

MINIBUS SAFETY: A CODE OF PRACTICE

Amendment, June 2006

Driver Licences

Section 3.6.3 to 3.6.6 (page 9) of "Minibus Safety: A Code of Practice" are replaced with the following sections

3.6.3 Volunteer Drivers

The EU's exemption for volunteer drivers was designed to cater for charities who use minibuses but who would not have been able to provide training for all their volunteer drivers. Unfortunately, the term "volunteer driver" was not defined and has not been tested in law. Therefore, there have been differing views and conflicting advice as to whether or not teachers driving a school minibus are 'volunteer' drivers and so exempt from the need to have a D1 PCV driving licence.

3.6.4 It is the Operator's and individual driver's responsibility to ensure that the driver is appropriately licensed to drive the minibus. The DVLA does not rule on specific cases, as this is a matter for the Police and courts. If challenged, an individual driver and the Operator would have to show that they were complying with the Motor Vehicles (Driving Licences) Regulations 1999 correctly.

3.6.5 In April 2006, the Department for Education and Skills (DfES) published its policy statement entitled "Licensing for Incidental Drivers of the School Minibus." This states that teachers or other school staff are mostly exempt from having to hold a D1 PCV driving licence to drive the school minibus because they are not being paid specifically to drive, i.e driving is not mentioned in their contract of employment. For the exemption to apply, the following conditions from section 7(6) of the Motor Vehicles (Driving Licences) Regulations 1999 must be met:

- drivers are aged 21 years or over
- they have held their category B driving licence for at least 2 years
- the minibus is being used by a non-commercial body¹ for social purposes, but not for hire or reward²
- drivers are not being paid to drive the minibus, other than out-of-pocket expenses
- the minibus does not exceed 3.5 tonnes (or 4.25 tonnes if specialised equipment for the carriage of disabled passengers is included)
- no trailer is towed.

However, the DfES Statement also states that it would be "bad practice for school staff to drive the minibus solely on the basis that they have held a class B licence for 2 years". It sets out good practice options for exempted school staff and encourages schools to ensure that staff who drive the school minibus receive appropriate training. It also includes a paragraph on the Certificate of Professional Competence.

¹Independent schools that do not have charitable status should seek legal advice to check if they would be viewed as a non-commercial body for these purposes.

² Unless the minibus is operated under a section 19 bus permit (see section 2.3).

3.6.6 Therefore, it is now government policy that if a teacher's contract of employment states that driving a minibus is part of their job, the teacher must hold a D1 PCV licence to drive a school minibus. If they drive a minibus with a Maximum Authorised Mass greater than 3.5 tonnes, or 4.25 tonnes if specialised equipment for the carriage of disabled passengers is included, (and this includes most newer minibuses) they must hold a D1 PCV licence. If the contract of employment does not refer to driving, or the Maximum Authorised Mass of the minibus does not exceed 3.5 tonnes (or 4.25 tonnes) they do not need to hold a D1 PCV licence, but it would be good practice to do so.

3.6.7 The DfES statement sets out Government policy. Only a court can issue a legal ruling

3.6.8 RoSPA's advice is that irrespective of the legal requirements, teachers and other school staff who drive a school minibus should receive specific minibus driver training, and preferably hold a D1 PCV licence. Schools that wish to adopt the exemptions for teachers and other staff on the basis that their contract of employment does not refer to driving, should also check if driving is included in the job description. If so, the school should seek legal advice to check if the job description forms part of the contract of employment. The school may also wish to seek legal advice on whether a teacher who is subject to school rules and discipline when driving the school minibus out-of-hours can be regarded as a volunteer - even if their contract does not specify driving.

3.6.9 The DfES policy statement is available at www.teachernet.gov.uk/wholeschool/healthandsafety/visits/

Information is also available in "Driving a Minibus" (INF28) from the DVLA or "Driver Licensing for Minibuses" from the CTA.

BEST PRACTICE

ENSURE THAT ALL DRIVERS HAVE TAKEN APPROPRIATE TRAINING IN A MINIBUS AND HAVE THE APPROPRIATE DRIVING LICENCE.