work is performed, working time must not exceed 10 hours in any 24-hour period. Night time is the period between 00.00 and 04.00 for goods vehicles and between 01.00 and 05.00 for passenger vehicles. The 10-hour limit may be exceeded if this is permitted under a collective or workforce agreement.
- ▶ **Breaks:**
 - Mobile workers must not work more than 6 consecutive hours without taking a break.
 - If your working hours total between 6 and 9 hours, working time should be interrupted by a break or breaks totalling at least 30 minutes.
 - If your working hours total more than 9 hours, working time should be interrupted by a break or breaks totalling at least 45 minutes.
 - Breaks should be of at least 15 minutes' duration.
- ▶ **Rest:** the regulations are the same as the EU or AETR drivers' hours rules.
- ▶ **Record keeping:** records need to be kept for two years after the period in question.

The reference period for calculating the 48-hour week is normally 17 weeks, but it can be extended to 26 weeks if this is permitted under a collective or workforce agreement. There is no 'opt-out' for individuals wishing to work longer than an average 48-hour week, but breaks and 'periods of availability' do not count as working time.

Generally speaking, a period of availability (POA) is waiting time, the duration of which is known about in advance. Examples of what might count as a POA are accompanying a vehicle on a ferry crossing or waiting while other workers load/unload your vehicle. For mobile workers driving in a team, a POA would also include time spent sitting next to the driver while the vehicle is in motion (unless the mobile worker is taking a break or performing other work i.e. navigation).

In addition, you are affected by two provisions under the Working Time Regulations 1998 (as amended – 'the 1998 Regulations'). These are:

- ▶ an entitlement to 4.8 weeks' paid annual leave (increased to 5.6 weeks from 1 April 2009); and
- ▶ health checks for night workers.

If you only occasionally drive vehicles subject to the EU drivers' hours rules, you may be able to take advantage of the exemption from the 2005 Regulations for occasional mobile workers (see text box opposite to see if you meet the criteria).

Self-employed drivers are now in scope of the EU Working Time Directive 2002/15/EC which the Road Transport (Working Time) Regulations 2005 implement. At the time of publication, the UK had not transposed the necessary changes into domestic legislation.

VOSA enforces the provisions of the 2005 Regulations and the requirement for health checks for night workers (under the 1998 Regulations). If you have any questions about matters relating to annual leave, call the Advisory, Conciliation and Arbitration Service (Acas) national helpline on 08457 47 47 47.

If you are driving under the GB domestic drivers' hours rules (or are an occasional mobile worker)

If you drive a vehicle subject to the GB domestic drivers' hours rules or are an occasional mobile worker (see text box opposite), you are affected by four provisions under the 1998 Regulations.

These are:

- ▶ weekly working time, which must not exceed an average of 48 hours per week over the reference period (although individuals can 'opt out' of this requirement if they want to);
- ▶ to 'an entitlement to 4.8 weeks' paid annual leave (increased to 5.6 weeks from 1 April 2009);
- ▶ health checks for night workers; and
- ▶ an entitlement to adequate rest.

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

The reference period for calculating the 48-hour average week is normally a rolling 17-week period. However, this reference period can be extended up to 52 weeks, if this is permitted under a collective or workforce agreement.

The 1998 Regulations do not apply to self-employed drivers (see text box opposite for definition). Please note that this definition is different to the one used under the 2005 Regulations.

VOSA enforces the working time limits and the requirement for health checks for night workers under the 1998 Regulations for drivers operating under the GB domestic drivers' hours rules (and occasional mobile workers). If you have any questions about matters relating to rest or annual leave, call the Acas national helpline on 08457 47 47 47.

Further information

For further details on the 1998 Regulations, contact the Department for Business, Innovation and Skills on 020 7215 5000 or access their website at www.bis.gov.uk

Further details on the 2005 Regulations can be found on the Department for Transport website at www.dft.gov.uk/pgr/freight/road/workingtime/

Definition of a self-employed driver under the 2005 Regulations

'Self-employed driver' means anyone whose main occupation is to transport passengers or goods by road for hire or reward within the meaning of Community legislation under cover of a Community licence or any other professional authorisation to carry out such transport, who is entitled to work for himself and who is not tied to an employer by an employment contract or by any other type of working hierarchical relationship, who is free to organise the relevant working activities, whose income depends directly on the profits made and who has the freedom, individually or through a co-operation between self-employed drivers, to have commercial relations with several customers (Regulation 2 of SI 2005/639).

Definition of an occasional mobile worker under the 2005 Regulations

A mobile worker would be exempt from the 2005 Regulations if:

- ▶ he works 10 days or less within scope of the European drivers' hours rules in a reference period that is shorter than 26 weeks; or
- ▶ he works 15 days or less within scope of the European drivers' hours rules in a reference period that is 26 weeks or longer.

Definition of self-employed under the 1998 Regulations

You are self-employed if you are running your own business and are free to work for different clients and customers.

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