

## GUIDE TO DRIVER CPC EXEMPTIONS

Professional bus/coach drivers have been required to hold a Certificate of Professional Competence (CPC) since 10 September 2008 and the same requirement applied to professional lorry drivers from 10 September 2009. However, those that already held a licence to drive a bus/coach on 10 September 2008 or a lorry on 10 September 2009 were exempt from the requirement to hold CPC until 10 September 2013 and 10 September 2014 respectively.

There are some further, more specific, exemptions that are intended to ensure that persons who do not drive professionally are not required to hold a CPC. But these exemptions only apply in particular circumstances. A driver who is exempt from the requirement to hold a CPC as a result of the work he undertakes in the morning may find that he still needs a CPC for the different type of work he does in the afternoon.

To help drivers decide whether or not they come within scope of any of the specific exemptions, we have described below a number of scenarios and given our opinion as to whether (in each case) we believe the driver requires a CPC. Whether or not a particular driver's activity falls within the scope of an exemption will be a matter of fact in each case. The examples below set out our views and carry no legal weight. Ultimately, the interpretation of the exemptions will be a matter for the courts to determine.

Where drivers intend to rely upon a specific exemption as justification for not holding a CPC, we strongly advise them to seek independent legal advice in order to minimise the risk of committing the offence of driving without a CPC in circumstances where one is required.

<b>3 Persons to whom these Regulations apply</b>	
<p>2(1) These Regulations apply to any person who drives a relevant vehicle, other than a vehicle to which paragraph (2) applies, on a road and is—</p> <p>(a) a national of a member State; or</p> <p>(b) a national of a third country employed or used by an undertaking established in a member State.</p>	<p>These are the basic rules that require most professional drivers to hold a CPC regardless of the purpose of that driving:            Drivers must hold a CPC if they need a driving licence of category C, C + E, C1, C1 + E, D, D+ E, D1, D1+E in order to drive a relevant vehicle <b>and</b> they are either:            a national of any EU country <b>or</b>            a national of a country that is outside the EU but work for an organisation that is based in the EU.            A relevant vehicle is defined in regulation 2(1) as a “vehicle for which is required a driving licence of category C, C+E, D or D+E as defined in Article 3(1) of the Driving Licences Directive , or a driving licence recognised as equivalent”.</p> <p><u>Examples</u>            Driver A is a Dutch national and drives a Large Goods Vehicle (LGV) within the EU, so he</p>

	<p>needs to hold a CPC.</p> <p>Driver B is a Turkish national working for an Austrian coach operator and drives within the EU, so he needs to hold a CPC.</p> <p>Driver C is a Turkish national working for a Turkish haulage company. Although he often drives into the EU he doesn't need to hold a CPC.</p> <p>Driver D is a Polish national working for a Russian tour operator. He currently only drives coaches in Russia so doesn't need a CPC. But if his employer starts running tours from Russia into the EU, he will need a CPC.</p> <p><b>But there are a few specific exemptions which allow some professional drivers to drive without a CPC. These are explained below.</b></p>
<p>(2) This paragraph applies to a vehicle –</p> <p>(a) which it is an offence for that person to drive on any road at a speed greater than 45 kilometres per hour in Great Britain under <a href="#">section 89</a> of the Road Traffic Regulation Act 1984 or in Northern Ireland under the Motor Vehicles (Speed Limits) Regulations (Northern Ireland) 1989;</p>	<p>A driver does not need to hold a CPC where the vehicle is not allowed to exceed 45 kilometres per hour on any road.</p> <p><u>Example</u> Driver A works for a city bus company that has fitted its vehicles with speed limiters that prevent the vehicles from exceeding 40 km/h but he still needs a CPC. Although the buses cannot physically exceed 40 km/h, the relevant law permits them to be driven at more than 45 km/h.</p>
<p>(b) which is being used by, or is under the control of any of the following—</p> <p>(i) the armed forces;</p> <p>(ii) a police force;</p> <p>(iii) a local authority in the discharge of any function conferred on or exercisable by that authority under an order made under <a href="#">section 5</a> of the Civil Contingencies</p>	<p>Drivers of vehicles that are used by, or are being controlled by, the armed forces, the police, public fire and rescue services or public ambulance services do not need to hold a CPC. In addition, where vehicles are being used or controlled by a local authority in an emergency civil protection situation.</p> <p><u>Example</u> Driver A is employed by the local Fire &amp; Rescue Service, so he can drive its vehicles without needing to hold a CPC. However, if he also works on a casual basis for a Passenger Carrying Vehicle (PCV) or LGV operator, he will probably need a CPC when carrying out that work.</p>

<p>Act 2004 or regulations made under section 20 of that Act, or</p> <p>(iv) a fire and rescue authority;</p>	
<p>(c) which is undergoing road tests for technical development, repair or maintenance purposes, or that is a new or rebuilt vehicle which has not yet been put into service;</p>	<p>Drivers of vehicles that are being road tested after being repaired or serviced or for technical development purposes do not need to hold a CPC. A CPC is also not required when the vehicle being driven is either new or rebuilt and has not yet been taxed.</p> <p><u>Examples</u></p> <p>Driver A works for a company that manufactures chassis for PCVs. When he drives the chassis to another location so that a coach body can be built on it, he does not need to hold a CPC.</p> <p>Driver B is employed to drive a car transporter delivering new cars (which have not yet been put into service) to garage forecourts. He needs to hold a CPC as the vehicle he is driving, rather than the ones he is carrying, has been put into service.</p> <p>Driver C is employed as a mechanic by a road haulage operator or by a repair centre. As part of his responsibilities, he takes vehicles that he has prepared, which included a road test, to the local testing station. When driving the vehicles to the test station he is not road testing them, so he needs to hold a CPC.</p> <p>Driver D is employed as a mechanic by a bus operator. As part of his responsibilities he drives exchange buses which are replacing faulty service vehicles. He needs to hold a CPC because he is not engaged in road tests.</p> <p>Driver E is employed as a mechanic by a bus operator. He drives minibuses under a D1(101 - Not for Hire or Reward) driving licence for maintenance and repair. Because he does not have acquired rights he will need to pass all 4 modules (theory and practical) of the driving and CPC test to obtain a Driver CPC.</p>
<p>(d) which is being used in a state of emergency or is assigned to a rescue mission;</p>	<p>Drivers of vehicles that are being used as part of an official response to a state of emergency or an officially-recognised rescue mission do not need to hold a CPC whilst undertaking those particular activities.</p>

	<p><u>Examples</u>  Driver A is a self employed LGV driver contracted to deliver goods to local authority road maintenance depots. He needs to hold a CPC for this work. During severe flooding, the government declares a state of emergency. Driver A is instructed by the local authority to deliver sandbags to shore up local flood defences and prevent a river from bursting its banks. Driver A does not need to hold a CPC while he is delivering the sandbags as he is part of an official response to a state of emergency but, as he already holds a CPC, he gains no benefit from the exemption.</p> <p>Driver B does not usually drive LGVs as he works in the planning department of the local authority but he is also involved in delivering sandbags during the state of emergency. He will be covered by the exemption, so he does not need a CPC.</p>
<p>(e) which is being used in the course of a driving lesson or driving test for the purpose of enabling that person to obtain a driving licence or a CPC;</p>	<p>Drivers of vehicles who are using the vehicle in order to prepare for, or to take, a licence acquisition or CPC test do not need to hold a CPC.</p> <p><u>Examples</u>  Driver A is taking driving lessons in a PCV, in preparation for a practical PCV licence acquisition test, so he does not need to hold a CPC.</p> <p>Driver B is an LGV driving instructor and sometimes drives a vehicle to demonstrate a particular technique to his trainees. As this occurs during the course of a driving lesson, he does not need a CPC.</p>
<p>(f) which is being used for the non-commercial carriage of passengers or goods for personal use;</p>	<p>Drivers of vehicles carrying goods, materials or passengers on a non-commercial basis (including their personal use) do not need a CPC. Non-commercial activity is generally considered to be an operation that is not intended to generate a profit in the normal sense of the word.</p> <p><u>Examples</u>  Driver A is an LGV driver who has hired a self-drive LGV to move home. He does not require a CPC for this activity because he is transporting his own goods for personal use.</p> <p>Driver B is an LGV owner operator. He transports a friend's new boat from the manufacturer</p>

	<p>to a holiday home on the coast. He does this as a favour and charges no fee. Driver B does not require a CPC for this activity because he is using his vehicle for the non-commercial carriage of goods. However, if he is stopped by enforcement staff, he will need to satisfy them that the journey is not a commercial one.</p> <p>Driver C drives a PCV for a not-for-profit community organisation taking senior citizens from nearby villages into the local town under a Section 22 (community bus service) permit. Although he is paid for his work, he does not need a CPC as the operation is not-for-profit.</p>
<p>(g) which is carrying material or equipment to be used by that person in the course of his work, provided that driving that vehicle is not his principal activity.</p>	<p>Drivers of vehicles which are carrying equipment or material that will be used by them are not required to hold a CPC provided that driving the vehicle is not their principal activity. This exemption covers not only a “tools of the trade” exemption found in other EU legislation that is intended to exclude a driver from compliance with certain requirements where driving does not constitute the driver’s main activity, but also the goods, such as building materials or cables, which are required for the performance of the main activity of the driver of the vehicle concerned.</p> <p><u>Examples</u></p> <p>Driver A is a mobile LGV engineer who drives a vehicle from one operator’s site to another site where he takes his tools from the vehicle in order to undertake his principal activity of servicing LGVs. He would not need a CPC. If the engineer uses engine diagnostic kit that is fixed within the vehicle, he would also be covered by the exemption because the vehicle carries material or equipment for his use on site.</p> <p>Driver B is a self-employed bricklayer and drives his LGV to a building site with a load of bricks. He unloads the bricks and uses them in the construction of a house. He does not require a CPC because driving the LGV is not his principal activity and he is carrying materials for his use in the course of his bricklaying work.</p> <p>Driver C drives an LGV with a generator fixed to the bed of the vehicle. Driving is not his principal activity. He drives to road maintenance sites where the generator is used to power site equipment. He undertakes various tasks at the site including monitoring the generator to ensure it is operating correctly and he provides the site with a power supply. Driver C does not require a CPC.</p> <p>Driver D works in the stores department of a company that supplies car parts. Occasionally,</p>

he is required to drive one of the company's LGVs to deliver parts to retail outlets. Although the driving occupies only a very small amount of his working time, Driver D requires a CPC when making those deliveries because he is driving a vehicle which is carrying materials for someone else's use.

Driver E is a farmer. On an average of once a month, he drives his animals to a local cattle market for auction. He requires a CPC when undertaking this activity as he is not carrying materials or equipment to be used by him in the course of his work. The farmer is carrying cattle intended for sale.

Driver F is a farmer. Twice a month he drives an LGV on public roads around his farm, repairing fences. The vehicle carries the tools and materials necessary to make these repairs. Driver F does not require a CPC because he is carrying materials to be used by him in the course of his work repairing fences. The concept of materials can be interpreted broadly to include materials at the heart of the activity of a farmer.

Driver G is employed by a farmer as a labourer. Twice a day he drives a minibus transporting workers from the local town to various fields on the farm. The driving activity takes up a relatively small proportion of his day. The majority of his shift is spent with the other workers picking crops. Driver G requires a CPC because he is transporting the other labourers - he is not carrying materials or equipment.

Driver H is employed as a mobile crane operator, he drives the vehicle with the crane to a building site, where he operates the crane assisting in the construction of a new factory. Driver H does not require a CPC because his principal activity is not driving and he is carrying tools and materials (the crane) to be used in the course of his work.

Driver I is employed as a valet. His main task is cleaning vehicles on return from hire and then delivering those vehicles to a new hirer. The driving activity takes up a relatively small proportion of his day but Driver I requires a CPC because he is not carrying goods or materials for use in the course of his work. The only purpose of the journey is to deliver the vehicle he is driving.