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# RHA Members Briefing Paper

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## The New Drivers' Hours Rules

**Regulation (EC) No 561/2006** replaces (EEC) No.3820/85 and amends (EEC) No.3821/85 and (EC) No. 2135/98  
**Directive 2006/22/EC** updates Council Directive 88/599/EEC covering enforcement checks

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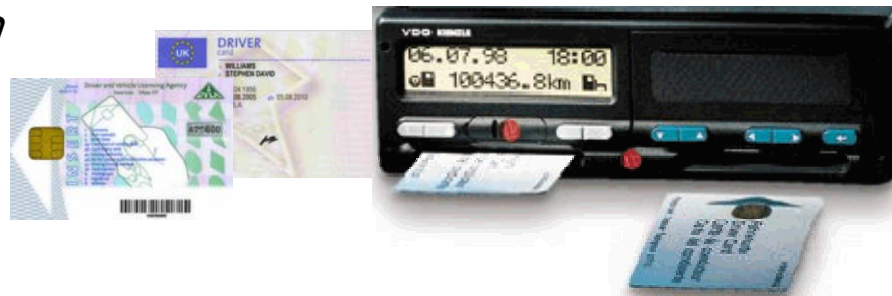
## The New Drivers' Hours Rules

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*1<sup>st</sup> MAY 2006:*

## *The mandatory introduction date for the digital tachograph*



- THE MANDATORY FITMENT OF DIGITAL TACHOGRAPH VEHICLE UNITS INTO ALL IN-SCOPE VEHICLES. *Every new in-scope vehicle that has entered service from 1<sup>st</sup> May 2006 should be fitted with a digital tachograph vehicle unit. Drivers operating these vehicles must adhere to the additional requirements this new type of recording equipment places upon them. Full information is available from the RHA Help Desks, based at all regional offices.*
- ALL DRIVERS, IRRESPECTIVE OF WHAT TYPE OF RECORDING EQUIPMENT THEY ARE USING, SHALL MAKE AVAILABLE, ON REQUEST AT THE ROADSIDE BY AUTHORISED INSPECTING OFFICERS, RECORDS SHEETS FOR THE CURRENT WEEK AND THE PREVIOUS 15 DAYS *In practical terms this may result in a driver having to carry analogue charts for up to 22 days and this clearly contradicts the requirement to hand in record sheets every 21 days. VOSA understand why this may now happen and their advice is that drivers should seek to hand in records sheets "as soon as possible".*
- RECORDS OF DRIVERS' HOURS *including analogue charts and printouts from digi-tac vehicle units, must be kept for at least a year, in chronological order, and made easily available for inspecting officers.*
- ALL DRIVERS, IRRESPECTIVE OF WHAT TYPE OF RECORDING EQUIPMENT THEY ARE USING, WILL BE EXPECTED TO RECORD " OTHER WORK " UNDER: **X**

"PERIODS OF AVAILABILITY" MUST BE RECORDED UNDER  TO ENSURE COMPLIANCE WITH THE ROAD TRANSPORT (WTD) REGULATIONS 2005.

# The New Drivers' Hours Rules

## What has changed and what will change between now and 2008

The European Parliament and the European Council finally agreed on a package of replacement European legislation, allegedly designed to make the regulations easier to understand and interpret, improve driving times and rest periods for professional drivers and ensure additional enforcement of regulations on drivers of commercial vehicles operating within the European Union. It is hoped that the new rules contained within this package will eventually bring the practices of the existing 25 EU Member States closer together and thereby contribute to better road safety for all.

After years of discussions between all interested parties, including the Road Haulage Association, re-drafts with many amendments to the original proposals were agreed upon and the final text published, specifically designed to complement the Road Transport (WTD) Regulations 2005 and to strengthen the package of rules governing the road transport sector. Member States are still free to apply their own rules, in the case of road transport carried out entirely within their own territory, but they can no longer fall short of the minimum rules laid down in the European legislation. This amounts to a major social advance in some Euro-states and will hopefully serve to prevent social dumping.

## Regulation (EC) No 561/2006 - Drivers' Hours

On Tuesday 11<sup>th</sup> April 2006 the Official Journal of the European Union was published containing the new social package for road transport. The package contained Regulation (EC) No 561/2006, which is intended to simplify, clarify and update the existing 20-year old rules governing drivers' hours through the introduction of the digital tachograph and several other changes to existing rules and regulations.

**Regulation (EC) No 3820/85** has now been repealed and replaced by this new Regulation: 561/2006.

**Regulation (EEC) No 3821/85** has been amended to clarify specific obligations on transport undertakings and drivers, as well as confirming the official date for mandatory fitment of the digital tachograph vehicle units - **1<sup>st</sup> May 2006**.

**Regulation (EC) No 2135/98** has been amended to enable the activities of a driver over a 28-day period to be recorded electronically on his/her driver smart card and electronic records of vehicle operations to cover a 365-day period to be recorded.

## This new regulation includes changes in the following areas:

- **Weekly driving** time limit of 56 hours will be the maximum permitted, which has not been specified before - **to be implemented from 11<sup>th</sup> April 2007.**
- **Accumulated driving time** during any two consecutive weeks shall not exceed 90 hours. Currently this is referred to as in "any one fortnight" - **to be implemented from 11<sup>th</sup> April 2007.**
- **Breaks from driving** will need to be taken more frequently. It is currently acceptable to take breaks in three periods of 15 minutes before accumulating 4½ hours driving time. This meant that it has been legally possible to drive almost 9 hours with only 15 minutes rest. A 15 minute break will still be permitted, but this must be followed by a break of at least 30 minutes before 4½ hours driving time has been completed - **to be implemented from 11<sup>th</sup> April 2007.**
- **Daily rest (Split Rest)** can currently be split into three periods, the smallest of which must be no less than one hour, the largest no less than 8 hours, the total required being 12 hours. Under the new regulation, minimum daily rest remains at 9 hours; regular daily rest remains at 11 hours, but split rest can only be taken in two periods of 3 and 9 hours respectively. This means the loss of the one hour rest period. Compensation for reduced rest will no longer be required - *to be implemented from 11<sup>th</sup> April 2007.*
- **Weekly rest** rules will change. The option to reduce to 36 hours will be removed. In any two consecutive weeks a driver will be able to take either two (regular) rests of 45 hours or one regular rest and one reduced rest of no less than 24 hours, irrespective of location. Compensation will still be required, as in the current rules - **to be implemented from 11<sup>th</sup> April 2007.**

- **Multi-manning** currently requires at least two drivers to be with a vehicle during the whole period of driving and during each period of 30 hours each driver must have a rest period of not less than 8 hours. The new regulation changes the requirements above and permits the vehicle to be driven for the first hour without any additional driver present. It also increases the minimum daily rest requirement to 9 hours - **to be implemented from 11<sup>th</sup> April 2007.**
- **Ferry crossings** currently allow rest periods to be interrupted once, provided part of the rest is taken on land, the interruption is no longer than one hour and the total rest period is increased by two hours as compensation. The new regulation permits a daily rest period of at least 11 hours to be interrupted, not more than twice and not more than one hour in total, with no requirement to take additional rest in compensation for the interruption - **to be implemented from 11<sup>th</sup> April 2007.**
- **Enforcement across borders:** Up until now, enforcing officers could only sanction against those infringements committed in their own territory, or at very best by their own nationals abroad, which is often difficult to prosecute. In future, no matter where the infringement is committed, an inspector at a roadside check can sanction and prosecute – **to be actioned by April 2007.**
- **Responsibilities of the whole transport chain:** the new regulation recognises that operators can often be put under undue pressure, particularly by consignors and freight forwarders, to agree to impossible schedules that cause them to infringe the rules. and thus introduces a responsibility of consignors to ensure the regulations are adhered to. The provision is already in the sectoral working time directive; the Road Transport (WTD) Regulation 2005, and will be extended to all relevant Community rules – **to be actioned by April 2007.**
- **Driver Records** changes **IMPLEMENTED from 1<sup>st</sup> May 2006:** Record sheets and printouts, whenever printouts have been made, will have to be kept in chronological order and in a legible form for at least a year.

Although electronic downloading of data and storage of printouts will not immediately affect operators that do not have vehicles fitted with digital tachographs within their fleet, this additional administration procedure will eventually become an integral part of the record keeping obligation of all operators and their drivers.

Where a driver smart card has been issued to a driver by DVLA and it has become damaged, malfunctions, or is not in the possession of the driver (i.e. lost), the following procedure must be followed.

At the start of his/her journey, a printout must be produced showing the details of the vehicle the driver is driving, and he/she should manually enter onto that printout:

- (i) details that enable the driver to be identified (name, driver card or driver's licence number) including his/her signature;
- (ii) operate the digital tachograph vehicle unit to ensure that all different types of work and rest periods taken are being recorded throughout the working period;
- (iii) at the end of the working period, produce another printout showing the information relating to periods of time recorded by the recording equipment. Then record any other periods of work, availability and rest undertaken since the printout that was made at the start of the journey, where not recorded by the digital tachograph vehicle unit, and mark on that document details that enable the driver to be identified (name, driver card or driver's licence number), including the driver's signature.

Drivers must also ensure that they are using the correct mode to record their activities, as "availability" must now be recorded separately from "other work" (see page 2).

Furthermore, **from 1<sup>st</sup> May 2006,** drivers' must now be able to produce for examination by an inspecting officer the record sheets for the current week and the previous 15 days, irrespective of what type of recording equipment is being operated.

**From 1<sup>st</sup> January 2008** this requirement is extended to the production of the current record and the previous 28 days.



<b>Regulation changes that were implemented on <u>1<sup>st</sup> May 2006:-</u></b>		
<b>Previously:</b>		<b>Changes / Additions since 1<sup>st</sup> May 2006:</b>
<b>Digital tachograph vehicle units and driver cards:</b> This is a totally new addition to the regulations.	<b>ADDITION</b>	Every new in-scope vehicle that enters service must be fitted with digital tachograph equipment. Drivers operating these vehicles must have been issued with individual driver cards and they must adhere to the additional requirements this new type of recording equipment places upon them.
<b>Production of drivers' hours records:</b> Drivers were required to make available, on request by an authorised inspecting officer, record sheets for the only the current week and the last record from the previous week.	<b>CHANGE</b>	All drivers, irrespective of what type of recording equipment they are using, must now make available, on request by an authorised inspecting officer, records sheets for the current week and the previous 15 days.
<b>Drivers' hours record keeping:</b> Drivers' records currently do not relate to data generated by digital tachograph recording equipment.	<b>ADDITION</b>	All data held within digital tachograph vehicle units and driver cards must be downloaded and made available for inspection for at least 12 months. Data and records must be kept in chronological order.
<b>Recording of drivers' hours:</b> Previously drivers' were required to use the mode switch of the tachograph to show "driving"; "other work" and "rest".	<b>CHANGE</b>	Drivers are now required to record "driving", "other work", "rest" and also "periods of availability" (see page 2).
<b>Regulation changes to be implemented on <u>11<sup>th</sup> April 2007:-</u></b>		
<b>Daily driving:</b> 9 hrs max driving time between 2 daily driving periods or between a weekly rest period, although this can be increased to 10 hrs x 2 per week.	<b>NO CHANGE</b>	No change to current legislation
<b>Weekly driving:</b> There is currently no weekly driving limit specified in legislation.	<b>CHANGE</b>	A <b>weekly driving time limit of 56 hours</b> will be the maximum permitted.
<b>Fortnightly driving:</b> Maximum 90 hours in any one fortnight.	<b>CHANGE</b>	Maximum 90 hours in <b>any two consecutive weeks.</b> – textual change only.
<b>Breaks from driving:</b> 45 minutes break in or immediately following 4½ hours driving – can be broken down into minimum periods of 3 x15 minutes allowed.	<b>CHANGE</b>	45 minutes <b>break</b> in or immediately following 4½ hours driving – initial minimum period of <b>15 minutes</b> allowed, but must be <b>followed by a 30 minute break</b> period, no longer option of further 2 x15 minutes.
<b>Daily rest:</b> 11 hours reducible to 9 hrs x 3 per week – compensation required	<b>CHANGE</b>	<b>11 hours reducible to 9 hrs x 3 times per week – no compensation required</b>
<b>Split rest:</b> Currently split rest may be made up of 2 or 3 periods totalling 12 hours, of no less than 1 hour each, with the last period being 8 hours.	<b>CHANGE</b>	<b>12 hours in total, made up of 3 hours, followed by 9 hours.</b>
<b>Weekly rest:</b> 45 hours weekly rest may be reduced to 36 hours at base or 24 hours away from base, with compensation made up by the end of the 3 <sup>rd</sup> week, added to a rest of at least 8 hours.	<b>CHANGE</b>	<b>Reducible from 45 hours to 24 hours in alternate weeks.</b> Compensation must be made up by the end of the 3 <sup>rd</sup> week following, added to a rest of at least 9 hours.
<b>Multi-manning:</b> 8 hours rest in 30 hours for each driver, with the need for all crew members to be present with the vehicle at all times within that period.	<b>CHANGE</b>	<b>9 hours rest in 30 hours</b> permitted, with further <b>allowance for a driver to operate the 1<sup>st</sup> hour solo.</b>
<b>Ferry crossings:</b> One interruption of no more than 1 hour, that must be compensated by 2 hours added to the total rest period.	<b>CHANGE</b>	An <b>11 hour rest may be interrupted not more than twice</b> , of which the interruptions may be no more than 1 hour - <b>no compensation required.</b>
<b>Regulation change to be implemented on <u>1<sup>st</sup> January 2008:-</u></b>		
<b>Production of drivers' hours records:</b> <b>NOW:</b> All drivers, irrespective of what type of recording equipment they are using, shall make available, on request by an authorised inspecting officer, records sheets for the current week and the previous 15 days.	<b>CHANGE</b>	<b>FROM 1<sup>st</sup> January 2008:-</b> All drivers, irrespective of what type of recording equipment they are using, shall make available, on request by an authorised inspecting officer, records sheets to cover the current day and the previous 28 days.

# Exemptions

The list of exemptions to the drivers' hours' regulations has been updated to reflect developments in the road transport sector over the past twenty years.

The new regulation will not apply to carriage of goods by road by the following (as specified in Article 3):

Current exemption:		Change/additional exemption:
Vehicles not exceeding 3.5 tonnes inclusive of trailer.	<b>NO CHANGE</b>	No change to the current exemption.
Vehicles not capable of exceeding 30Kmh.	<b>CHANGE</b>	<b>Vehicles not capable of exceeding 40Kmh.</b>
Vehicles used by or under the control of the armed services, civil defence, fire services, and forces responsible for maintaining order.	<b>CHANGE</b>	Vehicles <b>owned or hired without a driver</b> by the armed services ..... <b>when the carriage is undertaken as a consequence of the tasks assigned to these services and is under their control.</b>
Vehicles used in emergencies or rescue operations.	<b>CHANGE</b>	Vehicles, <b>including vehicles used in non-commercial transport of humanitarian aid</b> , used in emergencies or rescue operations.
Specialised vehicles used for medical purposes.	<b>NO CHANGE</b>	No change to the current exemption.
Specialised breakdown vehicles.	<b>CHANGE</b>	Specialised breakdown vehicles <b>operating within a 100Km radius of base.</b>
Vehicles undergoing road tests for technical development, repair or maintenance purposes, and new or rebuilt vehicles which have not yet been put into service.	<b>NO CHANGE</b>	No change to the current exemption.
Vehicles used for the non-commercial carriage of goods and personal use.	<b>CHANGE</b>	Vehicles or <b>combination of vehicles with a maximum permissible mass not exceeding 7.5 tonnes used for the non-commercial carriage of goods.</b>
New exemption	<b>ADDITION</b>	Commercial vehicles, which have historic status according to the legislation of the member state in which they're driven and which are used for the non-commercial carriage of goods for personal use

# Derogations

Member States, subject to certain conditions, may wish to make further exemptions using the derogations permitted below (as specified in Article 13):

Current derogation:		Derogation change/amendment:
Vehicles used by public authorities to provide public services which are not in competition with national road hauliers.	<b>CHANGE</b>	Vehicles <u>owned or hired without driver</u> by public authorities to which do not compete with <u>private transport undertakings</u> .
Vehicles used by agricultural, horticultural, forestry or fishery undertakings for carrying goods within a 50 kilometre radius of the place where the vehicle is normally based etc.	<b>CHANGE</b>	Vehicles used <u>or hired without driver</u> by agricultural, horticultural or forestry, farming or fishery undertakings for carrying goods <u>as part of their own entrepreneurial activity within a radius of 100Km</u> from the base of the undertaking.
Tractors used exclusively for agricultural and forestry work.	<b>CHANGE</b>	Agricultural tractors and forestry tractors used for agricultural, forestry activities <u>within a radius of 100Km from their base</u> .
Vehicles carrying material or equipment for the drivers use in the course of his work within a 50Km radius of the place where the vehicle is normally based provided that driving the vehicle does not constitute the drivers main activity etc.	<b>ADDITION + CHANGE</b>  <small>NOTE: the reference to 7.5t did not appear in 3820/85 but was adopted as a rule in the UK.</small>	Vehicles or combination of vehicles with a maximum permissible mass <u>not exceeding 7.5 tonnes used by universal service providers</u> as defined in Art 2(13) of 97/67 on common laws for the development of the internal market of community postal services and the improvement of quality service to deliver items as part of the universal service or for carrying materials, equipment or machinery for the drivers use in the course of his work. Within a 50Km radius of the base of the undertaking - driving does not constitute drivers main activity.
Vehicles operating exclusively on islands not exceeding 2,300 sq. hectares.	<b>NO CHANGE</b>	Derogation is unchanged.
Vehicles used for the carriage of goods propelled by means of gas produced on the vehicles or of electricity .... Maximum permissible weight, including any trailers, not exceeding 3.5 tonnes.	<b>CHANGE</b>	Vehicles used for the carriage of goods within a <u>50Km</u> radius of base of the undertaking and propelled by means of <u>natural or liquified gas or electricity</u> . Maximum permissible mass, including trailer, not exceeding <u>7.5 tonnes</u> .
Vehicles used for driving instruction with a view to obtaining a driving licence.	<b>CHANGE</b>	Vehicles used for driving instruction and examination with a view to obtaining a driving licence, or a <u>Certificate of Professional Competence provided that they are not being used for commercial carriage of goods</u>
Vehicles used in connection with the sewage, flood protection, water, gas and electricity services, highway maintenance and control, refuse collection and disposal, telegraph and telephone services, carriage of postal articles, radio and television broadcasting and the detection of radio or television transmitters or received.	<b>CHANGE</b>	Vehicles used in connection with sewage, flood protection, water, gas and electricity <u>maintenance</u> services, <u>road</u> maintenance and control, <u>door to door, household</u> , refuse collection and disposal, telegraph and telephone services, radio and television broadcasting and the detection of radio or television transmitters or receivers.
Vehicles transporting circus and funfair equipment.	<b>CHANGE</b>	<u>Specialised</u> vehicles transporting circus equipment.
New derogation.	<b>ADDITION</b>	Specially fitted for mobile project vehicles, the primary use of which is as an educational facility when stationary.
Previously an exemption, as under Article 3.	<b>CHANGE</b>	Vehicles used for milk collection from farms and the return to farms with milk containers or milk products intended for animal feed.
New derogation	<b>ADDITION</b>	Specialised vehicles transporting money and/or valuables.
Vehicles used for carrying animal waste of carcasses not intended for human consumption.	<b>NO CHANGE</b>	Derogation is unchanged.
New derogation.	<b>ADDITION</b>	Vehicles used exclusively on roads inside hub facilities such as ports, into ports, and railway terminals.
Vehicles used for carrying live animals from farms to local markets and vice-versa or from markets to local slaughter houses.	<b>CHANGE</b>	Vehicles used for the carriage of live animals from farms to local markets and vice-versa from markets to local slaughter houses <u>within a radius of up to 50Km</u> .
Vehicles used for shops or local markets or for door-to-door selling or mobile banking etc.	<b>REPEALED</b>	No longer recognised as a type of derogation.

**Note:** We are not yet aware of which of these derogations the UK government will adopt. However, vehicles which are exempt from the scope of the application of current Regulation (EEC) No 3820/85, but which will no longer be exempt under Regulation (EC) No 561/2006 have until 31<sup>st</sup> December 2007 to comply with the requirements.



# Directive 2006/22/EC - Enforcement

This Directive updates the current 1988 Directive on enforcement. It aims to increase the quantity of and enhance the quality of compliance checks, promote greater co-operation between enforcement authorities and establish a common view of serious infringements. **Member States are required to introduce regulations to implement this directive by 1<sup>st</sup> April 2007.**

## Main provisions of the Directive:-

- **Increase in minimum percentage of checks from 1% to 3% of days worked:** as well as a tripling of the number of operations carried out jointly by Member States, the checks should serve to verify that the rules are being applied and enable action against 'cowboy hauliers' who put both their drivers and all the public at risk. The additional checks are seen as a means of ensuring fair competition in Europe.
- **Checks at the Roadside:** The following points will be covered at roadside checks by analysing the data available from the drivers records, irrespective of what recording equipment is being used:
  - Daily and weekly driving times.
  - Breaks and daily and weekly rest periods.
  - Vehicle speed.
  - Correct functioning of the recording equipment.
- **Checks at the premises of undertakings:** in the future **at least 50% of the minimum percentage of checks must take place at the operator's premises.** As this is where inspections can be more thorough, with all the relevant data to hand, the emphasis is placed on this type of check. Checks will include
  - Weekly rest periods and driving times between these periods;
  - Observance of the two-weekly limitation of driving time;
  - Records sheets, vehicle unit and driver card data and printouts, where relevant  
*(re: vehicle unit and driver card data from digi-tac recording equipment only if digi-tac being used by fleet).*
- **Joint liability of others in the transport chain:** Member States, if appropriate, may check on the joint liability of others in the transport chain, such as shippers, freight forwarders or contractors, if an infringement is detected that can be seen to have come about due to undue pressure being placed on drivers'/operators.
- **Drive to enhance the quality of enforcement:** the Directive stipulates that inspectors should be well trained and supplied with a common minimum list of equipment. Member States are obliged to draw up and implement a coherent national enforcement strategy, for which they may designate a body to coordinate the actions of the enforcement agencies concerned. The anti-discrimination clause has been strengthened and a more comprehensive statistical return to the Commission required.
- **Enhanced co - operation promoted:** joint checking operations are trebled from two to six per year; joint training exchanges between Member State inspectors are to be carried out annually; information exchange on non-resident offenders to be promoted. A designated coordinating body within a Member State is to act as a contact point for enforcement issues when dealing with other Member States and the Commission.
- **Best practice promoted:** a new committee comprising Member State enforcement officer representatives, as well as the social partners at European level, is created to look at facilitating dialogue between industry and enforcement authorities; a coherence of approach between enforcement authorities; best practice in enforcement; alignment of risk rating systems for companies so that checks can be better targeted; common format electronic data exchange systems and a standard equipment list to allow joint initiatives across enforcement bodies.
- **Classification of infringements:** through the new committee the Commission may now set guidelines for a common classification of infringements. Not only will this clarify for industry what are commonly recognised as serious infringements, it will also help focus enforcement efforts on essential issues right across Europe.

# The New Drivers' Hours Rules – RHA Member Briefing

*This RHA member briefing was put together from the information made available after the publication on 11<sup>th</sup> April 2006 of the EU Official Journal containing Regulation (EC) No 561/2006 and Directive 2006/22/EC.*

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