

Wages and subsistence allowances for freight drivers in Norway

Freight drivers in Norway have a right to a minimum wage and a daily subsistence allowance. Employers are responsible for ensuring that these rights are granted. The purchaser of a transport assignment is also responsible for checking drivers' pay and subsistence allowances.

This information is aimed at in particular purchasers of transport services and foreign transport businesses that perform cabotage or combined transport in Norway. Below you can find information about minimum requirements for pay and daily subsistence allowances for drivers and how these provisions are enforced by the Norwegian Labour Inspection Authority.

General application of pay and daily subsistence allowances

General application of collective agreements, an arrangement whereby the authorities have introduced collective union agreements as a standard for the entire industry in some sectors, is intended to prevent exploitation of foreign workers and distortion of competition.

The Regulations on general application of collective agreements (the General Application Regulations) for road transport are intended to ensure minimum pay for all employees who perform freight transports using vehicles of over 3.5 tonnes in Norway. They also apply to foreign enterprises that perform transport assignments in Norway, either in the form of cabotage or combined transport. The regulations do not cover international transport.

Employers of drivers who transport freight in Norway have a duty to ensure that their employees:

- receive a generally applicable minimum wage
- have their travel and subsistence expenses covered by 1/3 of the daily allowance rate per eight hours begun in the case of planned overnight lodging.

For updated minimum wage rates, see:

> www.arbeidstilsynet.no/minimumwage



Planned overnight lodging refers to instances where drivers have to stay away from their home overnight as a result of instructions or to comply with the rest time requirement in *forskrift om kjøre- og hviletid for vegtransport i EØS* ("Regulations concerning driving and rest time for road transport in the EEA, currently available only in Norwegian). Daily subsistence allowances shall be paid in accordance with Norwegian authorities' prevailing approved *tax-free travel* and *subsistence allowance*, see:

> www.altinn.no/en/start-and-run-business/working-conditions/pay/travel-expenses/

How to calculate wages

Wages are paid based on drivers' working hours. Separate rules apply for working hours in Norway. Working hours are defined in *forskrift om arbeidstid for sjåførere og andre innenfor vegtransport (FATS)*. ("Regulations concerning working hours for drivers and others in road transport etc.") For employees performing freight transport who are not covered by FATS, remuneration is based on the actual working hours as defined in Section 10 of the Working Environment Act.

Remuneration for work is deemed to be wages. Compensation for expenses such as travel, subsistence and lodging are not deemed to be part of the minimum wage and must be paid in addition to standard wages.

Exemptions to the Regulations

The Regulations do not apply when an employer can substantiate that an employee in overall terms receives more favourable wages and working conditions under an agreement or under the law of the country that otherwise applies for the employment relationship. The exemption provision is intended to cater for instances where drivers receive other forms of remuneration for work performed, such as commission or redundancy pay. For the exemption to apply, the remuneration in question must involve goods or services that are commonly regarded as a part of wages and that are included in the calculation basis for holiday pay, taxes and national insurance benefits.

Working conditions in overall terms must be in accordance with the regulations. The pay and working conditions may deviate from the regulations on one or more points, but in overall terms they must be equally favourable or provide better conditions. For example, the hourly pay rate may be slightly lower than the minimum rate in the regulations, but in such cases it is presumed that an employee will receive other forms of remuneration tied to work performed. Lower hourly pay rates may not be compensated through coverage of expenses.

Documentation requirements for foreign enterprises

If your enterprise posts drivers on transport assignments in Norway (cabotage or combined transport) you must ensure that the following documentation is kept in the vehicle:

- **A valid employment agreement for the driver**
- **A wage slip showing the method of wage calculation for the most recent period in which cabotage or combined transport was performed.**

The wage slip for the previous period must be available even if the driver has not previously per-



formed this type of transport.

- **A record of the driver's working hours.**
This record should show the working hours for the same period as the wage slips. A record of working hours for the previous month's work must always be available.
- **Any agreements on average calculation of the driver's working hours**

It is extremely important that this documentation is in Norwegian, Swedish, Danish or English – in either printed or electronic form. The Norwegian Labour Inspection Authority can impose a fine for violations if this documentation is not kept in the vehicle.

Enforcement by the Labour Inspection Authority

Inspection of foreign transporters

The Norwegian Labour Inspection Authority will conduct checks along roads in collaboration with bodies such as the Norwegian Public Roads Administration. Drivers who are stopped will be asked to present documentation showing that they are receiving wages at generally-applicable rates and a daily subsistence allowance for the portion of the assignment that is performed in Norway.

The Labour Inspection Authority's follow-up will depend on the type of documentation the driver can present during the inspection and what this documentation shows.

If the driver can document that he/she is being paid a generally-applicable wage and daily subsistence allowance, the inspection may then be concluded with an inspection report to the driver's employer. If the driver cannot present documentation that allows the Labour Inspection Authority to check the driver's wages and/or daily subsistence allowance, the Labour Inspection Authority may write to the employer requesting any necessary documentation.

If a violation of the regulations is confirmed, the Labour Inspection Authority may then issue an order to the enterprise. In instances where gross violations of the regulations are suspected or confirmed, the Labour Inspection Authority may impose fines for violations or report the enterprise to the authorities. Enterprises reported to the authorities risk fines or imprisonment of up to one year, and up to three years in the event of particularly aggravating circumstances.

The Labour Inspection Authority exchanges information with supervisory agencies in other countries regarding drivers who have been posted to Norway. The Labour Inspection Authority may request information through international agencies regarding enterprises it supervises, for example, the identity of owners.

When assessing documentation for paid wages, the Labour Inspection Authority will base its evaluation on the applicable exchange rate at the time of the check or inspection.



Inspections at the purchaser and principal supplier

The Labour Inspection Authority will conduct inspections at purchasers and principal suppliers of transport services to check that they are complying with the Regulations on the obligation to disclose information, the obligation to ensure compliance, and the right of inspection. For public-sector purchasers, the *Forskrift om lønns- og arbeidsvilkår i offentlige kontrakter* ("Regulations concerning pay and working conditions in government contracts", currently available only in Norwegian) also apply.

The obligation to disclose information obliges the purchaser of the transport service to communicate in its contract with the supplier that an employee must be paid in accordance with the General Application Regulations. Suppliers have the same obligation to disclose information when they enter into agreements with subcontractors.

The duty to ensure compliance obliges the principal supplier to have systems and procedures in place for monitoring compliance with the General Application Regulations at suppliers. They must also have procedures for following up any breaches of the regulations. The purchaser has a duty to ensure compliance if the supplier does not use subcontractors. See:

> www.arbeidstilsynet.no/paseplikt (in Norwegian)

For example, the duty to ensure compliance may be met by including contract clauses stating that the supplier's employees is as a minimum receive pay and working conditions in accordance with the General Application Regulations, and that this must be verified by obtaining documentation of an employee's wages and daily subsistence allowance. A procedure or system must therefore be established to ensure that the duty to guarantee compliance.

It is important to note that the regulations do not grant a purchaser or principal supplier the right to conduct checks at a supplier. Nor do they grant the right to impose penalties for violations of general application provisions. Purchasers and principal suppliers must therefore establish such rights through specific clauses in the contracts they enter into.

Suppliers and subcontractors are jointly and severally liable for non-payment of wages in accordance with the General Application Regulations, and overtime supplements and holiday pay, see Section 13 of the General Application Act.

In the event of violations of the regulations, the Labour Inspection Authority may issue an order, impose fines for violations or report the enterprise to the authorities. The purchaser or principal supplier may also be prosecuted for complicity in violations of the General Application Act



Relevant regulations

- Lov om allmenngjøring av tariffavtaler § 13 ("General Application of Collective Agreements Act " Section 13, currently available only in Norwegian):
> www.arbeidstilsynet.no/regelverk/lover/allmenngjoringsloven/13/
- Forskrift om allmenngjøring av tariffavtaler for godstransport på vei ("Regulations on general application of collective agreements concerning freight transport by road", currently available only in Norwegian):
> www.arbeidstilsynet.no/regelverk/forskrifter/forskrift-om-delvis-allmenngjoring-av-tariffavtaler-for-godstransport-pa-vei
- Section 1-7 of the Working Environment Act concerning posted workers:
> www.lovdatabank.no/lov/2005-06-17-62/section1-7
- Forskrift om utsendte arbeidstakere ("Regulations concerning posted workers ", currently available only in Norwegian):
> www.arbeidstilsynet.no/regelverk/forskrifter/forskrift-om-utsendte-arbeidstakere
- Forskrift om lønns- og arbeidsvilkår i offentlige kontrakter ("Regulations concerning pay and working conditions in government contracts", currently available only in Norwegian) :
> www.arbeidstilsynet.no/regelverk/forskrifter/forskrift-om-arbeidsvilkar-i-off.-kontrakter
- Forskrift om informasjons- og påseplikt og innsynsrett ("Regulations on the obligation to disclose information, the obligation to ensure compliance, and the right of inspection", currently available only in Norwegian) :
> www.arbeidstilsynet.no/regelverk/forskrifter/forskrift-om-informasjons--og-paseplikt-mv
- Forskrift om kjøre- og hviletid for vegtransport i EØS ("Regulations concerning driving and rest time for road transport in the EEA", currently available only in Norwegian):
> www.lovdatabank.no/forskrift/2007-07-02-877
- Forskrift om arbeidstid for sjåførere og andre innenfor vegtransport FATS. ("Regulations concerning working hours for drivers and others in road transport etc.", currently available only in Norwegian):
> www.arbeidstilsynet.no/regelverk/forskrifter/forskrift-om-arbeidstid-innenfor-vegtransport
- Chapter 10 of the Working Environment Act concerning working hours:
> www.lovdatabank.no/NLE/lov/2005-06-17-62/section10-1

Relevant webpages

- For work assignments in Norway
> www.arbeidstilsynet.no/en/safety-and-health/posted-workers/
- Special page on minimum wages
> www.arbeidstilsynet.no/minimumwage
- Inspections in the transportation sector:
> www.arbeidstilsynet.no/transport (in Norwegian)
- The duty to ensure compliance:
> www.arbeidstilsynet.no/paseplikt (in Norwegian)

