

ROAD TRANSPORT LEGISLATION IN HUNGARY

Act I of 1988 on Road Transport

Working time of mobile workers

Section 18/A (1) The provisions of Act I of 2012 on the Labour Code (hereinafter the 'Labour Code') shall apply with the exceptions provided for in this Act to persons performing mobile road transport activities, working in jobs that are subject to Regulation (EC) No 561/2006 of the European Parliament and of the Council of 15 March 2006 on the harmonisation of certain social legislation relating to road transport and amending Council Regulations (EEC) No 3821/85 and (EC) No 2135/98 and repealing Council Regulation (EEC) No 3820/85; Regulation (EU) No 165/2014 of the European Parliament and of the Council of 4 February 2014 on tachographs in road transport, repealing Council Regulation (EEC) No 3821/85 on recording equipment in road transport and amending Regulation (EC) No 561/2006 of the European Parliament and of the Council on the harmonisation of certain social legislation relating to road transport (the 'EU Tachographs Regulation') (with regard to driving time, breaks and rest periods); this Act; and the European Agreement concerning the work of crews of vehicles engaged in international road transport (AETR), promulgated by Act IX of 2001.

(2) The provisions of Section 18/C shall also apply in cases where the work performed by the worker does not normally fall within the scope of the legislation and Community legislation listed in paragraph 1 yet, during the worker's bank of hours, the worker also performs work that falls within the scope of such legislation and Community legislation.

(3) During their work falling within the scope of the legislation and Community legislation referred to in paragraph 1, the worker defined in paragraph 2 shall apply the provisions of this Act.

Section 18/B For the purposes of Sections 18/B to 18/L:

a) '*working time*': subject to the provisions of Section 86(1) of the Labour Code, means in particular

aa) the total time spent on the carriage of goods and passengers by road, including driving time, the time spent loading and unloading, the time spent assisting passengers boarding and disembarking from the vehicle, the time spent on cleaning and technical maintenance of the vehicle, and time spent with 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 transport operation concerned, including monitoring of loading and unloading and administrative formalities with police, customs, immigration officers, etc.,

ab) the waiting time for loading and unloading where its duration could not be determined in advance. A collective agreement may derogate from this provision, treating the waiting time for loading and unloading as a period of availability unless work is performed by the worker during the waiting time;

b) '*periods of availability*':

ba) means any time, other than working time and rest periods, during which the worker is not required to be at their workstation but must be ready to start or continue driving or to carry out other work. If all of the above conditions are met, a period of availability includes in particular:

the time spent by the driver accompanying a vehicle transported by ferry or train and the time spent waiting in connection with the crossing of borders and time-specific (weekend or holiday) traffic restrictions and, in the case of workers working in regular bus or coach transport, between the arrival and departure of services on the basis of the daily duty roster,

bb) for mobile workers driving in a team, the time spent sitting next to the driver or on the couchette while the vehicle is in motion;

c) '*workstation*': means the location of the main place of business of the undertaking for which the person performing mobile road transport activities carries out their duties, together with its various subsidiary places of business, the vehicle used by the person performing mobile road transport activities when they carry out their duties, and any other place in which activities connected with transportation are carried out;

d) '*person performing mobile road transport activities*': means any mobile worker or self-employed driver;

e) '*self-employed driver*':

ea) means any person whose main occupation is to transport passengers or goods by road for hire or reward within the meaning of Community legislation under cover of a Community licence or any other professional authorisation to carry out the aforementioned transport,

eb) who is entitled to work for themselves and is not tied to an employer by an employment contract or by any other type of working hierarchical relationship,

ec) who is free to organise the relevant working activities,

ed) whose income depends directly on the profits made, and

ee) who has the freedom to, individually or through a cooperation between self-employed drivers, have commercial relations with several customers;

f) '*week*': means the period between 00.00 hours on Monday and 24.00 hours on Sunday, local time at the place of work.

Section 18/C (1) For workers referred to in Article 18/A, the employer shall establish a bank of hours.

(2) For workers referred to in Article 18/A(1), the bank of hours established by the employer or set by a collective agreement shall be no longer than 4 months and 6 months respectively.

(3) For workers referred to in Article 18/A(2), the bank of hours shall be determined in accordance with the provisions of the Labour Code, with the proviso that its maximum duration shall be 6 months.

(4) On average, the weekly working time may not exceed 48 hours over the bank of hours.

(5) Unless otherwise provided in a collective agreement or in the legislation or Community legislation referred to in Article 18/A(1), the weekly working time may not exceed 60 hours.

(6) If the worker has other employment, the aggregate average weekly working time shall not exceed 48 hours in any 4-month period, or in any 6-month period under a collective agreement, and the bank of hours shall be set to ensure that the aggregate weekly working time during any calendar week does not exceed 60 hours with all employers, unless a collective agreement provides otherwise.

(7) The provisions of paragraph 6 shall also apply *mutatis mutandis* where the worker's former employment has been or will be terminated but the worker has worked under their former employment at any time during the past 4 months.

(8) In applying paragraphs 4 to 7, overtime as defined in Section 107(b) of the Labour Code shall also be taken into account.

(9) In order to enable the employer to comply with its obligations under paragraphs 6 and 7, the worker shall submit a written report on the time spent working for other employers on a monthly basis or at such other intervals as the employer may require.

Section 18/D (1) Workers shall be assigned by the employer to perform mobile road transport activities subject to the relevant requirements for workplace health and safety and road safety, in accordance with the rules governing employment.

(2) In addition to the requirements set out in paragraph 1, when organising work, the employer shall make reasonable efforts to ensure that the worker can spend as much of their rest period as possible at the place of their choice.

(3) Workers shall allocate their working time subject to the rules governing employment, the rules governing the trade, the timetable and the employer's instructions.

Section 18/E (1) The employer must assign the worker for duty pursuant to Section 18/D(1) at least 12 hours before the start of the work, notifying the worker of such assignment.

(2) If the worker is fit for work, the employer may unilaterally derogate from paragraph 1; in that case, however, the initial 12 hours of working time during the performance of mobile road transport activities shall be considered overtime.

(3) The worker shall be notified of the period of availability and the foreseeable duration of this period before departure or immediately before the start of the period of availability.

Section 18/F (1) Unless otherwise provided by the legislation and Community legislation referred to in Section 18/A, the duration of continuous work without a break may not exceed 6 hours. Working time shall be interrupted by a break of at least 30 minutes if the daily working hours total between 6 and 9 hours, and of at least 45 minutes if working hours total more than 9 hours.

(2) The worker may subdivide their breaks into periods of at least 15 minutes each.

(3) The combined duration of the period of availability and the working time immediately following the period of availability shall not exceed 24 hours unless the work involves a border crossing or other pressing activity. In the latter case, the provisions of paragraph 4 shall apply *mutatis mutandis*.

(4) If the combined duration of working time and the subsequent period of availability exceeds 24 hours, the worker must take a rest period of at least 11 hours as soon as possible following the period of availability.

Section 18/G (1) If any part of the work is performed between 00.00 and 04.00 hours according to the local time at the place of work ('night work'), the daily working time shall not exceed 10 hours, unless otherwise provided for in the collective agreement or the employment contract.

(2) For night work, the worker is entitled to a supplementary allowance as specified in the Labour Code.

Section 18/H In addition to the provisions of Section 134 of the Labour Code, the employer shall keep records of the worker's periods of availability, retaining such records for a period of 5 years. The employer shall provide the worker with a copy of the records upon request.

Section 18/I For periods of availability, the worker shall be entitled to a wage specified for on-call time in Section 144(1) of the Labour Code.

Section 18/J Section 92(2), Sections 107(a) and (d) and Section 108(2) of the Labour Code shall not apply to workers defined in Section 18/A, with the exception of work performed by workers defined in Section 18/A(2), which is not subject to the derogating provisions under this Act.

Section 18/K On the basis of Regulation (EC) No 561/2006 of the European Parliament and of the Council of 15 March 2006 on the harmonisation of certain social legislation relating to road transport and amending Council Regulations (EEC) No 3821/85 and (EC) No 2135/98 and repealing Council Regulation (EEC) No 3820/85, the duty roster of drivers of vehicles used for the carriage of passengers on regular services where the route covered does not exceed 50 km shall be determined in such a manner as to ensure that the amount and proportion of breaks and the driving and rest periods guarantee that the driver is capable of driving the vehicle safely at all times.

Section 18/L (1) The employer shall keep records of the working time of persons performing mobile road transport services. Such records shall be retained for a period of 2 years following the period concerned. The employer shall be responsible for keeping records of the working time of mobile workers. On request, the employer shall provide mobile workers with a copy of the record of the number of hours worked.

(2) In the case of self-employed drivers, the working time shall be the period from the beginning to the end of work, during which the self-employed driver is at their workstation, at the disposal of the client and exercising their functions or activities other than general administrative work that is not directly linked to the specific transport operation under way.

Provisions on the rest periods of workers performing regular local passenger transport activities and regular interurban passenger transport activities within a distance of 50 kilometres and workers ensuring uninterrupted transport services

Section 18/M (1) In road transport, with regard to the rest periods of workers performing regular local passenger transport activities and regular interurban passenger transport activities within a distance of 50 kilometres and workers ensuring uninterrupted transport services, the derogations under paragraphs 2 and 3 from the provisions of the Labour Code may be applied.

(2) Where the total daily rest period of a worker as defined in paragraph 1 between the end of the day's work and the beginning of the next day's work is 12 hours or longer, the daily rest period may be assigned in two parts, one part being of at least 9 consecutive hours and the other part being of at least 3 consecutive hours, with the longer part falling to the period immediately preceding the beginning of the next day's work. During the rest period, the worker shall have no obligations whatsoever to the employer, whether in terms of being available or any other requirement. In such cases, no compensatory period on other days is required.

(3) In the event of an exceptional traffic situation that, for weather or other reasons, endangers or hinders the maintenance of uninterrupted passenger transport services, the daily rest period of workers defined in paragraph 1 may be reduced to 8 consecutive hours in order to maintain the service, provided that the hours of the rest period thus missed are added to the next daily rest period.

(4) In the case of the workers defined in paragraph 1, any derogation in the parties' written agreement or a collective agreement from paragraphs 2 and 3 above may only be more favourable in terms of the protection of the health and safety of workers.

Government Decree No 66/2007 of 4 April 2007 on the supervision of the driving times and rest periods of crews of certain road transport vehicles

Section 3 (1) Compliance with the provisions of Regulation (EC) No 561/2006 of the European Parliament and of the Council; the AETR; and Regulation (EU) No 165/2014 of the European Parliament and of the Council of 4 February 2014 on tachographs in road transport, repealing Council Regulation (EEC) No 3821/85 on recording equipment in road transport and amending Regulation (EC) No 561/2006 of the European Parliament and of the Council on the harmonisation of certain social legislation relating to road transport ('Regulation (EU) No 165/2014'), shall be supervised by:

- a)* the traffic authority, the police and the customs authorities through roadside checks,
- b)* the transport authority, the police and the employment authority through on-site inspections carried out at the vehicle keeper's premises.