

# Road Transport Working Time Regulations

On the 4th April 2005, the Road Transport Directive (RTD) was implemented in the United Kingdom. Mobile workers are covered by the Road Transport (Working Time) Regulations if they are involved in operations subject to the Community Drivers' Hours regulation 3820/85/EEC, or in some cases the AETR. Generally, drivers, vehicle crew and travelling staff of goods vehicles where the maximum permissible weight exceeds 3.5 tonnes or passenger vehicles suitable for carrying more than 9 people including the driver.

A **worker** is anyone who provides work or services under a contract, express or implied. A **mobile worker** is any worker forming part of the travelling staff (typically drivers and crew, but also trainees and apprentices) who is in the service of an undertaking which operates road transport services for passengers or the movement of goods. Mobile workers include drivers who work for hire and reward companies or companies with own account operations.

## ♣ **Main provisions**

- ♣ Working time is limited to an average 48 hour week over a reference period agreed with employee representatives.
- ♣ Up to 60 hours working time can be performed during a single week, providing the average working time does not exceed 48 hours during the reference period.
- ♣ Night work (any work that touches the hours between midnight and 04.00) is restricted to 10 hours in any 24 hour period. However, these rules can be varied by agreement with employee representatives.
- ♣ Workers cannot work more than six consecutive hours without taking a break. If working between 6-9 hours, a break of at least 30 minutes is required. If working over nine hours, breaks totalling 45 minutes are required.

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## ♣ **Working Time**

- ♣ The RTD states that working time should not be confused with shift or duty time. Breaks during a shift (whether paid or unpaid) do not count towards working time.
- ♣ Waiting time can also be discounted, as long as it conforms to the conditions that would see it classified as a, "period of availability" (PoA).
- ♣ Working time for another road transport employer counts towards the total working hours performed by the mobile worker.
- ♣ **Working time includes:**
  - ♣ Driving; Loading/unloading; cleaning; maintenance of the vehicle; work intended to ensure the safety of the vehicle and its cargo and passengers (e.g. monitoring loading and unloading); time during which the mobile worker cannot freely dispose of their time and is required to be at the workstation (the cab, employers premises etc) ready to take up normal work, with certain tasks associated with being on duty; waiting periods where their foreseeable duration is not known in advance either before departure or just before the start of the period in question.
  - ♣ Working time does not include rest breaks when no work is done or periods of availability.

## ♣ **Breaks**

- ♣ The EU drivers' hours rules require a break of 45 minutes after 4.5 hours cumulative or continuous driving (or two breaks of no less than 15 minutes followed by a break of 30 minutes during or immediately after the driving period).
- ♣ The RTD requires that:
- ♣ Mobile workers should not work for more than six consecutive hours without taking a break.
- ♣ If working hours total between six and nine hours a day, a break of at least 30 minutes is required.
- ♣ If working hours total more than nine hours a day, working time should be interrupted with a break of 45 minutes.
- ♣ When taking a break drivers may not perform anything that might be regarded as other work during this period.
- ♣ Breaks taken under the RTD may be taken at the workstation, including the mobile worker's cab.

#### ♣ **Numerous Employers?**

- ♣ If an employee 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 periods and periods of availability) for all the employers. The mobile worker must tell their employer(s) in writing, of any time worked for another employer.

## Night Limits

- The RTD stipulates that:
- Working time must not exceed 10 hours in any 24 hour period, if any night work is undertaken.
- Any work performed in the night time (between midnight and 04.00) triggers the 10 hour limit.
- This can be increased beyond a maximum of 10 hours by Collective Agreement.
- When driving, the existing break requirements under the EU drivers' hours rules will take precedence. However, when driving is mixed with other work, the break provision under the RTD will sometimes apply in addition.

## Daily Rest

- When driving, the EU drivers' hours rules require 11 consecutive hours rest in each period of 24 hours (calculated from the moment the driver commences work), with the possibility of reducing this to nine consecutive hours up to three times a week.
- Alternatively, 12 hours rest may be taken in two or three periods, the last of which must be at least eight consecutive hours.

## Weekly Rest

- After six 24-hour periods since your last weekly rest period a new one must begin. This weekly rest period: Must be a minimum of 45 hours.
- A reduction from 45 hours to a minimum of 24 hours can be applied once in any two consecutive weeks.
- Any reduction must be compensated for in full, in a single block, by the end of the third week in question.
- The compensation must be attached to a rest period of no less than 9 hours in duration.
- A rest period that begins in one week and falls into another week can be attached to either week.

## Periods of Availability

Periods of availability are defined as:

- Where the mobile worker is not required to remain at his workstation (but must be available to answer calls to start work or resume driving).
- Where the periods and their foreseeable duration are known in advance either before the departure or just before the start of the period in question.
- Like breaks and rest periods, a period of availability can be taken at the workstation. Provided that the worker has a reasonable amount of freedom (for example, they can relax and read), for a known duration, this would satisfy the requirements for a period of availability.
- Where the mobile worker knows in advance about a delay but, because of safety or security issues, remains in the cab, this would normally be treated as a period of availability.
- Mobile workers do not need to be formally notified about a period of availability and its duration in advance. It is enough that they know about it, and the foreseeable duration, in advance.

## Example of Periods of Availability

- When a mobile worker experiences delays at a Distribution Centre or depot, waiting for someone to load or unload their vehicle. They know the length of the delay at the start of the period (because someone has told them, or because they have arrived too early for their slot, or because they always experience a delay with this customer).
- If a mobile worker typically experiences a delay of about one hour when visiting a RDC, that would probably be sufficient prior notice to qualify this time as a period of availability. However, if they experience a two hour delay when they normally expect an hour, and had not been forewarned about the additional delay, then the second hour would count as working time.
- However, if the mobile worker is notified of a one hour delay, but is then notified (before the end of the first hour) that a further one hour delay is expected, then the second hour also counts as a period of availability.
- Where a mobile worker reports for work, is informed that he will not be required to undertake any duties for a specified period (albeit, they need to remain on site to answer calls and be ready to take up work), but is free to wait in the canteen or rest facility.
- If a worker is told to expect a wait of one hour but is subsequently told to start work or undertake some work (for example, securing a load) after 30 minutes, the period of availability should be recorded as 30 minutes.
- If the vehicle breaks down and the mobile worker is told how long it will take to be rescued.

## Workstation

Workstation includes the main place of business, subsidiary places of business, the vehicle's cab, in and around the vehicle and other places where the mobile worker might work (e.g. when unloading a vehicle at the customers' site)