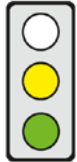


## KEY ISSUES

**Objective of the Regulation:** The provisions on driving times and rest periods are to be made more flexible and given greater clarity as well as becoming easier to enforce due to more efficient use of tachographs.

**Affected parties:** Road haulage and passenger transport companies, lorry drivers and bus drivers, monitoring authorities.



**Pro:** (1) Expanding the time frame for compulsory weekly rest periods to four weeks, creates more scheduling flexibility.

(2) The obligation to provide suitable accommodation, in conjunction with the driver's right to return home, may prevent the many months spent by drivers in a "nomadic existence" moving between lay-bys.

**Contra:** The ability to spend rest periods in private accommodation of the driver's choosing also gives rise to the possibility of misuse by employers.

The important passages in the Text are shown by way of a line in the margin.

## CONTENT

### Title

**Proposal COM(2017) 277** of 31 May 2017 for a **Regulation** of the European Parliament and of the Council amending Regulation (EC) No 561/2006 **as regards** minimum requirements on maximum daily and weekly **driving times, minimum breaks and** daily and weekly **rest periods** and Regulation (EU) 165/2014 as regards positioning by means of tachographs

### Brief Summary

Note: Page numbers refer to the proposed Regulation COM(2017) 277. Unless otherwise indicated, Article numbers refer to Regulation (EC) No. 561/2006 as contained in the proposed amendment.

#### ► Context and objectives

- The Driving Times Regulation [(EC) No. 561/2006] regulates the driving times and rest periods of drivers in the road haulage and passenger transport sector, in order to
  - increase road safety,
  - improve working conditions for drivers and
  - ensure a level playing-field between the road transport companies.
- The Tachograph Regulation [(EU) No. 165/2014; see [cepPolicyBrief](#)] regulates the installation and use of tachographs to monitor driving times and rest periods.

#### ► Scope

- The proposal covers (Art. 2 (1))
  - vehicles for the carriage of goods by road with a permitted total weight (incl. payload) over 3.5 tonnes and
  - vehicles for the carriage of more than nine people by road (incl. driver).
- Exempt are all vehicles used for the non-commercial carriage of goods (amended Art. 3 (h)).
- In addition, "in urgent cases under exceptional circumstances" Member States may grant a temporary exemption for a period not exceeding 30 days, which must be duly justified and notified immediately to the Commission (amended Art. 14 (2)).

#### ► Definitions

- "Break" means any period during which a driver may not carry out any driving or any other work and which he must use exclusively for recuperation (Art. 4 (d)).
- "Daily rest period" (DRP) means the daily period during which a driver may freely dispose of his time (Art. 4 (g)).

- It may be complied with in two ways (Art. 4 (g)):
    - as a “regular daily rest period” which means an uninterrupted period of rest of at least eleven hours in 24 hours. This can also be taken in two uninterrupted periods, the first one of at least three hours and the second of at least nine hours.
    - as a “reduced daily rest period” which means an uninterrupted period of rest of between nine and eleven hours in 24 hours.
  - “Weekly rest period” (WRP) means the weekly period during which a driver may freely dispose of his time (Art. 4 (h)).
  - It may be complied with in two ways (Art. 4 (h)):
    - as a “regular weekly rest period” which means an uninterrupted period of rest of at least 45 hours within 7 days;
    - as a “reduced weekly rest period” which means an uninterrupted period of rest of between 24 and 45 hours within 7 days.
  - “Smart tachographs” are characterised by the fact that they can record the vehicle location at the beginning and end of a working day via a global satellite navigation system (GSNS) in order to monitor compliance with driving times and rest periods (Tachograph Regulation, Art. 8).
- **Driving Times and Rest Periods**
- Daily driving time must not generally exceed nine hours but, as an exception, may be increased to a maximum of ten hours on two days in a week (Art. 6 (2) and (3)).
  - Weekly driving time must not exceed 56 hours, total driving time during two consecutive weeks must not exceed 90 hours (Art. 6 (2) and (3)).
  - Insofar as a vehicle is driven alternately by at least two drivers (“multi-manning”, Art. 4 (o)), one driver can take a break of 45 minutes as long as he is not involved in assisting the driver driving the vehicle (Amended Art. 7).
  - Within 24 hours after the end of a DRP or WRP, a driver must take a new DRP (Art. 8 (2)).
  - Within four consecutive weeks, instead of four regular WRPs, two regular WRPs and two reduced WRPs can be taken (amended Art. 8 (6)).
  - A reduced WRP must as before be compensated within the following three weeks by an uninterrupted period of rest equivalent to the reduction (Art. 8 (6), sentence 2). This compensatory rest period for a reduced WRP must always be taken immediately before or after a regular WRP (amended Art. 8 (7)).
- **Accommodation in the case of long rest periods and the right to return home**
- The regular WRP must be taken outside the vehicle in “suitable accommodation” with “adequate sleeping and sanitary facilities” and these must be (new Art. 8 (8a))
    - either provided or paid for by the employer or
    - at home or at another private location chosen by the driver.
  - A transport undertaking must plan so that the driver can spend at least one regular WRP at home within each period of three consecutive weeks (new Art. 8 (8b)).
  - Exceptionally, in order to reach suitable accommodation, the driver need not (Art. 12)
    - take a new DRP within 24 hours after the end of the previous DRP or WRP (Art. 8 (2)) or
    - compensate for a reduced WRP within the following three weeks by an uninterrupted period of rest equivalent to the reduction (Art. 8 (6), sentence 2).
  - Such derogation must not (amended Art. 12)
    - jeopardise road safety or
    - result in exceeding the daily or weekly driving times or shortening the DRP or WRP.
  - The driver must indicate the reason for such departure manually, at the latest on arrival at the accommodation (amended Art. 12).
- **Rest periods while travelling by ferry or train**
- While his vehicle is being transported by ferry or train, the driver may take a regular DRP or a reduced WRP if he is provided with a cabin or couchette (amended Art. 9 (1)).
  - This rest period may be interrupted not more than twice by other activities - e.g. parking - which must not exceed one hour in total (amended Art. 9 (1)).
- **Recording of location after crossing a border (Tachograph Regulation)**
- The location of the vehicle must be recorded automatically (Tachograph Regulation, amended Art. 8)
    - at the beginning and end of the daily working period and after every three hours of accumulated driving time and
    - every time the vehicle crosses a border.
  - Where the location cannot be recorded automatically, the driver must make an entry in the tachograph when he crosses a border (Tachograph Regulation, amended Art. 34 (7)) of
    - the place and time where he crossed the border with the vehicle;
    - the symbols of the countries in which the daily working period started and finished.

## Main Changes to the Status Quo

- ▶ New: all vehicles used for non-commercial freight transport are exempt from the Regulation including those over 7.5 tonnes.
- ▶ Until now, drivers had to maintain two regular WRPs or one regular and one reduced WRP within two weeks. Now, they have to maintain four regular WRPs or two regular and two reduced WRPs within four weeks.
- ▶ Until now, a reduced WRP must already be compensated within three weeks of the relevant week by an equivalent uninterrupted period of rest. Now, in addition, this rest period to compensate for a reduced WRP must be taken in conjunction with a regular WRP.
- ▶ New: the tachograph not only has to record, as currently, the location at the beginning and the end of the daily working period but also every time the vehicle crosses a border or - if this is not possible - the driver must enter the place and time of the border crossing manually.

## Statement on subsidiarity by the Commission

“Shortcomings in the current legislation” mean that Member States transpose EU social rules in the road transport sector in different ways. The resulting inconsistency in the implementation and enforcement of social rules cannot be remedied solely by Commission guidelines or “self-regulation” by the Member States. Measures at EU level are therefore justified.

## Policy Context

Driving times and rest periods for drivers have been governed by EU legislation since 1969. The proposed changes to the Driving Time Regulation and the Tachograph Regulation are part of the Roads Package of May 2017. This also includes the Commission proposals to amend the Cabotage Regulation [(EC) No. 1072/2009; COM(2017) 281] and to amend the Posting of Drivers Directive [2006/22/EC; COM(2017) 278].

## Legislative Procedure

31 May 2017	Adoption by the Commission
Open	Debated by the Council and 1st Reading in European Parliament
Open	Adoption by the European Parliament and the Council, publication in the Official Journal of the European Union, entry into force

## Options for Influencing the Political Process

Directorates General:	DG Employment and Social Affairs (leading)
Committees of the European Parliament:	Transport and Tourism (leading), Rapporteur Wim van de Camp (EVP Group, NL)
Federal Ministries:	Transport and Digital Infrastructure (leading)
Committees of the German Bundestag:	Transport and Digital Infrastructure (leading); Labour and Social Affairs, European Union Affairs
Decision-making mode in the Council:	Qualified majority (acceptance by 55% of Member States which make up 65% of the EU population)

## Formalities

Competence:	Art. 91 TFEU (Transport)
Form of legislative competence:	Shared competence (Art. 4 (2) TFEU)
Procedure:	Art. 294 TFEU (Ordinary legislative procedure)

# ASSESSMENT

## Economic Impact Assessment

The proposed precise definition of non-commercial freight transport is appropriate because it avoids uncertainties and varying interpretations regarding the exclusive applicability of the Driving Time Regulation to drivers in commercial freight transport.

The fact that non-commercial freight transport over 7.5 t is excluded from the Regulation may restrict transport safety because the heavier the vehicles that are involved in an accident, the greater the damage that can occur in comparable situations.

**Expanding the time frame for compulsory weekly rest periods (WRP) to four** instead of two consecutive weeks, as well as permitting two successive reduced WRPs, **gives** companies **more scheduling flexibility** to adapt route planning to the supply chain. This is also supported by the requirement that allows until the end of the third week for reduced WRPs to be compensated by rest periods.

**In addition, the extension facilitates compliance with the new obligation** for transport companies to ensure **that drivers must be able to spend a regular WRP at home within three** successive weeks. Prohibiting the

attachment of compensatory rest periods to DRPs and requiring them to be taken immediately before or after a regular WRP, will create longer rest-breaks for drivers to recuperate.

**The employer's obligation to provide or pay for suitable accommodation** for drivers during regular WRPs and compensatory rest periods, **in conjunction with the driver's right to return home** – with effective monitoring – **may prevent the many months spent by drivers in a “nomadic existence” moving between lay-bys.** In addition, it creates additional incentive to comply with the right to return home because the obligation to provide accommodation does not apply where the driver spends his rest periods at home. Appropriate route planning may therefore, in some circumstances, reduce costs.

**The ability to spend rest periods in private accommodation of the driver's choosing**, enhances freedom of choice. However, it **also gives rise to the possibility of misuse by employers** because, in the case of private accommodation - by contrast with staying in a hotel - the lack of evidence makes it difficult to verify whether the driver in fact had to spend his rest period in the vehicle at the instigation of the employer. In addition, it also reduces the incentive to plan routes so that the driver is at home as often as possible.

The newly created possibility for drivers who accompany their vehicles on ferries and trains, to spend their reduced WRP in a cabin or couchette where available, is appropriate but, in the case of longer journeys, should also apply to regular WRPs.

The additional obligation in the Tachograph Regulation for drivers to record their location when they cross borders, increases the reliability of cross-border monitoring of driving times and rest periods.

## Legal Assessment

### Legislative Competency

Unproblematic. The EU can adopt both generally “appropriate provisions” and special measures, e.g. to improve traffic safety, for the purpose of implementing a “common transport policy” (Art. 91 TFEU).

### Subsidiarity

Unproblematic. As a significant part of the road haulage and road transport sector is cross-border, EU-wide rules are advisable.

## Conclusion

Expanding the time frame for compulsory weekly rest periods to four weeks, creates more scheduling flexibility. In addition, it facilitates compliance with the new obligation that drivers must be able to spend a regular WRP at home, within three successive weeks. The obligation to provide suitable accommodation, in conjunction with the driver's right to return home, may prevent the many months spent by drivers in a “nomadic existence” moving between lay-bys. The ability to spend rest periods in private accommodation of the driver's choosing also gives rise to the possibility of misuse by employers.