

RSA



Guide to the road

TRANSPORT WORKING TIME DIRECTIVE

Údarás Um Shábháilteacht Ar Bhóithre
Road Safety Authority

DRUNK WITH TIREDNESSZZZZ

Fighting sleep at the wheel
is as dangerous as driving
over the legal alcohol limit

*TO KEEP DRIVING
FOR ANOTHER HOUR:*

- 1. Find a safe place to park*
- 2. Take 2 cups of strong coffee*
- 3. Take a nap for no more than
15 mins - then stretch your legs*



DRIVER FATIGUE
WAKE UP TO IT!



Working To Save Lives

Guide to the Road Transport Working Time Directive

This guide explains the main aspects of the EU Directive 2002/15/EC on the organisation of working time of people performing mobile transport activities – referred to in this document as the Road Transport Working Time Directive. Please note that the information given is only a general overview and not a legal interpretation.

What is the Road Transport Working Time Directive?

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The Road Transport Working Time Directive is a piece of legislation that lays down basic standards for the organisation of working time in the road transport sector in EU countries. The Directive became law in Ireland through the European Communities (Organisation of Working Time of Persons Performing Mobile Road Transport Activities) Regulations 2005 (S.I. No. 2 of 2005), from here on known as ‘the regulations’.

The Directive:

- places limits on working time, including night work, for mobile workers;
- specifies rest and breaks periods between work; and
- sets down the obligations of employers and workers in relation to record keeping.

Through these measures, the Directive seeks to protect the health and safety of mobile workers in road transport, improve road safety and harmonise conditions of competition. These regulations should ensure safety benefits for road users, improve working conditions and make the road transport sector more appealing as a career.



This leaflet, aimed at employers, defines some key terms related to the Directive before describing the Directive’s main provisions and how they will be enforced.

Key terms



What is a mobile worker?

A mobile worker is any worker who is part of the travelling staff of a company or business that operates transport services:

- for passengers or goods, for hire or reward, or
- on its own account.

This generally means drivers and crew members or any other travelling staff, and includes trainees and apprentices.

What is working time?

Working time is the time from the beginning to the end of work. During this time, the mobile worker is at their workstation, available to their employer and carrying out their:

- road transport functions, or
- other activities.

Road transport functions include the time spent on:

- driving;
- loading and unloading vehicles;
- assisting passengers getting on and getting off the vehicle;
- cleaning and technical maintenance;
- work to ensure the safety of the vehicle, its cargo and passengers; and
- administrative duties to meet any of the particular transport activity's legal or regulatory obligations, for example for customs or police.

The time spent on other activities includes:

- time during which the mobile worker cannot use their time freely and must be at their workstation ready to take up normal work; and
- any waiting periods whose expected duration is unknown in advance.

Working time does not include:

- routine travel between home and the mobile worker's normal place of work,
- rest and breaks when no work is done, or
- periods of availability.

What is a period of availability?

Under the Road Transport Working Time Directive, a period of availability is waiting time whose duration is known in advance by the mobile worker. During this waiting time, the mobile worker does not have to stay at their work station, but they must be available to:

- answer calls to start work or resume driving, or
- to carry out other work.

Periods of availability include, for example, time spent accompanying a vehicle being transported by train or ferry, time waiting at border crossing or delays due to traffic restrictions.

Here are some other examples.

- When a mobile worker arrives at work, he is told he will not be required to carry out any duties for a specified period but must remain on site to answer calls or be ready to take up work.
- If the mobile worker is told of a one-hour delay but is then told before the end of the first hour that a further delay of one hour is expected, then the second hour also counts as a period of availability.
- Unless doing other work, the time spent by a relief driver travelling as a passenger would count as a period of availability – this time or part of it could also be treated as a break.

- If a driver knows that he is usually delayed at a shopping centre for an hour, this time counts as a period of availability. However, if the driver experiences a two-hour delay when he normally only expects one hour, the second hour is counted as working time.

What are breaks and rest periods?

Breaks are short intervals during which the worker stops their work activity completely. The worker may use them only for recuperation.

A rest period is an unbroken period of time (11 hours) during which the worker is free to use their time as they wish.

All mobile workers are subject to the break and rest provisions of the EU Drivers' Hours Rules when travelling.

What is a 'reference period'?

A reference period is the portion of time, about four months, over which the working time is averaged. The employer and worker must know in advance when the reference period starts and ends for calculating working time.



About the Road Transport Working Time Directive

What are the main aspects of the Directive?

Under the Road Transport Working Time Directive, mobile workers in the road transport sector must obey certain conditions regarding the organisation of working time, summarised under the following headings.

Weekly work time limit

A mobile worker's working time is limited to an average of 48 hours a week. You usually calculate this average over a four-month reference period.

A mobile worker may work up to 60 hours in a single working week, as long as they maintain the 48-hour weekly average over the reference period. The mobile worker must not work more than 60 hours in a single week.

Breaks and periods of availability (where the mobile worker does not have to be at their workstation but must be available to take calls or start work) known about in advance do not count as working time.

Mobile workers must also obey the EU Drivers' Hours Rules.

Rests and breaks

Mobile workers must take a minimum of:

- 11 continuous hours of rest in every 24-hour period;
- 45 minutes' break after 4.5 hours of driving;
- 30 minutes' break after six hours of working (but not driving);
- 45 minutes' break after nine hours of working (but not driving).

Night work

- Mobile workers may do a maximum of 10 hours' night work in each 24-hour period. Even if only five minutes of their work occurs at night-time, the 10-hour limit still applies.
- Under the Directive, night-time is the time between 00.00 and 04.00 hours for the transport of goods and between 01.00 and 05.00 hours for the transport of passengers.

Mobile workers must not be compensated for night work in any way that is liable to endanger road safety.

Exceptions

The Directive allows for extra flexibility if a collective agreement is in place. For instance, you may extend the reference period from four months to six months when calculating the average 48-hour week. You may also extend the 10-hour night limit, although mobile workers will still have to obey the rest requirements of the EU Drivers' Hours Rules. If a collective agreement is in place, employers and employees should sign up to the agreement and be aware of its terms.

Who is affected by the Road Transport Working Time Directive?

The Directive applies to all mobile workers involved in road transport activities covered by the EU rules on drivers' hours, or failing that by the European agreement concerning the work of crews of vehicles engaged in international road transport (AETR). Generally this means workers – drivers, crew and other travelling staff – in vehicles fitted with tachographs (equipment that records driving times, speed and distance).

The Directive also covers occasional drivers carrying goods or passengers, whether the employer provides these services for hire or reward or on its own account.

Who is not affected by the Directive?

The Road Transport Working Time Directive does not cover:

- self-employed drivers;
- drivers, crew and travelling staff who do not come under the definition of a ‘mobile worker’;
- mobile workers who are not covered by the EU Drivers’ Hours Rules, such as taxi and chauffeur drivers and drivers of small vans or buses capable of carrying fewer than nine people including the driver; and
- mobile workers who work fewer than 11 days in a normal reference period or fewer than 16 days in a 26-week reference period.



Calculating working time and breaks



How do I calculate the average number of weekly hours worked?

You calculate the average by dividing the total number of hours worked by the number of weeks in the reference period. Normally, the reference period is 17 weeks. However, the 'default option' shown in the following table includes an 18-week reference period to allow for three reference periods in one year (17 + 17 + 18 weeks = 52 weeks). If there is a collective agreement in place, you can extend the reference period to up to 26 weeks.

Under Irish law, employers can use the following 'default' option for setting out the reference periods in a year.

Reference periods		
Period beginning	Period ending	Total weeks
1 January	1 May	18
1 May	1 September	17
1 September	1 January	17

How do I calculate the working time limit?

A mobile worker's average weekly working limit during a reference period can be calculated using the following formula:

$$(a+b) \div c$$

a = the total number of hours worked by mobile worker during the reference period

b = the hours excluded* during the reference period

c = the number of weeks in the reference period

* Hours excluded are those covered by annual leave entitlement and sick leave, or absences provided for under legislation covering maternity, adoption, parental or carers' leave. **An employer cannot use any form of authorised leave to reduce the average working time during a reference period.**

Example

During a reference period of 17 weeks, a worker works 41 hours for 15 weeks and does 10 hours' overtime for the last five weeks. They take the remaining two weeks as leave.

So:

$$a = (41 \text{ hours} \times 15 \text{ weeks}) + (10 \text{ hours} \times 5 \text{ weeks}) = 665 \text{ hours}$$

$$b = 48 \text{ hours} \times 2 \text{ weeks} = 96 \text{ hours}$$

$$c = 17 \text{ weeks}$$

$$\text{Weekly average: } (665 + 96) \div 17 = 44.8 \text{ hours}$$

The worker has therefore complied with the weekly 48-hour average and the 60-hour cap in any single week.

When calculating leave entitlements, employers must enter 48 hours for each week or eight hours for each day.

How do I calculate rest and break periods?

The EU Drivers' Hours Rules set out the minimum daily and weekly rest periods that apply to drivers. These daily and weekly rest periods also apply to other mobile workers when travelling with a vehicle, within the scope of these rules.

Break requirements under the Directive are in addition to those under the Drivers' Hours Rules. **These rules take priority over the Directive in relation to both rest and break requirements.**

Example 1

A mobile worker does 4.5 hours' driving plus one hour of other work. Under the EU Drivers' Hours Rules, the worker must take a 45-minute break after 4.5 hours of driving. If the worker continues this pattern, their total working time would be 11 hours and their total break time 90 minutes.

Driving	Other work	Break	Driving	Other work	Break	Total work	Total break
4.5 hours	1 hour	45 minutes	4.5 hours	1 hour	45 minutes	11 hours	1.5 hours

Nine hours' work under the Directive would normally mean that the mobile worker should take a break of 45 minutes, but this is already made up – and exceeded – by the breaks taken under the EU Drivers' Hours Rules.

Example 2

A mobile worker does two hours of driving, two hours of other work and a further two hours of driving. This means that the worker should take a break of 30 minutes in line with the Directive, that is, after six hours of working.

Driving	Other work	Driving	Total work	Break
2 hours	2 hours	2 hours	6 hours	30 minutes

Another half hour of driving would bring the total driving time up to 4.5 hours, which requires the worker to take a break under the EU Drivers' Hours Rules. The worker would need to take another 30 minute break because the second break under the Drivers' Hours Rules must be 30 minutes long. The total break time in this period is therefore 60 minutes.

Driving	Other work	Driving	Break	Driving	Total driving	Second break	Total break
2 hours	2 hours	2 hours	30 minutes	30 minutes	4.5 hours	30 minutes	1 hour

How are breaks calculated when a driver has also taken a period of availability?

Break requirements are triggered by the mobile worker's working time, rather than the length of the shift or attendance time. There is nothing to prevent a mobile worker taking a break in the middle of a period of availability, as long as they meet all of the requirements for a break.

Driving	Period of availability	Other work	Break required
3 hours	2 hours	3 hours	30 minutes

In the example above, a minimum break of 30 minutes is required under the Road Transport Working Time Directive. If the driver continued driving for a further 1.5 hours, he would be required to take another 30 minute break because the second break under the Driver's Hours rules must be 30 minutes long.

What should I do if a worker is over the 48-hour limit for a reference period?

You should review and rearrange the activities of the worker to bring them into line with the requirements. An employer may be prosecuted for failing to comply with the requirements of the Road Transport Working Time Directive.

What other obligations do I have as an employer?

As an employer in the road transport sector, you must:

- make sure that mobile workers do not work more than 48 hours a week on average or more than 60 hours in a single week;
- keep adequate records of the working time of each mobile worker covered by the regulations to show that they are complying;
- ask each mobile worker for details of any time worked for another employer and include this time in calculating the worker's total working time;
- keep working time records for at least two years after the end of the period they cover; and
- provide copies of the record of hours worked by the mobile worker – or of any other evidence relating to these records – to either the worker themselves or an authorised officer, if requested.

Employment agencies should keep working time records if they are responsible for paying the mobile worker.

What types of records do I need to keep?

As a guideline, the records should include:

- evidence that each mobile worker is complying with the weekly working and night-time limits;
- evidence that workers who regularly work overtime are not exceeding the maximum weekly working time; and
- any agreements with employees.

Examples of evidence could include:

- salary records;
- pay slips;
- time-in/out records;
- scheduling records;
- overtime records; and
- written agreements between employers and employees.

Note: Scheduling records in themselves are not enough to show compliance. These records only show that there was an intention to comply with the regulations.



Can I use tachograph records as proof of working time?

Yes you can. If you are using tachograph records, you will need to:

- keep a separate record of the mobile worker's working time on days that they are working but not travelling; and
- check, if appropriate, that the employment agency has a copy of the tachograph chart so that they can keep a record of their driver's working time.

If tachograph records are to be used, drivers must use the mode switch on the tachograph to distinguish the various types of activities – 'breaks/rest', 'other work' and 'availability'.

What are mobile workers' obligations?

Mobile workers must inform their employer in writing of any hours worked for another employer so that they can be included when calculating the worker's total working time. Remember, the regulations apply to the total time worked, not just the time worked for each employer.

Hours working for another employer will count towards the average weekly working limits laid down by the Directive.

What working time information should a driver give to a new employer?

Under the regulations, the new driver must provide the employer with details of their working hours over the past weeks or months. For example, if the driver starts in week 11 of a reference period, they should provide details of the total weeks or days they worked in the previous 10 weeks.

Enforcement and further information



It is our responsibility as the Standards and Enforcement Directorate of the Road Safety Authority to enforce the Road Transport Working Time regulations in Ireland.

Our enforcement officers have a range of legal powers available for this purpose. The maximum penalty for breaking the working time regulations is €5,000 fine or up to six months in prison, or both. If an employer is convicted and continues to disobey the regulations, they may be found guilty of a further offence on each day that the violation continues and will face a fine of up to €1,000 for each of these days.

Enforcement officers will be checking that you are complying with the following provisions.

- Average working week of less than 48 hours
- 60 hour cap in a single week
- 10 hour limit on night work in any 24 hour period
- Appropriate breaks and rest periods
- Adequate record keeping

If you need further information about the Road Transport Working Time Directive or about any of the details in this guide, please contact us.

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THE FASTER THE SPEED
THE BIGGER THE MESS

RSA

SPEEDSHAME



Working To Save Lives



Plain English
Approved by NALA

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