STATUTORY RULES OF NORTHERN IRELAND

2012 No. 169

TRANSPORT

The Road Transport (Working Time) (Amendment) Regulations (Northern Ireland) 2012

Made - - - -	*19th April 2012*
Coming into operation	*11th May 2012*

The Department of the Environment, being a Department designated(**1**) for the purposes of section 2(2) of the European Communities Act 1972(**2**) in relation to measures relating to the organisation of working time, makes these Regulations in exercise of the powers conferred by that section.

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Road Transport (Working Time) (Amendment) Regulations (Northern Ireland) 2012 and shall come into operation on 11th May 2012.

(2) In these Regulations "the principal Regulations" means the Road Transport (Working Time) Regulations (Northern Ireland) 2005(**3**).

Amendments to regulation 2 (interpretation)

2. In regulation 2(2) of the principal Regulations—

(a) for the definition of "period of availability" substitute—

> ""period of availability" means a period during which the mobile worker or self-employed driver is not required to remain at his workstation, but—
>
> (a) in the case of a mobile worker, is required to be available; or
>
> (b) in the case of a self-employed driver, makes himself available,
>
> to answer any calls to start or resume driving or to carry out other work, including periods during which the mobile worker or self-employed driver is accompanying a vehicle being transported by a ferry or by a train as well as periods of waiting at frontiers and those due to traffic prohibitions;";

(**1**) S.I. 1997/1174
(**2**) 1972 c.68; section 2(2) was amended by section 27(1) of the Legislative and Regulatory Reform Act 2006 (c. 51)
(**3**) S.R. 2005 No. 241 as amended by S.R. 2007 No. 323

(b) for the definition of "relevant requirements" substitute ""relevant requirements" means regulations 4(8) and (9), 7(5) and (6), 8(2) and (3), 9(4) and (5), 10, 11, 11A and 12;";

(c) in the definition of "worker" after "individual" insert "who is not a self-employed driver and";

(d) for the definition of "working time" substitute—

""working time" means the time from the beginning to the end of work during which—

(a) the mobile worker or self-employed driver is at his workstation;

(b) the mobile worker is at the disposal of his employer, or (as applicable) the self-employed driver is at the disposal of the client; and

(c) the mobile worker or self-employed driver is exercising his functions or activities, being—

(i) time devoted to all road transport activities, including, in particular any of the following activities—

(aa) driving;

(bb) loading and unloading;

(cc) assisting passengers boarding and disembarking from the vehicle;

(dd) cleaning and technical maintenance; or

(ee) all other work intended to ensure the safety of the vehicle, its cargo and passengers or to fulfil the legal or regulatory obligations directly linked to the specific transport operation under way, including monitoring of loading and unloading and dealing with administrative formalities with police, customs, immigration and other law enforcement officers; or

(ii) time during which the mobile worker or self-employed driver cannot dispose freely of his time and is required (or, in relation to a self-employed driver, chooses) to be at his workstation, ready to take up normal work, with certain tasks associated with being on duty, in particular during periods awaiting loading or unloading where their foreseeable duration is not known in advance, that is to say either before departure or just before the actual start of the period in question, or under collective agreements or workforce agreements

but, in relation to self-employed drivers, general administrative work that is not directly linked to the specific transport operation under way is excluded from working time;"; and

(e) in the definition of "workstation"—

(i) at the beginning of sub-paragraph (a) insert "in relation to a mobile worker,";

(ii) at the beginning of sub-paragraphs (b) and (c) insert "in relation to a mobile worker or a self-employed driver,".

Amendments to regulation 3 (application)

3.—(1) Regulation 3 of the principal Regulations is amended in accordance with paragraphs (2) to (5).

(2) After paragraph (1) insert—

"(1A) These Regulations also apply to self-employed drivers who are established in, or who do work for undertakings established in, a Member State of the European Union, and to whom paragraph (2) or (3) applies.".

(3) In paragraph (2)—

(a) for "who, in the course of that employment or work," substitute "or self-employed drivers who, in the course of their employment or working activities,"; and

(b) for sub-paragraph (c), substitute "which are not vehicles exempted from the provisions of that Regulation under regulation 3 (exemption from the Community Drivers' Hours Regulation) of the Community Drivers' Hours and Recording Equipment (Exemptions and Supplementary Provisions) Regulations (Northern Ireland) 2009(**4**)".

(4) In paragraph (3) for ", to whom paragraph (2) does not apply, who in the course of that employment or work drive, or travel in," substitute "or self-employed drivers, to whom paragraph (2) does not apply, who in the course of their employment or working activities, drive or travel in".

(5) For paragraph (4) substitute—

"(4) These Regulations do not apply to any mobile worker or self-employed driver who does work which is included in the calculation of working time—

(a) where the reference period is shorter than 26 weeks, on fewer than 11 days in a reference period applicable to that mobile worker or self-employed driver; or

(b) in any other case on fewer than 16 days in a reference period applicable to that mobile worker or self-employed driver.".

Amendments to regulation 4 (working time)

4.—(1) Regulation 4 of the principal Regulations is amended in accordance with paragraphs (2) to (8).

(2) In paragraph (1) after "mobile worker" insert "or self-employed driver".

(3) In paragraph (2) for "a mobile worker's working time" substitute "the working time of a mobile worker or self-employed driver".

(4) In paragraph (3)—

(a) in the opening words, omit "in the case of a mobile worker";

(b) for sub-paragraph (a) substitute—

"(a) in the case of a mobile worker—

(i) where a collective agreement or a workforce agreement provides for the application of this regulation in relation to successive periods of 17 weeks, each such period; or

(ii) where there is no such provision, and the employer gives written notice to the mobile worker that he intends to apply this sub-paragraph, any period of 17 weeks in the course of the worker's employment;";

(c) for sub-paragraph (b) substitute—

"(b) in the case of a self-employed driver who elects to apply this sub-paragraph in relation to any period of 17 weeks or to successive periods of 17 weeks, each such period; or";

(d) in sub-paragraph (c), after "in any other case" insert "for a mobile worker or self-employed driver,".

(**4**) S.R. 2009 No. 91