

New rules concerning driving- and rest periods

The EU's roads package has just been published in the EU Official Journal on 31st July 2020. This means that as from 20th August 2020 new regulations will be in force for driving and rest periods. The new provisions for driving and rest periods which will apply as from 20th August 2020 in addition to the current regulations will be gone through below.

Prohibition against taking rest periods in the vehicle

In accordance with the old regulations it was not allowed to spend the regular weekly rest periods in the vehicle. This was established by the EU Court of Justice. Daily rest periods and reduced weekly rest periods may be taken in the vehicle.

It is clarified in the new rules, that regular weekly rest periods and weekly rest of at least 45 hours cannot be spent in the vehicle but must be spent in suitable accommodation. At the same time, it also establishes that the costs of accommodation outside the vehicle are to be covered by the employer

At the present time it is still unsure what more precisely is meant by "suitable gender-friendly accommodation with adequate sleeping and sanitary facilities".

The Mobility Package introduces the following new rules

The regular weekly rest periods and any weekly rest period of more than 45 hours taken in compensation for previous reduced weekly rest periods shall not be taken in a vehicle. They shall be taken in suitable gender-friendly accommodation with adequate sleeping and sanitary facilities.

Any costs for accommodation outside the vehicle shall be covered by the employer

Requirement for the driver to be able to return every fourth week

In accordance with the old rules there was no requirement for the driver to return home or to the company's office.

With the road package there will be a new requirement that drivers are able to return home or back to the employer's operational centre in the member state in which it is established every fourth week, The employer's operational centre is to be understood to be the place where the driver is usually based. It cannot therefore be any location where the company has an office.

If a driver has had two reduced rest periods of at least 24 hours consecutively, as described below then the driver should be able to return before the start of the regular weekly rest period of more than 45 hours taken in compensation.

it remains the company's responsibility to arrange the work such that the driver can return home, and it is also up to the company to ensure that it can be documented that the regulations have been complied with. Here the companies can use data from tachographs, work time schedules for drivers or other documentation.

It is at this point still uncertain what precisely the documentation is to include.

The Mobility Package introduces the following new rules

Transport undertakings shall organise the work of drivers in such a way that the drivers are able to return to the employer's operational centre where the driver is normally based and where the driver's weekly rest period begins, in the Member State of the employer's establishment, or to return to the drivers' place of residence, within each period of four consecutive weeks, in order to spend at least one regular weekly rest period or a weekly rest period of more than 45 hours taken in compensation for reduced weekly rest period.

However, where the driver has taken two consecutive reduced weekly rest periods in accordance with paragraph 6, the transport undertaking shall organise the work of the driver in such a way that the driver is able to return before the start of the regular weekly rest period of more than 45 hours taken in compensation.

The undertaking shall document how it fulfils that obligation and shall keep the documentation at its premises in order to present it at the request of control authorities

New flexibility for drivers in international transport of goods

According to the old regulation the driver should have a regular weekly rest period of at least 45 hours every other week.

In accordance with the new regulations a driver engaged in international transport can take two consecutive reduced weekly rest periods of at least 24 hours. There should in four consecutive weeks however be 2 regular weekly rest periods.

In order to use the new rule, the driver must start his reduced weekly rest period outside the home country of the company and of the driver.

If the driver uses this option then he should, as described above be able to return home before the start of the regular weekly rest period of more than 45 hours taken in compensation.

When the driver has two consecutive reduced weekly rest periods the driver should already in the week after the two reduced weekly rest periods take his compensation for the reduction. The compensation rest must be taken prior to the weekly rest.

Please note, there are no changes in the maximum weekly driving time, which continues to be 56 hours a week / 90 for two consecutive weeks.

Example:

Week 1: Regular weekly rest (45 hours)

Week 2: Reduced weekly rest of 24 hours outside country of residence / country of establishment. This leaves 21 hours to be compensated for (45 hrs – 24 hrs).

Week 3: Reduced weekly rest of 24 hours outside country of residence / country of establishment. This leaves 21 hours to be compensated for (45 hrs – 24 hrs).

Week 4: Long weekly rest of 45 hours. In addition, 42 hours must be taken as compensation rest (a total of 87 hours). The compensation rest must be taken prior to the weekly rest.

The Mobility Package introduces the following new rules

By way of derogation from the first subparagraph, a driver engaged in international transport of goods may, outside the Member State of establishment, take two consecutive reduced weekly rest periods provided that the driver in any four consecutive weeks takes at least four weekly rest periods, of which at least two shall be regular weekly rest periods.

For the purpose of this paragraph, a driver shall be considered to be engaged in international transport where the driver starts the two consecutive reduced weekly rest periods outside the Member State of the employer's establishment and the country of the drivers' place of residence.

Where two reduced weekly rest periods have been taken consecutively in accordance with the third subparagraph of paragraph 6, the next weekly rest period shall be preceded by a rest period taken as compensation for those two reduced weekly rest periods.

Exemption in extraordinary circumstances to allow the driver to get back

According to the old rules, drivers may depart from the rules regarding driving times in order to reach a suitable stopping place if this is compatible with road safety and if it is necessary in order to ensure the safety of persons or for the vehicle or its load.

The new rules add an opportunity for drivers to exceed the daily and weekly driving times by up to one hour in exceptional circumstances in order to reach the driver's place of residence or the employer's operational centre. If the driver rests for 30 minutes immediately before the overrun, the overrun can be increased to two hours.

The driver must be able to document the cause of the overrun by writing the cause on a printout from the tachograph.

For each overrun, there must be a corresponding compensation rest period, which must be taken in connection with any rest period within three weeks after the end of the week in question.

The Mobility Package introduces the following new rules

Provided that road safety is not thereby jeopardised, in exceptional circumstances, the driver may also depart from Article 6(1) and (2) and Article 8(2) by exceeding the daily and weekly driving time by up to one hour in order to reach the employer's operational centre or the driver's place of residence to take a weekly rest period.

Under the same conditions, the driver may exceed the daily and weekly driving time by up to two hours, provided that an uninterrupted break of 30 minutes was taken immediately prior to the additional driving in order to reach the employer's operational centre or the driver's place of residence for taking a regular weekly rest period.

The driver shall indicate the reason for such departure manually on the record sheet of the recording equipment, or on a printout from the recording equipment or in the duty roster, at the latest on arrival at the destination or the suitable stopping place.

Any period of extension shall be compensated by an equivalent period of rest taken en bloc with any rest period, by the end of the third week following the week in question.

Clarification of break rules for drivers engaged in multi-manning operations

The new rules specify that a driver sitting in the passenger seat can take a break of up to 45 minutes as long as the driver does not participate in the driving. This was in fact also the case with the previous rules but has given rise to doubt in some countries.

The Mobility Package introduces the following new rules

A driver engaged in multi-manning may take a break of 45 minutes in a vehicle driven by another driver provided that the driver taking the break is not involved in assisting the driver driving the vehicle

Extension of ferry rule

According to the old rules, a regular daily rest taken in connection with a crossing by ferry or train may not be interrupted more than twice, for a maximum of one hour.

The new provisions extend this rule, so that it also applies to reduced weekly rest periods, where the driver may interrupt their rest twice for a maximum of one hour. For both the regular daily rest and the reduced weekly rest, the driver must have access to a sleeper cabin, bunk or couchette.

This rule can also be applied to regular weekly rests, but here the driver must have access to a sleeper cabin, and the journey by train or ferry must be scheduled to last eight hours or longer.

The Mobility Package introduces the following new rules

By way of derogation from Article 8, where a driver accompanies a vehicle which is transported by ferry or train and takes a regular daily rest period or a reduced weekly rest period, that period may be interrupted not more than twice by other activities not exceeding one hour in total. During that regular daily rest or reduced weekly rest period the driver shall have access to a sleeper cabin, bunk or couchette at their disposal.

With regard to regular weekly rest periods, that derogation shall only apply to ferry or train journeys where:

- (a) the journey is scheduled for 8 hours or more; and*
- (b) the driver has access to a sleeper cabin in the ferry or on the train.*

Change of “tradesman” rule

A new wording has been introduced to derogate from the driving and rest period rules for drivers of vehicles weighing up to 7.5 tonnes used for one of the following purposes:

- transporting materials, equipment or machinery for the driver’s use in the course of the driver’s work, or
- delivering goods produced on a craft basis.

The transport must be within a radius of 100 km from the company’s base. Driving the vehicle must not be the driver’s main activity and the transport must not be carried for hire or reward.

Exemption from driving and rest period rules

The amended Mobility Package introduces the opportunity for Member States to exempt the following vehicles in their own territory:

- vehicles transporting construction machinery for a construction company, up to a radius of 100 km from the company’s base, provided that driving the vehicles is not the driver’s main activity
- vehicles for the delivery of ready-mixed concrete.

Clarification of rules for non-commercial transport

A definition of what is meant by non-commercial transport has been introduced. This is now defined as any transport by road for which no direct or indirect payment is received and which does not directly or indirectly generate any income for the driver of the vehicle or for others, and which is not linked to professional or commercial activities.

Information on secure parking spaces

The European Commission will publish a list of certified parking areas where certain facilities are accessible.

In addition to the rules that apply from 20 August 2020, additional rules will come into force later. These include the following:

From 2 February 2022

From this date, vehicles crossing the border of a Member State must be registered.

From 31 December 2024

From this date, drivers must bring record sheets for 56 days instead of the current 28 days.

From 1 July 2026

The driving and rest period rules will be extended to include vehicles with a maximum permissible mass exceeding 2.5 tonnes but less than 3.5 tonnes, engaged in international transport or cabotage operations. However, an exception will be introduced for drivers who drive at their own account, and for whom driving is not their main activity.