

The “12 Day Rule” - New derogation for coach drivers

A new “12 day derogation” for coach drivers involved in international coach tour journeys came into **effect** from **4 June 2010** and applies across **all Member States** from that date. This new derogation is significantly more restrictive than that which applied to coach services prior to March 2006.

What is the new “12 Day Rule”?

In basic terms, the new 12 day rule means that **coach drivers** on a single occasional service of international carriage (international coach tour) will be able to **work** for up to **12 consecutive days** *but*

- the journey must be a **single trip**, not several different trips; and
- the driver must be **compensated** after the 12 days working with **longer rest periods**.

Drivers must continue to take daily rests and breaks in line with the existing requirements.

How to Comply?

To comply with the new rules a coach driver can only work for up to 12 days consecutively provided that:-

- The extended working period is calculated **from** a "regular" weekly rest period – a rest that is at least 45 hours long
- The driver is working a **single occasional service** (such as a coach tour) during which at least **24 consecutive hours** must be spent in a Member State (which includes Northern Ireland) or a Third Country other than the one in which the journey started.
- **After** the extended working period, the driver takes together **two regular rest periods** (i.e. 90 hours) or **one regular weekly rest** (minimum 45 hours) period **and one weekly reduced rest period** (not less than 24 hours) – if reduced rest is taken, the **reduction** in rest must be **compensated** by an equivalent period of rest taken en bloc before the end of the third week following the derogation period. (The compensating rest must be attached to a period of rest of at least 9 hours – in effect either a weekly or a daily rest period)

Rest Requirement before commencing	Work allowance	Rest Requirement upon completion	Compensation
Minimum 45 hours	12 consecutive days	2 X Regular Weekly Rests (90 hours) Or 1 X Regular Weekly Rest (45 hours) <i>and</i> 1X reduced weekly rest (24 hours minimum) Total rest 69 hours taken and min 21 hours compensation due	Nil 21 hours (90 less 69) attached to a break of at least 9 hours before end of third week following return from the journey.

Operators and drivers must ensure that:-

- drivers take the **required rest** both **before** and **after** the extended work period;
- Drivers availing of the derogation are **supplied** with a **tour itinerary** and **passenger waybill** which should be made available for inspection by an enforcement officer at routine roadside inspections; and
- these **documents** are **associated** with the **tachograph** records of the **driver** availing of the derogation and **retained** for at least **1 year**.

Further requirements from 1st January 2014.

- After **1 January 2014**, all coaches involved in coach tours where a driver is availing of the derogation must be equipped with a **digital tachograph**; and
- After **1 January 2014**, when driving between **22.00 and 06.00 hours**, the vehicle is **multi-manned** or no more than **3 hours of driving** is done between breaks

Legislation & Enforcement

Article 29 of Regulation (EC) No. 1073/2009 amends the rest time rules that apply to drivers of coaches engaged in a single occasional service of international carriage (see Appendix 1)

The RSA is liaising with the Department of Transport concerning amendments to national legislation to facilitate the enforcement of the new rules and this is expected to be finalised on or before end July 2010.

Road Safety Authority Transport Officers and the Garda Síochána will be enforcing the new legal requirements.

Further Information

Operators or drivers requiring further information concerning the derogation should email the Road Safety Authority at enforcement@rsa.ie.

The guidance above is intended as a guide only and is not an interpretation of the law.

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Appendix I - Extract from EU Regulation 1073/2009

“12 DAY DEROGATION”

“Amendment to Regulation (EC) No 561/2006

In Article 8 of Regulation (EC) No 561/2006, the following paragraph shall be inserted:

‘6a. By way of derogation from paragraph 6, a driver engaged in a single occasional service of international carriage of passengers, as defined in Regulation (EC) No 1073/2009 of the European Parliament and of the Council of 21 October 2009 on common rules for access to the international market for coach and bus services, may postpone the weekly rest period for up to 12 consecutive 24-hour periods following a previous regular weekly rest period, provided that:

(a) the service lasts at least 24 consecutive hours in a Member State or a third country to which this Regulation applies other than the one in which the service started;

(b) the driver takes after the use of the derogation:

(i) either two regular weekly rest periods; or

(ii) one regular weekly rest period and one reduced weekly rest period of at least 24 hours. However, the reduction shall be compensated by an equivalent period of rest taken en bloc before the end of the third week following the end of the derogation period;

(c) after 1 January 2014, the vehicle is equipped with recording equipment in accordance with the requirements of Annex IB to Regulation (EEC) No 3821/85; and

(d) after 1 January 2014, if driving during the period from 22,00 to 06,00, the vehicle is multi-manned or the driving period referred to in Article 7 is reduced to three hours.

The Commission shall monitor closely the use made of this derogation in order to ensure the preservation of road safety under very strict conditions, in particular by checking that the total accumulated driving time during the period covered by the derogation is not excessive. By 4 December 2012, the Commission shall draw up a report assessing the consequences of the derogation in respect of road safety as well as social aspects. If it deems it appropriate, the Commission shall propose amendments to this Regulation in this respect”.