Emergency Exemption & Temporary Relaxation of Drivers’ Hours and Working Time Rules

Guidance

December 2018
<table>
<thead>
<tr>
<th>Table of contents</th>
<th>Page Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>Introduction</td>
<td>3</td>
</tr>
<tr>
<td>Background</td>
<td>3</td>
</tr>
<tr>
<td>Unforeseen events</td>
<td>4</td>
</tr>
<tr>
<td>Exemption for emergencies or rescue operations</td>
<td>5</td>
</tr>
<tr>
<td>Temporary relaxation in urgent cases</td>
<td>6</td>
</tr>
<tr>
<td>Working time</td>
<td>7</td>
</tr>
<tr>
<td>Recording</td>
<td>8</td>
</tr>
<tr>
<td>General principles</td>
<td>8</td>
</tr>
<tr>
<td>Other information required</td>
<td>9</td>
</tr>
<tr>
<td>Timescales</td>
<td>9</td>
</tr>
<tr>
<td>DfT Contacts</td>
<td>10</td>
</tr>
<tr>
<td>Annex A - EU and domestic drivers’ hours and EU working time rules</td>
<td>11</td>
</tr>
<tr>
<td>Annex B - Relevant legislation</td>
<td>14</td>
</tr>
<tr>
<td>Annex C - Lead Government Department / Devolved Administration</td>
<td>16</td>
</tr>
<tr>
<td>Annex D - Exemptions and national derogations from the EU drivers’ hours rules</td>
<td>17</td>
</tr>
<tr>
<td>Annex E – Template Statement of Case</td>
<td>21</td>
</tr>
</tbody>
</table>
Introduction

1. The aim of this document is to provide industry with detailed information on the drivers’ hours and working time rules and how to deal with emergency and urgent situations; particularly when and how to request a temporary relaxation of the rules.

2. It is important to remember that these rules are in place to protect road safety and the working conditions of drivers and to reduce the risk of drivers being involved in fatigue-related accidents. Therefore, any relaxation of the rules must be a last resort. Industry must continue to put contingency plans in place to deal with emergency and urgent situations; particularly to deal with adverse weather conditions which can normally be expected during the winter period.

Background

3. The EU drivers’ hours rules (Regulation (EC) 561/2006) and the sector-specific EU working time rules for mobile road transport workers (Directive 2002/15/EC, as implemented by the Road Transport (Working Time) Regulations 2005) limit the amount of driving and working time that can be carried out by most Heavy Goods Vehicle (HGV) drivers and around 30% of bus and coach drivers in the UK. The Great Britain (GB) domestic drivers’ hours rules (Part VI of the Transport Act 1968, as amended) apply to most goods and passenger vehicles that are exempt from the EU drivers’ hours rules. Further details on these rules can be found at Annex A.

4. The EU drivers’ hours rules do not apply to vehicles used in emergencies or rescue operations. In addition to this, the rules also allow relaxations to be made in urgent circumstances for up to 30 days, provided the European Commission (“the Commission”) is immediately notified. Any relaxation of the EU drivers' hours rules for longer than 30 days requires prior authorisation from the Commission. Any relaxation of the GB domestic drivers’ hours rules is the responsibility of the Department for Transport (DfT) and the Commission does not have to be notified. A summary of the legislation which provides the powers to relax the rules can be found at Annex B.

5. The EU drivers’ hours rules take precedence over the sector specific EU working time rules for mobile road transport workers. Therefore, where a relaxation of the weekly working limit under the drivers’ hours rules is in place, the rules relating to working time for mobile workers will also be relaxed to enable drivers to take full advantage of the relaxation of the drivers’ hours rules. However, this will be limited in scope to ensure drivers never work more than allowed in the (general) Working Time Regulations 1998. Although there is no cap on the amount of work carried out in one week in the general

---

2 OJ L 80, 23.3.2002, p.35
Working Time Regulations, because of the break and rest requirements, workers cannot in effect work for more than 78 hours.

6. The EU drivers’ hours and sector specific EU working time rules are applicable in Northern Ireland (NI), although the NI Government is responsible for implementation, enforcement and handling any relaxation requests for this region. Northern Ireland also has its own domestic drivers’ hours rules - the Transport Act 1968 does not apply there and any requests for a relaxation of the domestic rules in Northern Ireland should also be directed to the Department for Infrastructure at the NI Government.

Unforeseen events

7. Where an infringement of the GB domestic drivers’ hours rules occurs, the law protects from conviction in court those drivers who can prove that the infringement was due to unavoidable delay in the completion of a journey arising out of circumstances which he could not reasonably have foreseen.

8. Under Article 12 of the EU drivers’ hours Regulations, provided that road safety is not jeopardised and to enable the vehicle to reach a suitable stopping place, a driver may depart from the EU rules to the extent necessary to ensure the safety of persons, of the vehicle or its load. Drivers must note all the reasons for doing so on the back of their tachograph record sheets.

9. According to the European Court of Justice\(^4\) this provision will only apply in cases where it unexpectedly becomes impossible to comply with the rules on drivers’ hours during the course of a journey. In other words, planned breaches of the rules are not allowed. This means that when an unforeseen event occurs, it would be for the driver to decide whether it was necessary to depart from the rules.

10. Some examples of such events are delays caused by severe weather, road traffic accidents, mechanical breakdowns, interruptions of ferry services and any event that causes or is likely to cause danger to the life or health of people or animals. Note that this concession only allows for drivers to reach a suitable stopping place, not necessarily to complete their planned journey. Although a ‘Suitable stopping place’ is not defined in the EU drivers’ hours Regulations, the Regulations are quite specific about when a driver can deviate from the rules i.e. to ensure safety of persons, of vehicle or its load. Therefore, what a driver is carrying will determine where it would be suitable for them to stop; such as drivers of vehicles carrying:

- perishable loads (may need to stop near refrigeration facilities);
- high value loads (may need to stop where they can secure load)
- live animals (may need to stop where care can be provided for animals)
- passengers (may need to stop where passengers can rest and have refreshments)

\(^4\) ECJ 09/11/1995
Exemption for emergencies or rescue operations

11. The GB domestic drivers’ hours rules can be automatically suspended in emergency events (i.e. under the Drivers’ Hours (Goods Vehicles) (Exemptions) Regulations 1986)\(^5\), where immediate preventative action is needed to avoid:

- Danger to life or health of people or animals;
- Serious interruption to the maintenance of public services (e.g. water, gas, electricity, drainage) or in the use of roads;
- Serious interruption in private or public transport; or
- Serious damage to property.

12. There are slight differences in the definition of “emergency” for goods and passenger vehicles. See Annex B for details.

13. There is an exemption in Article 3(d) of the EU drivers’ hours Regulations for “vehicles used in emergencies or rescue operations”. Although the EU rules do not define an emergency, we consider that this would include any of the events mentioned in the domestic rules (as set out in paragraph 11 above). Moreover, neither the EU rules nor the domestic legislation define a ‘rescue’ operation. The dictionary definition of ‘rescue’ is:

“Save from a dangerous or difficult situation”
(“Save” = keep safe or rescue (someone or something) from harm or danger).

14. The DfT’s view is that vehicles engaged on work closely associated with the immediate response to a specific emergency or rescue operation will benefit from this exemption where they are working on alleviating either the immediate impact or effects of the emergency, or rescuing someone/something.

15. Some examples of when the emergency exemption has been used in the past are:

- When heavy snow has blocked roads and operators need to deliver sand to grit roads;
- When heavy rain has caused flooding and operators need to deliver sand or other materials urgently needed to shore up flood defences;
- When heavy snow has made it difficult to use the roads and operators need to deliver domestic fuel to people whose health would be at risk from the cold; or

\(^5\) SI 1986/1492
• When heavy snow has made it difficult to use the roads and operators need to deliver fuel/feed to animals in isolated areas whose health would be at risk from cold and starvation;

16. The application of the emergency exemption under Article 3(d) will only be temporary and will last until the situation is under control and there is no longer a need for immediate preventative action.

17. The use of the emergency exemption is at the discretion of the driver and transport operator and does not require authorisation from the Department for Transport. However, drivers should not be expected or asked to drive whilst tired. Under Health and Safety legislation, employers (including transport operators) are required, so far as is reasonably practicable, to ensure the health and safety of their employees while at work and others who may be put at risk by their work activities. In addition, individuals (including drivers) are required to take reasonable care of their own health and safety and that of others who may be affected by their actions. Further information can be found on the Health and Safety Executive website at: www.hse.gov.uk

18. Therefore, the Department would not normally expect drivers to:

• drive for more than 11 hours in one day;
• have less than 9 hours of daily rest, or
• work for more than 7 days before the start of the regular or reduced weekly rest (if operating under the EU rules), or
• have less than 24 hours weekly rest.

19. In addition, the Department would expect drivers to still ensure they take a 45 minute break after 4½ hours driving.

20. If an operator believes they are, or are about to be engaged in any work that would prevent or alleviate any emergency described in paragraph 11 (or believe they are engaged, or are about to be engaged in a rescue operation), although an authorisation from DfT to apply the exemption under Article 3(d) is not required, it would be good practice for operators to contact DfT immediately, via their lead Government Department. This will provide operators with reassurance that they have applied the exemption correctly and ensure enforcement officers are aware of its application in their area.

Temporary relaxation in urgent cases

21. In urgent cases and where an exemption under Article 3(d) of the EU drivers' hours Regulations would be inappropriate, a temporary relaxation (from the domestic rules and/or under Article 14(2) of the EU drivers' hours Regulations) can be considered. This is usually in response to a specific incident and limited to specific transport operations. In such urgent cases, a
relaxation of the enforcement of the rules can be considered. DfT’s prior agreement is required before any relaxation can take effect.

22. A relaxation will not be considered in cases where an avoidable situation has arisen due to a lack of contingency planning on the part of drivers and/or operators. Any agreed relaxation will be limited in duration and scope to minimise the potential impacts on road safety.

23. The lead Government Department and/or Devolved Administration is responsible for collecting evidence and formulating a case for any request for a relaxation (see Annex C for further details). This requires in-depth liaison with the relevant industry sectors to ensure any requests are proportionate and as specific as possible. It is the responsibility of industry to provide sufficient evidence that a relaxation is justified. Insufficient evidence, or a delay in submitting it, will result in the process being delayed. Whilst the lead Government Department / Devolved Administration must provide the case for relaxation, it is important that DfT officials are kept informed of developments.

24. Although the ultimate decision to relax the enforcement of the drivers’ hours rules is for DfT Ministers, the decision is taken in close consultation and collaboration with the lead Government Department and/or Devolved Administration. Ministers of the lead Government Department and/or Devolved Administration are expected to approve the request for relaxation prior to the formal request being submitted to the DfT. Once received, the formal request will then be considered by DfT Ministers.

Working time

25. In certain circumstances it may also be necessary to relax the rules on working time for mobile workers. If the emergency exemption is relied on, it is unlikely that the relevant provisions of the Road Transport (Working Time) Regulations 2005 (S.I.2005/639) will apply, to the extent that they conflict with the requirements of responding to the emergency. They will, however, remain subject to all other requirements of the Working Time Regulations in an emergency event. If compliance with these rules interferes with responding to the emergency then operators should, in the first instance, notify DVSA who, depending on circumstances, would expect to be able to adopt a common sense approach to enforcement.

26. In any case where a temporary relaxation of the enforcement of the drivers’ hours rules is in place in urgent cases, the relevant working time rules will also be relaxed to enable the relaxation of the rules to apply fully. Any agreed relaxation will be strictly limited in duration and scope to minimise the potential impacts on road safety.

---

6 For prolonged and/or extreme events, a formal relaxation of the rules by way of a statutory instrument (S.I.) may be required.
Recording

27. Drivers must continue, where usually required to do so, to record their work (either manually or by using a tachograph), noting the reasons why limits have been exceeded (on the back of record sheets or tachograph printouts). This is essential for enforcement purposes. Otherwise drivers will be issued with a penalty for any offences detected.

General principles

28. It may be difficult to decide if a situation is an emergency or rescue operation (which would fall under the exemption in Article 3(d) of the EU drivers’ hours Regulations) and when is it an urgent situation which will require a temporary relaxation (under Article 14(2) of the EU Regulations). The main question you need to answer is does the situation need ‘immediate preventative action’ (i.e. it cannot wait) to avoid any of the instances described in paragraph 11. If the answer is ‘yes’, we advise you to contact DfT, via your lead Government Department, to confirm the use of the emergency or rescue exemption under Article 3(d). If the answer is ‘no’, but the situation is still urgent, then you will need to request a relaxation under Article 14.

29. The general principles and evidence the DfT looks for when considering a request for a temporary relaxation under Article 14(2) of the EU drivers’ hours rules include:

- **Evidence of detriment to a wider community**: Since the DfT is considering the relaxation of a key road safety measure (in some cases potentially involving the movement of high consequence dangerous goods) there must be evidence of a significant threat to human and/or animal welfare.

- **There are no other means of mitigating the detriment or other means have proved insufficient**: All other means must have been investigated and proved to be impracticable (e.g. the use of driver agencies / hire vehicles / back-office staff / alternative rostering arrangements). Relaxations can not be agreed just because they are cheaper than other solutions or because sufficient contingency planning has not taken place.

- **There must be evidence that a relaxation would lead to a significant improvement in the situation**: Clear evidence must be provided that there is insufficient haulage capacity which is causing the problem or preventing speedy resolution, and that a relaxation will provide essential additional haulage capacity that will help to alleviate the problem.

- **The problem is not likely to be resolved quickly without a relaxation**.
• **Operators must demonstrate that they will take steps to ensure safety if a relaxation is made:** This is particularly important where the exemption or relaxation is being sought for high consequence dangerous goods (such as fuel). A risk assessment, including measures taken to mitigate risk from fatigue, should be undertaken.

### Other information required

30. The DfT also needs to know:

- Who the relaxation should apply to and for what purposes; i.e. a few named operators or to a whole sector; across the UK or a specific region?

- Detailed information about incidence of shortages (if any) being caused: who is affected, numbers and geographical spread?

- How the position may change over time - for better or worse?

- Other mitigating measures which have been considered or taken; what has been their effect and/or why they have been rejected and/or found to be ineffective?

- Information on the limitations on haulage capacity and their effects on dealing with the problem. A key issue is whether the problem is just at a certain time (e.g. weekends) or whether rotas are spread so that it is a problem throughout a week. In either case, it must be clear how a relaxation of the enforcement of the rules would help.

- Anticipated duration of the required relaxation.

31. A template statement of case can be found at Annex E (word version available to download on gov.uk website).

### Timescales

32. Once sufficient evidence has been provided, and DfT Ministers are content that a relaxation is justified under Article 14(2) of the EU drivers’ hours rules, the process to make an informal administrative relaxation of enforcement of the rules should take no more than **24 hours**\(^7\).

33. Where an exemption under Art. 3(d) of the EU rules is appropriate in all the circumstances, the Department’s confirmation of it will still be required in order to ensure that the DVSA relax their enforcement in respect of the drivers affected, but such confirmation should normally be provided without delay, particularly where some advance indication has been received.

---

\(^7\) Assumes a statutory instrument is not required.
DfT Contacts

34. During normal office hours you or the lead Government Department should contact the Freight Operator Licensing and Roadworthiness Division at DfT via the DfT Switchboard on 0300 330 3000. Out of hours please contact the DfT Duty Office on 020 7944 5999.

Department for Transport
December 2018
Annex A

EU and domestic drivers’ hours and EU working time rules

The EU drivers' hours rules (Regulation (EC) 561/2006)

The rules apply to goods vehicles over 3.5 tonnes and passenger carrying vehicles with 10 or more seats unless covered by a range of specific EU-wide exemptions and national derogations relating to the type of vehicle and/or its use. See Annex D for a list of the exemptions and national derogations. Drivers in scope of the EU rules are required to use a tachograph.

There are many exceptions but in simplified terms the main EU limits are:

- 9 hours maximum daily driving;
- 56 hours maximum weekly driving;
- 90 hours maximum fortnightly driving;
- 11 hours minimum daily rest;
- 45 hours minimum weekly rest;
- 45 minute breaks for every 4½ hours driving.

GB domestic drivers' hours rules

Drivers of vehicles which are outside the scope of the EU rules are, with a limited range of exceptions, covered by the GB domestic rules. The following sectors are likely to work under the domestic rules:

- Vans not exceeding 3.5 tonnes
- Tradesmen (e.g. building / construction);
- Passenger transport (operating on regular routes up to 31 miles (50km)).
- NHS & publicly owned medical vehicles;
- Refuse collection;
- Local authority services for the elderly & disabled;
- Milk (not including bulk milk tankers);
- Utilities & road maintenance (e.g. gas / water);
- Breakdown;
- Agricultural, fishing and forestry (used within a 62 mile (100km) radius from the base of operations);
- Charity work (where employed drivers are used);
- Special vehicles (e.g. vehicles that operate on natural gas, electric or are not capable of speeds over 24mph (40km/h));

8 Contained in Part VI of the Transport Act 1968, as amended
• “Gritters” – vehicles designed for the spreading of rock salt directly onto roads/pavements.

The main limits and requirements for goods vehicle drivers are:

• 10 hours maximum daily driving;
• 11 hours maximum daily duty.

In simplified terms the main limits and requirements for passenger vehicle drivers are:

• 10 hours maximum daily driving;
• 16 hours maximum daily duty;
• 10 hours daily rest;
• No weekly rest requirement;
• At least one period of 24 hours off duty in any two consecutive weeks.


These Regulations implement Directive 2002/15/EC and apply to mobile workers (i.e. drivers & crew) who work on vehicles subject to the EU drivers’ hours rules.

The Regulations stipulate a maximum 48 hour average week and no more than 60 hours in any single week (there is no opt out). If working at night then mobile workers must not work over 10 hours in any 24 hours period unless a collective or workforce agreement is in place (night-time is the period between 00:00 and 04:00 for goods vehicles and between 01:00 and 05:00 for passenger vehicles).

The Regulations also provide minimum levels of breaks as follows:

• 30 minutes if daily working totals 6 to 9 hours;
• 45 minutes of breaks (which one must be of at least 15 minutes long) if working over 9 hours;
• The same rest requirements as the EU rules (see above).


These Regulations implement Directive 2003/88/EC and apply to mobile workers (i.e. drivers & crew) who work on vehicles subject to the domestic drivers’ hours rules. However, as mobile workers, only certain requirements apply, namely:
• Average weekly working time of 48 hours (with the possibility to opt out);
• Health checks for night workers;
• Requirement for “adequate” rest\(^9\) (the length of which is not defined).

Workers not in-scope of either the domestic or EU drivers’ hours rules, need to comply with all the rules of the Working Time Regulations 1998, as amended; these include the right to:

• one uninterrupted 20 minute rest break during their working day (this could be a tea or lunch break), if they work more than 6 hours a day.
• 11 hours rest between working days;
• an uninterrupted 24 hours without any work each week, or
• 48 hours each fortnight.

\(^{9}\) “Adequate” rest is defined in the Department’s guidance on drivers’ hours and working time as meaning that “workers should have regular rest periods. These rest periods should be sufficiently long and continuous to ensure that workers do not harm themselves, fellow workers or others and that they do not damage their health in the short or long term”.

Annex B

Relevant legislation

European

The EU drivers’ hours rules do not apply to “vehicles used in emergencies or rescue operations” (Article 3(d) Regulation (EC) 561/2006). These rules do not define an “emergency” but DfT considers this would include any of the situations which would be considered an emergency for the purposes of the GB domestic drivers’ hours’ legislation (see below).

Article 14(2) of Regulation (EC) No 561/2006 also provides the Secretary of State for Transport with the power to grant a temporary relaxation of drivers’ hours rules for a period not exceeding 30 days, provided the European Commission is immediately informed. For a relaxation period longer than 30 days, prior authorisation from the European Commission is required.

Domestic (GB)

Domestic drivers’ hours regulations do not apply during an emergency situation. The definition of “emergency” differs slightly between goods and passenger vehicles.

Goods

The definition of an emergency for goods vehicles is set out in regulation 2 of the Drivers’ Hours (Goods Vehicles) (Exemptions) Regulations 1986 (SI 1986/1492). It is defined as:

(a) events which cause or are likely to cause such—

(i) danger to life or health of one or more individuals or animals or
(ii) a serious interruption in the maintenance of public services for the supply of water, gas, electricity or drainage or of telecommunication or postal services, or
(iii) a serious interruption in the use of roads, railways, ports or airports,

as to necessitate the taking of immediate action to prevent the occurrence or continuance of such danger or interruption and

(b) events which are likely to cause such serious damage to property as to necessitate the taking of immediate action to prevent the occurrence of such damage.
Passenger

The definition of an emergency for passenger vehicles is set out in regulation 2 of the Drivers' Hours (Passenger Vehicles) (Exemptions) Regulations 1970 (SI 1970/145). It is defined as:

"emergency" means an event which—

a)causes or is likely to cause such—

   (i)danger to the life or health of one or more individuals, or
   (ii)a serious interruption in the maintenance of public services for the supply of water, gas, electricity or drainage or of telecommunication or postal services, or
   (iii)a serious interruption in the use of roads, or
   (iv)a serious interruption in private transport or in public transport (not being an interruption caused by a trade dispute (within the meaning of the Trade Disputes Act 1906) involving persons who carry passengers for hire or reward), or

(b)is likely to cause such serious damage to property,

as to necessitate the taking of immediate action to prevent the occurrence or continuance of such danger or interruption or the occurrence of such damage;

Under section 96(10) of the 1968 Transport Act, a Minister, by regulation, for the purpose of enabling drivers to deal with cases of emergency or otherwise to meet a special need, may create exemptions on the limits of drivers hours, dispense with the requirement to observe the enforcement of the regulations or grant certificates which confirms that any particular case fell within an exemption created by the regulation. The powers also provide that Traffic Commissioners can grant exemptions on an individual basis, and that such exemptions can be provided retrospectively.
### Lead Government Department / Devolved Administration – examples

<table>
<thead>
<tr>
<th>Government Department / Devolved Administration</th>
<th>Sector</th>
</tr>
</thead>
<tbody>
<tr>
<td>Department for Business, Energy &amp; Industrial Strategy (BEIS)</td>
<td>Industry / commercial issues. Energy supplies (e.g. transport of heating oil, fuel oil, gas oil, LPG).</td>
</tr>
<tr>
<td>Department for Environment Food &amp; Rural Affairs (DEFRA)</td>
<td>Agriculture / farming / general environmental issues (e.g. flooding, transportation of animal feed, milk).</td>
</tr>
<tr>
<td>Department for Health</td>
<td>Sectors involved with movement of medical supplies / hospital food. Pandemics (e.g. transport of vaccines, medicine).</td>
</tr>
<tr>
<td>Department for Transport</td>
<td>Sectors directly involved with transport (e.g. transport of road salt).</td>
</tr>
<tr>
<td>Home Office</td>
<td>Civil unrest / terrorism / police / criminal activities.</td>
</tr>
<tr>
<td>Ministry of Defence</td>
<td>Security of Country</td>
</tr>
<tr>
<td>Scottish Government</td>
<td>Where responsibilities are devolved.</td>
</tr>
<tr>
<td>Welsh Government</td>
<td>Where responsibilities are devolved.</td>
</tr>
<tr>
<td>Department for Infrastructure (Northern Ireland)</td>
<td>Where responsibilities are devolved.</td>
</tr>
</tbody>
</table>
Exemptions and national derogations from the EU drivers’ hours rules

There are a number of exemptions and national derogations from the EU drivers’ hours rules (Regulation (EC) 561/2006). These are listed below – those likely to be of most relevance are highlighted in bold.

Drivers of these vehicles would automatically come under the GB domestic drivers’ hours rules.

Exemptions in Article 3 of Regulation (EC) 561/2006:

a) vehicles used for the carriage of passengers on regular services where the route covered by the service in question does not exceed 50 kilometres;

(aa) vehicles or combinations of vehicles with a maximum permissible mass not exceeding 7,5 tonnes used for carrying materials, equipment or machinery for the driver’s use in the course of his work, and which are used only within a 100 km radius from the base of the undertaking and on the condition that driving the vehicle does not constitute the driver’s main activity;

b) vehicles with a maximum authorised speed not exceeding 40 kilometres per hour;

c) vehicles owned or hired without a driver by the armed services, civil defence services, fire services, and forces responsible for maintaining public order when the carriage is undertaken as a consequence of the tasks assigned to these services and is under their control;

d) vehicles, including vehicles used in the non-commercial transport of humanitarian aid, used in emergencies or rescue operations;

e) specialised vehicles used for medical purposes;

f) specialised breakdown vehicles operating within a 100 km radius of their base;
g) vehicles undergoing road tests for technical development, repair or maintenance purposes, and new or rebuilt vehicles which have not yet been put into service;

h) vehicles or combinations of vehicles with a maximum permissible mass not exceeding 7.5 tonnes used for the non-commercial carriage of goods;

i) commercial vehicles, which have a historic status according to the legislation of the Member State in which they are being driven and which are used for the non-commercial carriage of passengers or goods.

National derogations in Article 13 of Regulation (EC) 561/2006 taken up by UK:

[N.B.: The national derogations are set out in the Community Drivers’ Hours Recording Equipment Regulations 2007 (S.I. 2007/1819).]

- Vehicles with between 10 and 17 seats used exclusively for the non-commercial carriage of passengers.

- Vehicles owned or hired without a driver by public authorities that do not compete with private transport undertakings.

  - The derogation only applies to vehicles being used:
    - for the provision of ambulance services by or at the request of an NHS body;
    - for the transport of organs, blood, equipment, medical supplies or personnel by or at the request of an NHS body;
    - by a local authority to provide services for old people or for mentally or physically handicapped people; or
    - by HM Coastguard or a general or local lighthouse authority;
    - for maintaining railways by the British Railways Board, any holder of a network licence which is a company wholly owned by the Crown, Transport for London (or a wholly owned subsidiary), a Passenger Transport Executive or a local authority; or
    - by the British Waterways Board or Canal & River Trust for the purpose of maintaining navigable waterways.

- Vehicles used or hired without a driver by agricultural, horticultural, forestry, farming or fishery undertakings for carrying goods as part of their own entrepreneurial activity within a radius of 100 km from the base of the undertaking.
• Agricultural tractors and forestry tractors used for agricultural or forestry activities within a 100 km radius from the base of the undertaking that owns, hires or leases the tractor.

• Vehicles that are used to carry live animals between a farm and a market or from a market to a slaughterhouse where the distance between the farm and the market or between the market and the slaughterhouse does not exceed 100 km.

• **Vehicles being used to carry animal waste or carcasses that are not intended for human consumption.**

• Specially fitted mobile project vehicles, the primary purpose of which is use as an educational facility when stationary.

• Vehicles or combinations of vehicles with a maximum permissible mass not exceeding 7.5 tonnes that are used:
  
  o by universal service providers as defined in Article 2(13) of Directive 97/67/EC of the European Parliament and of the Council of 15 December 1997 on common rules 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
  
  o for carrying materials, equipment or machinery for the driver’s use in the course of his work.
  
  o These vehicles shall be used only within a 100 km radius of the base of the undertaking and on the condition that driving the vehicle does not constitute the driver’s main activity.

• Vehicles operated exclusively on islands whose area does not exceed 2,300 km² and that are not linked to the rest of Great Britain by a bridge, ford or tunnel open for use by a motor vehicle.

• Vehicles used for the carriage of goods within a 100 km radius from the base of the undertaking and propelled by means of natural or liquefied gas or electricity, the maximum permissible mass of which, including the mass of a trailer or semi-trailer, does not exceed 7.5 tonnes.

• Vehicles used for driving instruction and examination with a view to obtaining a driving licence or a certificate of professional competence, provided that they are not being used for the commercial carriage of goods or passengers.
• Vehicles used in connection with sewerage, flood protection, water, gas and electricity maintenance services, road maintenance or control, door-to-door household refuse collection or disposal, telegraph or telephone services, radio or television broadcasting and the detection of radio or television transmitters or receivers.

• Specialised vehicles transporting circus and funfair equipment.

• **Vehicles used for milk collection from farms or the return to farms of milk containers or milk products intended for animal feed.**

• Vehicles used exclusively on roads inside hub facilities such as ports, airports and railway terminals.
Annex E

Template

Request to relax the enforcement of the drivers’ hours rules

Statement of Case

MS Word Document has been placed on gov.uk. Space given below to respond is not fixed – please provide as much quantitative as well as qualitative evidence as possible.

Please note that Government will approach third parties to request supporting evidence if necessary.

1. Name:

This needs to be the name of the industry stakeholder requesting the relaxation.

2. Industry Background:

This needs to give details on the transport operation; its supply chain; its customers.

3. Request:

This needs to cover what relaxation of the rules is being requested; the number of drivers this would involve; what is being delivered; geographical coverage; and duration.

4. Reasons for Request:

This needs to cover detailed information on the event/emergency that has caused this problem. How this has adversely affected delivery of essential supplies to customers or adversely affected the supply of essential public services. This should include data on number of people/animals affected (particularly those most vulnerable); number of extra deliveries that need to be made etc.

5. Evidence

This needs to be very robust and must include detailed information covering the five general principles the DfT considers as part of its consideration of whether to grant the request. Please note that generally this is not permitted on economic grounds or where other means of mitigation exist.
5.1 Evidence of detriment to wider community:

This needs to include detailed evidence of a significant threat being caused to human and/or animal welfare or a failure of a particular supply chain that will have a serious impact on essential public services.

5.2 There are no other means of mitigating the detriment or other means have proved insufficient:

This needs to include detailed information on the contingency plans already in place to deal with emergency situations (e.g. the use of driver agencies / hire vehicles / back-office staff / alternative rostering arrangements to deliver to those most in need etc.); what action has already been taken; it's effect and why it hasn't helped the situation.

5.3 There must be evidence that a relaxation would lead to a significant improvement in the situation:

Need to explain in detail how a relaxation will help to alleviate the problem.

5.4 The problem is not likely to be resolved quickly without a relaxation:

Need to explain why time is essential and what you believe the consequences will be if a relaxation is not granted.

5.5 Operators must demonstrate that they will take steps to ensure safety if a relaxation is made:

This is a general point. However, it is particularly important where the relaxation is being sought for high risk dangerous goods (such as fuel). Must show evidence that a risk assessment, including measures taken to mitigate risk from fatigue, has been undertaken.

6. Date:

------------------------------------*
------------------------------------