



Can company do this to me?



Q: I am a coach driver and essentially self employed. I work predominantly for one operator, but do work for other operators. I was recently involved in an investigation by VOSA who reviewed some tachograph charts of mine and it was established that there were a number of breaches on them. The matter is now being prosecuted in Magistrates' Court but the company for which I currently do most of my work has decided not to give me any work. Is this right and what are my rights?



Breaches on tacho discs



A: There are three main areas that require consideration for the driver in this situation. Firstly, it is essential the driver deals with the tachograph offences in the Magistrates' Court. He will need to enter a plea of either guilty or not guilty to the charges and I would strongly recommend that he seeks legal advice on how best to proceed with this matter. The organisation that provides the driver with the vast majority of his work is simply protecting its position. The driver has stated that he is self employed and as such the operator is not obliged to provide him with work on a regular basis. If it is the situation that the driver is in fact essentially employed by one operator, then I would suggest that he review his position with regards to HMRC to ensure that he is paying the correct level of tax and is registered accordingly.

How many teachers on school bus?



Q: I am a driver who is involved in a number of school routes.

How many teachers should be on a bus?



A: In relation to the number of teachers that should be on a school bus the guidelines are essentially that there should be adequate supervision. It would be my advice that there should be a minimum of two adults on the vehicle, one positioned at the front and one at the rear, to ensure that the emergency exits can be utilised effectively should they be required.

If the driver and/or the operator are concerned about the level of staffing, I think they should raise it initially with the school and then the Education Authority to seek further clarification.

Driver CPC: Please can you clarify?



Q: I have been driving PCVs for a number of years and have read a lot about the requirements for drivers to undertake a CPC course. I have heard different versions about what I need to do. Please can you clarify the situation?



A: The legislation which brought in the use of a driver's CPC is contained within European Directive 2003/59/EC.

The scheme is devised for LGVs and PCVs with the focus being to improve the knowledge and skills of professional drivers within the coach industry.

All drivers need to complete a minimum of 35 hours of periodic training within every five-year period. The training requires attendance at courses but does not require drivers to take or pass further examinations.

Drivers already qualified on or before 10 September 2008 have 'acquired rights' as they already held a vocational driving licence (C, C1, CE, C1E, D*, D1*, DE*, and D1E*) on the relevant start dates. They hold 'acquired rights' up until 9 September 2013. To keep their Driver CPC and continue driving professionally beyond this date, they need to undertake regular periodic training but are exempt from the driving test initial part of the CPC that new drivers face.

New drivers need to pass a new initial qualification to gain their vocational driving licence and qualify for their Driver CPC. Their requirement to undertake a minimum of 35 hours' periodic training to retain their Driver CPC starts once they have passed the initial qualification.

The Initial CPC covers two parts, a driver's CPC theory test (which last four hours in total with case studies) and a Driver's CPC practical test (which lasts two hours and includes elements similar to the show me, tell me part of the existing practical driving test taken by all car drivers).

Those who have an entitlement on their licence stating 'not for hire or reward' (Code 101) do not have acquired rights.

The training is grouped into:

- Safe fuel efficient driving (including vehicle loading, fuel consumption and pollution)
- Legal requirements (rules for tachographs, drivers' hours)
- Health and safety service logistics (including first aid, passenger safety and customer service)

As with all legislation there is a number of exemptions available. A driver is not required to take a CPC if the vehicle is:

- Not authorised to exceed 40km/h
- Being used for or under the instruction of the armed forces, police or a fire rescue authority
- Undergoing road tests for technical developments, repair or for maintenance purposes
- Being used in a state of emergency as part of a rescue mission.
- Being used for driving lessons for

either driving licence with other CPC purposes

- Not being used to carry passengers or goods for commercial purposes.
- Carrying tools and equipment for your work and that work is not for professional bus, coach or lorry and driving

Should drivers continue driving without the appropriate CPC entitlement, they will face prosecution from VOSA. Further, the company could face charges of permitting.

What do I do about complaint?

I run a small coach operation that conducts a variety of tours throughout the UK. I recently received a complaint from a member of the public in relation to the advertising of a tour stating that the price advertised was not that which they were charged. I tried to deal with the matter appropriately by offering the customer a discount to take into consideration the price difference. The matter was not resolved with the customer who has now contacted Trading Standards and they wish to come and interview me. What should I do?

A: It is important that the operator involved fully cooperates with any investigation being conducted by Trading Standards.

The operator should expect Trading Standards to attend its premises or, alternatively, ask him to attend one of their offices to conduct an interview. It will be necessary for the operator to show

what procedures and policies he had in place to ensure that the price that was advertised for a particular tour was that which was charged and that it was correct.

It would be essential to show any documentation that was put in place to ensure the checking of the various prices to ensure conformity throughout. The Trading Standards Officers on viewing the various documentation may decide that it is not appropriate to take the matter any further and it was simply a matter of human error. However, they may decide that a formal interview, whereby it will either be tape recorded and/or notes taken, would be appropriate.

If the operator is requested to attend a formal interview, I would suggest he contact his company solicitor to arrange for representation to ensure that the answers he gives are appropriate and that he is not acting detrimentally towards the company.

Once any interview and investigation is completed, Trading Standards will contact the operator direct with their decision.



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