

Licensing Incidental Drivers of the School Minibus

This Statement updates Chapter 6 “Planning Transport” in *Health and Safety of Pupils on Educational Visits* (DfES 1998, supplemented 2002.)

Summary. *In most circumstances, minibus drivers must hold a D1 PCV (Passenger Carrying Vehicle) licence. However, school staff who hold a car (Class B) licence can legally drive a school minibus without a D1 PCV licence as long as certain conditions are met. The most significant requirement is that staff are not specifically remunerated for driving through their contract of employment or otherwise. The other conditions are set out and explained later in this Statement.*

It would, nonetheless, 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. There are a range of options for further training, including the D1 PCV licence and other courses established by employers and others to secure a high level of competence for incidental minibus drivers. The statutory risk assessment process should help an employer choose which good practice option is most appropriate.

The exemption is only for a minibus weighing no more than 3.5 tonnes. In the medium term, when a school replaces its minibus, it is likely to lose exemption because newer minibuses tend to weigh more than 3.5 tonnes, and the Government has no plans to change the weight limit on the exemption. Therefore we advise schools to consider investing in D1 PCV training over the next few years, since the law will require it in the longer term, if or when they move to a heavier minibus.

1. Car driver licences issued before 1997 carried an entitlement to drive a minibus not for hire or reward. Car driver licences issued since then (B category) do not. A category B licence-holder driving a minibus must now also hold a D1 Passenger Carrying Vehicle licence (D1 PCV), unless they meet conditions for exemption which are:

- the driver is 21 or over and has held a car driver (B) licence for not less than 2 years;
- the vehicle is being used by a non-commercial body for social purposes but not for hire or reward; and
- the minibus driver receives no consideration for driving other than out of pocket expenses.

3. It follows that car drivers are exempt from the D1 PCV licensing requirement when they drive a minibus in the course of their employment and are not paid for

doing so. This means that most teachers and other school staff may legally drive the school minibus on their category B car driver licence because their contract of employment does not expressly require them to drive a PCV. See also paragraph 7.

4. Some independent schools which lack charitable status could be viewed as commercial bodies and we advise such schools to seek their own legal advice. There are also restrictions on the minibus weight and on towing a trailer – details available at the DVLA website as below.

Good Practice Options

5. Education employers must ensure, so far as is reasonably practicable, the health and safety of staff and anyone else who may be affected by their activities, including pupils participating in off-site visits. Advanced driver training mitigates the risks to staff and pupils when school staff drive in the course of their work. Acquiring the D1 PCV licence is a good practice option for exempted staff, but there are other options, for example MiDAS (Minibus Driver Awareness Scheme) certificates, awarded on a 4-yearly cycle of training and assessment. The Department for Education and Skills understands there are other training arrangements provided by the Royal Society for the Prevention of Accidents (RoSPA) and that individual local authorities have their own in-house training and assessment schemes. Local authorities and other education employers could consider such training/assessment programmes as these. Chapter 1 of *Health and Safety of Pupils on Educational Visits* (DfES) sets out the legal requirement about risk management.

Non-Exemption

6. The exemption does not apply where a driver's employment contract expressly states that driving a PCV vehicle is part of the job. Employers of, for example, support staff hired as drivers, or of instructors at outdoor education centres, should check the contracts of these categories of staff carefully before concluding whether or not a D1 PCV licence is required. Employers of part-time teachers working extra hours and being paid additionally for driving a PCV should also check their contract(s) to establish whether a D1 PCV qualification is needed.

7. The exemption does not apply where a minibus exceeds 3.5 tonnes or where a trailer is attached.

Out-of-Hours Driving

7. There are a number of other situations in which the exemption does not apply. These include:

- driving in other European Member States;

- driving in the UK during out-of-hours-situations (for example, during school holidays) where pupils or parents have to pay for carriage (unless the bus has a section 19 permit allowing not for profit charging);
- when a teacher is being remunerated under the Teachers' Pay and Conditions Document for driving the minibus on an out-of-school-hours learning activity.

Hire or Reward

8. Where passengers pay for transport, in most cases the driver must hold a D1 PCV licence. The exemption from the D1 PCV requirement applies where the vehicle is used for a non-commercial purpose, for example by a maintained school, *and* where the pupils are carried not for hire or reward - that is, where pupils are not obliged to pay in exchange for the right to be passengers. It can be argued that independent schools are non-commercial bodies for this purpose. In such schools the minibus is not generally used for a passenger service on a commercial basis but rather to take pupils off-site for curricular purposes. Charitable status assists this argument. Schools who admit pupils on a fee-paying basis may wish to take their own legal advice.

Permits issued under Section 19 of the Transport Act 1985

9. If, however, the school offers the minibus to pupils for a charge but on a non-profit basis under a section 19 bus permitⁱ then the driver is exempt from the D1 PCV requirement. This is because the section 19 permit exempts the employer from holding a PSV operator licence and exempts the driver from the D1 PCV requirement.

Other Guidelines & Further Details

10. The Department for Transport is publishing its own guidance for incidental drivers of minibuses, which addresses the generality of PCV driving situations. It focuses on the PCV test – both as a legal requirement and as the good practice option for exempted drivers – and does not discuss the wider range of good practice options available for school staff. The Driver and Vehicles Licensing Agency provides advice (0870 240 009 or <http://www.dvla.gov.uk/drivers/drmbus.htm>) on D1 PCV or section 19 requirements, and the Driving Standards Agency (0115 901 2500) on the PCV test. Schools and local authorities can 'shop around' the PCV training providers; anyone who has had a D1 licence for three years can be an instructor for the PCV test; and there is no requirement to attend a full-time course. For details of other training/assessment contact, for example, RoSPA at www.rospace.com or MiDAS at <http://www.communitytransport.com/midas/midas.htm> Local authorities and schools may wish to discuss exemption from holding a D1 PCV licence with their insurer. They may also wish to bring this Statement to the

attention of other local agencies including the police.

Certificate of Professional Competence.

11. From September 2008 all new professional bus drivers must also pass an initial qualification to obtain a Certificate of Professional Competence (CPC)ⁱⁱ. This will be on top of the D1 requirement though it is likely that the training for the acquisition of a D1 licence could be combined with the initial qualification CPC training. All professional bus drivers will have to take periodic retraining on a five-yearly cycle. The Driving Standards Agency consulted to February 2006 on the regulations that will implement this requirement in the UK. Most school staff, whether they hold a D1 PCV licence or not, will be exempt from this requirement. This is because the regulations will exempt drivers of vehicles used for the non-commercial carriage of passengers.

Relevance of this Policy Statement

12. This Statement is also relevant to non-school drivers who drive minibuses for non-commercial purposes incidentally in the course of their employment (for example in childcare or in colleges of further education) or in volunteering activity.

13. The text of this Statement replaces:

- paragraph 134 of the DfES guidance, *Health and Safety of Pupils on Educational Visits*
(<http://www.teachernet.gov.uk/wholeschool/healthandsafety/visits/>)

The Royal Society for the Prevention of Accidents is amending paragraphs 3.6.3 – 3.6.5 of *Minibus Safety: A Code of Practice 2002* (RoSPA and others).

DfES April 2006.

ⁱ Directive 1991/439/EEC ('the 1991 Directive') sets out a harmonised system of driving licences throughout the European Union. It is implemented in the UK by section 18 of the Transport Act 1985 and two sets of regulations. These are the Minibus and Other Section 19 Permit Buses Regulations 1987 and the Motor Vehicles (Driving Licences) Regulations 1999.

ⁱⁱ Directive 2003/59/EC of 15 July 2003 ('the 2003 Directive') imposes qualification and training requirements (Certificate of Professional Competence) on drivers of certain types of vehicle including vehicles for which a D1 PCV licence is normally required. In the UK, the 2003 Directive will take effect on professional bus drivers by September 2008 and lorry drivers by September 2009