
STATUTORY INSTRUMENTS

2005 No. 639

The Road Transport (Working Time) Regulations 2005

Interpretation

2. In these Regulations—

“AETR” means the European agreement concerning the work of crews of vehicles engaged in international road transport⁽¹⁾ of 1st July 1970;

“collective agreement” means a collective agreement within the meaning of section 178 of the Trade Union and Labour Relations (Consolidation) Act 1992⁽²⁾, the trade union parties to which are independent trade unions within the meaning of section 5 of that Act;

“the Community Drivers' Hours Regulation” means Council Regulation (EEC) No.3820/85⁽³⁾ of 20th December 1985 on the harmonisation of certain social legislation relating to road transport;

“employer” in relation to a worker, means the person by whom the worker is (or, where the employment has ceased, was) employed;

“employment” in relation to a worker, means employment under his contract, and “employed” shall be construed accordingly;

“goods” includes goods or burden of any description;

“goods vehicle” means a motor vehicle constructed or adapted for use for the carriage of goods, or a trailer so constructed or adapted;

“inspector” means a person appointed under paragraph 1 of Schedule 2;

“mobile worker” means any worker forming part of the travelling staff, including trainees and apprentices, who is in the service of an undertaking which operates transport services for passengers or goods by road for hire or reward or on its own account;

“night time” means in respect of goods vehicles the period between midnight and 4 a.m. and in respect of passenger vehicles the period between 1 a.m. and 5 a.m.;

“motor vehicle” means a mechanically propelled vehicle intended or adapted for use on roads;

“night work” means any work performed during night time;

“passenger vehicle” means a motor vehicle which is constructed or adapted to carry more than eight seated passengers in addition to the driver;

“period of availability” means a period during which the mobile worker is not required to remain at his workstation, but is required to be available to answer any calls to start or resume driving or to carry out other work, including periods during which the mobile worker is accompanying a vehicle being transported by a ferry or by a train as well as periods of waiting at frontiers and those due to traffic prohibitions;

“reference period” means the period for calculation of the average maximum weekly working time;

(1) Cmnd 7401 and Cmnd 8572.

(2) 1992 c. 52.

(3) O.J. No.L370, 31.12.1985, p.1.

“relevant requirements” means regulations 4(8), 7(5), 8(2), 9(4), 10, 11 and 12;

“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;

“vehicle” means a goods vehicle or a passenger vehicle;

“week” means a period of seven days beginning at midnight between Sunday and Monday;

“worker” means an individual who has entered into or works under (or, where employment has ceased, worked under)—

- (a) a contract of employment; or
- (b) any other contract, whether express or implied and (if it is express) whether oral or in writing, whereby the individual undertakes to do or perform personally any work or services for another party to the contract;

and any reference to a worker’s contract shall be construed accordingly;

“workforce agreement” means an agreement between an employer and mobile workers employed by him or their representatives in respect of which the conditions set out in Schedule 1 to these Regulations are satisfied;

“working time” means the time from the beginning to the end of work during which the mobile worker is at his workstation, at the disposal of his employer and exercising his functions or activities, being

- (a) time devoted to all road transport activities, including, in particular—
 - (i) driving;
 - (ii) loading and unloading;
 - (iii) assisting passengers boarding and disembarking from the vehicle;
 - (iv) cleaning and technical maintenance;
 - (v) all other work intended to ensure the safety of the vehicle, its cargo and passengers or to fulfil the legal or regulatory obligations directly linked to the specific transport operation under way, including monitoring of loading and unloading and dealing with administrative formalities with police, customs, immigration officers and others; or
- (b) time during which the mobile worker cannot dispose freely of his time and is required to be at his workstation, ready to take up normal work, with certain tasks associated with being on duty, in particular during periods awaiting loading or unloading where their foreseeable duration is not known in advance, that is to say either before departure or just before the actual start of the period in question, or under collective agreements or workforce agreements;

“workstation” means

- (a) the location of the main place of business of the undertaking for which the person performing mobile transport activities carries out duties, together with its various subsidiary places of business, regardless of whether they are located in the same place as its head office or its main place of business;

- (b) the vehicle which the person performing mobile road transport activities uses when he carries out duties; or
- (c) any other place in which activities connected with transport are carried out.