

Legal Framework

Using a Minibus

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'Duty of care'

All operators are bound by a 'duty of care' to avoid causing dangers on the road.

The Law says:

8(1) *At the beginning of Part II of the Road Traffic Act 1988 there shall be inserted 40A*
A person is guilty of an offence if he uses, or causes or permits another to use, a motor vehicle or trailer on a road when -

(a) *the condition of the motor vehicle or trailer, or of its accessories or equipment, or*
 (b) *the purpose for which it is used, or*
 (c) *the number of passengers carried by it, or the manner in which they are carried, or*
 (d) *the weight, position or distribution of its load, or the manner in which it is secured, is such that use of the motor vehicle involves a danger of injury to any person.*

Source: Road Traffic Act 1991

This is a 'catch-all' regulation (compare with Road Vehicles (Construction and Use) Regulations 1986 section 100 (covered in [Legal Framework Minibus Maintenance](#)).

[MoTs & Insurance](#)). Essentially it means that if there is no specific regulation prohibiting a practice which could cause a danger to passengers, other road users or pedestrians, then VOSA officials and the police still have an avenue open for a prosecution. Crucially, such a prosecution could include anyone who 'causes or permits' such an offence, that is, the operating body (the body holding the Permit) and possibly the person directly responsible for managing the vehicle and driver.

The effect of this regulation is that operators should carry out thorough risk assessments of different operations on the road. If the body holding a Permit is an umbrella organisation providing transport or its vehicles to affiliated groups, that risk assessment must cover all the uses to which those vehicle will be put. This means close communication with groups booking trips and integrating their staff or volunteers into the training and safety programmes of the umbrella group itself. The CTA's MiDAS training programme will provide a starting point for a comprehensive risk management policy.

Speed limits

The speed limits for minibuses are different from those for cars. These are set out in the Road Traffic Regulations Act 1984, and are as follows:

- Single carriageway roads 50 (where no lower limit applies)
- Dual carriageways 60 (where no lower limit applies)
- Motorways 70 (where no lower limit applies)
- Motorways (when towing a trailer) 60 (where no lower limit applies)

On motorways vehicles fitted with Road Speed Limiters are restricted to 62 mph (100kph) and can not use the third lane of a three way motorway. Further information can be found in [Legal Framework Minibus Maintenance, MoTs & Insurance](#).

Actual speeds driven may need to be considerably lower, depending on factors, such as:

- the number of passengers carried
- passenger comfort (particularly frail or elderly passengers)
- weather conditions
- traffic conditions
- the state of the road

The development of 'defensive' driving (that is, driving so as to anticipate, rather than react to, hazards) is an integral part of the CTA's MiDAS training programme.

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Drivers' hours

Driver fatigue has been identified as a major factor in serious accidents, including the notorious M40 minibus crash in 1993.

Operators should be aware of the mistaken belief that there are no drivers' hours rules for minibus drivers of privately owned or permit vehicles.

There are two sets of rules quantifying the hours which drivers of passenger vehicles must not exceed and the records which they must keep of their driving. Both Domestic and Community Rules prescribe the following:

- maximum total time which can be driven in any one day
- maximum length of time to be driven without a break
- minimum length of breaks
- maximum length of the working day
- minimum length of the rest between working days
- minimum amount of rest to be taken every week or fortnight

Both sets of rules are summarised in booklet PSV 375: [Drivers' Hours Rules and Tachographs](#), available free from VOSA, local Traffic Area Offices or the CTA.

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Domestic rules

The Domestic rules are contained in Part VI of the Transport Act 1968. Technically these only apply to employee drivers who are not covered by EU Rules, that is, those who have driving as part of their job description, and there are exemptions for certain local and health authority drivers. However, the CTA believes that, as part of a basic risk management policy and a 'duty of care' to passengers and the driver, any paid or volunteer minibus drivers should never be allowed to exceed domestic drivers' hours rules.

The key points are:

- a maximum working day of 16 hours, including both driving and non-driving duties
- maximum driving time of 10 hours per day
- maximum continuous driving time of:
either 5.5 hours, followed by 30 minutes break
or
8.5 hours (to include a total of 45 minutes break), followed by 30 minutes break
- minimum rest period between working days of 10 hours; this can be reduced to 8.5 hours for up to 3 days in the working week
- minimum rest period between working weeks of 24 hours in any 2 weeks

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