

Review of the UK Domestic Drivers' Hours Rules Consultation Document – *Could this affect Private Hire?*

In July 2009 the Department for Transport (also referred later as the DfT or Department) issued to a wide range of organizations a probing consultation on UK Domestic Drivers' Hours Rules.

Within the document in section 2.4 it says:

The consultation paper asks a large number of questions in order to ensure the Domestic Rules are examined in as much detail as possible. It is not necessary to answer every question throughout the paper – you may prefer to focus on those questions which are most relevant to yourselves or the organisation that you are representing.

In section 3.4 it says:

The most notable exemption is for all goods vehicles not exceeding 3.5 tonnes in NI (i.e. most vans) and, in GB, all passenger vehicles with 8 or less passenger seats where passengers are not been carried as separate fares (i.e. most taxis).

The Department has confirmed that the word 'taxi(s)' covers all forms of 'taxi(s)' including Private Hire Vehicles for this and other DfT regulations and consultations, unless prescribed differently. European and most other legislators Worldwide also regard PHV's as Taxis.

The 'Concise English Dictionary' of course also defines Taxi as 'A motor car that may be hired together with its driver, to carry passengers'.

So at this point having established that **we are a 'notable exemption'** we could think that the consultation is not for us but for others, however that would be a considerable mistake.

From time to time questions are posed about driver's hours, sometimes where an accident has occurred, sometimes by **Safety Groups**, sometimes by **Politicians**, sometimes by **Trade Unions** and **Associations**.

Rightly *the safety of the driver, passengers and others* should be wholly considered at all times, so we have thoroughly gone through the whole consultation, which we are not publishing in full as we agree that – **It is not necessary to answer every question throughout the paper – you may prefer to focus on those questions which are most relevant to yourselves or the organisation that you are representing.**

The whole paper can be obtained from the DfT website at <http://www.dft.gov.uk/consultations/open/domesticdrivershours/consultation.pdf>

Here is our Extract / Summary...

INTRODUCTION

The Department for Transport is reviewing the UK domestic drivers' hours rules (afterwards referred to as "the Domestic Rules") and this consultation document invites views that will help inform the review. This consultation document does not make specific amending proposals which would be the subject of a separate consultation if necessary.

WHO SHOULD READ THIS CONSULTATION DOCUMENT?

Any driver who is subject to the Domestic Rules;
Any road haulage or road passenger transport operator or agency who employs drivers subject to the Domestic Rules;
Anyone else with an interest in the carriage of freight or passengers by road; or road safety in general.

PURPOSE – WHY REVIEW THE DOMESTIC RULES NOW?

The Domestic Rules were first introduced in the 1930s and the current rules have remained largely unchanged since the 1960s. It is normal practice under better regulation principles to review regulations periodically and a review of these particular rules is overdue.

It is important that any rules remain relevant to the policies they implement and support. The Domestic Rules were introduced to support *road safety* by ensuring that drivers of commercial vehicles were not driving too long without a break or rest and to safeguard the health and safety of drivers.

These policies remain important and the review is considering the extent to which the Domestic Rules are an effective mechanism to address these policies. At the same time, the review is considering how far the Domestic Rules support fair competition within the road haulage and passenger transport industries.

A regulatory review does not in itself imply that there is a problem to be addressed, but it is important that the Domestic Rules are reviewed to ensure that they do not impose undue burdens on those affected by them.

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The review is also considering the extent to which the **EU Rules for drivers** of larger commercial vehicles may be relevant and whether any ideas can be identified from them.

POLICY CONSIDERATIONS

In determining future policy options within the review, the **DfT** is considering a number of key themes.

These are:

- How far are the **Domestic Rules** known and understood by those who are required to adhere to them?
- How clear is the evidence that the **Domestic Rules** are effective and enforceable?
- What would happen if the **Domestic Rules** were strengthened, left un-modified or taken away?
- Is there a case for continued regulatory intervention by some means – are there sufficient alternative safeguards in place or would additional measures (including voluntary measures) be required?
- Can the **UK** learn from international experience in this area?
- To what extent do the varying operational conditions justify different rules for the **passenger vehicle** and goods vehicle sectors?

Although many of the questions are related to regulatory regimes, the answers you give will help us to understand the value of a regulatory approach in the context of better regulation.

We are equally interested in how far **voluntary approaches** may deliver the safeguards the existing **Domestic Rules** are intended to secure.

HOW IS THE DOCUMENT STRUCTURED?

The **DfT** wishes to capture views and experiences that will further inform the evidence gathering phase of the review process and the initial consideration of potential policy options. This consultation document invites comments throughout the following chapters as follows:

Chapter 3 sets out the details of the current **Domestic Rules** (and the NI regime where that differs). The paper asks a series of questions to help the **DfT** understand whether the **Domestic Rules** are clear to understand, practicable and easy to apply, and seen as beneficial (or not) by industry (including drivers);

Chapter 4 asks a number of questions about other existing regulatory safeguards that may support road safety objectives in terms of tackling the risks that driver fatigue can bring. This chapter also includes information on the regulatory safeguards in place for other transport modes;

Chapter 5 summarises the regulatory approaches taken in other countries and invites views on whether any approaches may be usefully adopted in the **UK**, either in addition to existing measures or as alternative approaches. Of particular interest is the approach adopted by Australia which allows greater flexibility where improved fatigue management systems are put in place;

Chapter 6 summarises the research undertaken for the **DfT** into fatigue and drivers' hours and seeks views on the extent to which the findings should inform any possible changes to the **Domestic Rules**. This chapter also presents a summary of the results of the driver & operator survey;

Chapter 7 outlines the **next steps after this consultation paper closes**.

DEVOLVED ADMINISTRATIONS

Drivers' hours legislation is a reserved matter in respect of **Scotland** and **Wales**. The devolved administrations are aware of the proposals and will have the opportunity to comment on the detail as part of the consultation exercise.

This consultation is also being carried out on behalf of **NI**. In view of the specific equality requirements of 5.75 of the **Northern Ireland Act 1998**, specific **NI**-related equality considerations will be addressed by the relevant **NI** Departments as part of their preparations for any future legislative process following the results of this consultation.

HOW TO RESPOND

The consultation began on **21 July 2009** and will run until **13 October 2009**. Please ensure that your response reaches us by that date.

If you would like copies of this consultation document it can be found at www.dft.gov.uk/consultations.

If you would like alternative formats of this consultation please contact us at the address below. Please forward your responses to:

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Tel: 0207 944 2756 Fax: 0207 944 9631
Email address: steve.oliver@dft.gsi.gov.uk

When responding to the consultation and the questions presented within it (summarised below), please state whether you are responding as an individual or representing the views of an organisation. If responding on behalf of a larger organisation please make it clear who the organisation represents, and where applicable, how the views of members were assembled. When answering any questions, where possible, please give figures on the estimated costs/benefits. This will help the **DfT** provide a detailed assessment of any future proposed changes.

SUMMARY OF THE UK DOMESTIC DRIVERS' HOURS RULES

This chapter presents a summary of the **Domestic Rules**. A number of questions are presented throughout the chapter to enable the **DfT** to gather opinions on every aspect of the **Domestic Rules** and to understand fully what effect any future changes would have on businesses and drivers alike. When responding to the questions, you may care to keep in mind the issues of road safety, decent working conditions for drivers, fair competition and the principles of better regulation as the underpinning rationale for the current review.

NOTE: When answering each of the questions in this section please, where possible, provide figures relating to the costs and benefits related to your response. These figures will be used when any potential future changes to the Domestic Rules are being considered.

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SCOPE AND EXEMPTIONS

The Domestic Rules apply to most goods and passenger vehicles driven in the UK that are not covered by the EU Rules.

Exemptions from the Domestic Rules exist for certain vehicles and operations. Where the EU Rules do not cover these exemptions the vehicles in question are not covered by any drivers' hours rules.

The most notable exemption is for all goods vehicles not exceeding 3.5 tonnes in NI (i.e. most vans) and, in GB, all passenger vehicles with 8 or less passenger seats where passengers are not been carried as separate fares (i.e. most taxis).

Other exemptions include:

- Drivers of vehicles used by the armed forces, police and fire brigade;
- Drivers who always drive off the public road system;
- Private driving (i.e. not in connection with a job or in any way to earn a living).

Below is a Summary of questions that the consultation asks. The LPHCA will be dissecting the consultation and presenting the relevant questions to members for discussion at our AGM at the Heathrow Marriott Hotel on Thursday 8th October.

We have invited the Department for Transport to attend our AGM and to field questions before adopting policy and a response on the subject of UK Domestic Drivers' Hours Rules and their potential changing.

QUESTION 1 Is there a case to extend the **Domestic Rules** to other sectors that are currently out of scope/exempt? Why?

QUESTION 2 Is the maximum driving time set at the right level? Please give reasons.

QUESTION 3 Are the maximum duty times for drivers of goods and passenger vehicles set at the right level? Please give reasons.

QUESTION 4 Should break requirements be introduced for drivers of goods vehicles in **GB**? Why?

QUESTION 5 Are the break requirements for drivers of goods and passenger vehicles set at the right level? On what grounds?

QUESTION 6 Is the requirement to take total breaks amounting to 45 minutes sufficient or should a minimum length of break also be introduced for drivers of passenger vehicles? Please give reasons.

QUESTION 7 Should daily rest requirements for drivers of goods vehicles be introduced in **GB**? Why?

QUESTION 8 Are the daily rest requirements for drivers of passenger vehicles set at the right level? Please give details.

QUESTION 9 Should weekly / fortnightly rest requirements be considered for drivers of goods vehicles? Please give reasons.

QUESTION 10 Are the weekly / fortnightly rest requirements for passenger vehicles set at the right level? Why?

QUESTION 11 Should weekly / fortnightly rest requirements be considered for passenger vehicles in **NI**? On what grounds?

QUESTION 12 Are the current record keeping requirements adequate for enforcement purposes? Why?

QUESTION 13 Should the use of tachographs become mandatory for vehicles operating in scope of the **Domestic Rules**? Please give reasons.

QUESTION 14 Are you aware of any difficulties that the **Domestic Rules** present to enforcement agencies? Please give details.

QUESTION 15 Could **VOSA / DVA** and other **Government** bodies do more to educate operators and drivers about the **Domestic Rules**? What additional measures would you recommend?

QUESTION 16 Are the current obligations appropriate for drivers and operators alike? On what grounds?

QUESTION 17 Are the penalties currently issued proportionate or should additional penalties be considered, such as endorsements on drivers' licences? Why?

QUESTION 18 How important a role do you think the current **Domestic Rules** are in:

- Improving road safety;
- Ensuring good working conditions;
- Ensuring fair competition?

QUESTION 19 Should different rules for drivers of goods and passenger vehicles exist? Please give reasons?

QUESTION 20 Do you think the **Domestic Rules** help deliver the objective of improving road safety? Why?

QUESTION 21 Do you think the **Domestic Rules** should be abolished altogether and if so what safeguards should there be introduced instead?

QUESTION 22 If the **Domestic Rules** were relaxed or removed where would you look to for information on how to minimize the risks?



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QUESTION 23 How much does it cost you to comply with the current **Domestic Rules**?

QUESTION 24 Should some or all of the limits of the **EU Rules** be used as a basis for considering changes to the **Domestic Rules**? If so, why, and what limits should be considered?

QUESTION 25 Should some or all of the requirements of the sector specific or main **Working Time Regulations** be used as a basis for considering changes to the **Domestic Rules**? Please provide details.

QUESTION 26 Do the punishments that could be incurred as a result of the legislation outlined above (**Corporate Manslaughter and Corporate Homicide Act 2007**, and other road safety legislation) make employers sufficiently aware of their responsibilities regarding driving and health and safety? Has the legislation led to changes in working and managerial practices and systems (if so, please provide example/s)?

QUESTION 27 Should a specific **Highway Code** be introduced for professional drivers? If so, what should it include?

QUESTION 28 Are there any aspects of the legislation outlined in this chapter that could be considered when reviewing the **Domestic Rules**? If so, please provide details.

QUESTION 29 Of the different approaches used by other countries set out above, which ones (if any) might offer an alternative approach for the **Domestic Rules**? On what grounds?

QUESTION 30 Are there any aspects of the US or Canadian regulations that could be considered for the **Domestic Rules**? Which ones and why?

QUESTION 31 Should the 'chain of responsibility' concept be extended in the **UK** as in **Australia**? (See paragraph 3.22 for details of **UK 'chain of responsibility'**). Please give details.

QUESTION 32 Should a similar approach, whereby there is no differentiation between driving and work, be adopted for the **UK Domestic Rules**?

QUESTION 33 Does your organisation operate any fatigue management systems? What costs/benefits have resulted?

QUESTION 34 Would a **UK pilot scheme** be useful to understand the possible advantages and disadvantages of introducing a similar **fatigue management system** to that used in **Australia** in the **UK**?

QUESTION 35 To what extent do you think the parameters of the **Domestic Rules** help mitigate the factors that have been identified as contributing to fatigue?

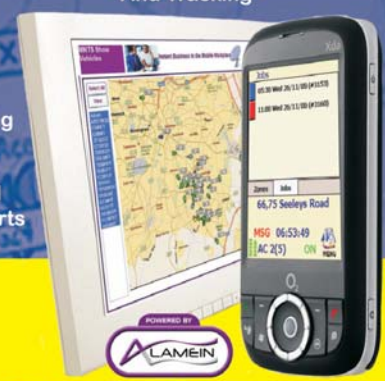
QUESTION 36 Do you have any suggestions for any further data sources that could be used to gather evidence on drivers' hours and accidents, or how existing databases could be improved for this purpose?

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