

Guide to the general application of collective agreements concerning passenger transport by tour bus

This guide provides information about the provisions in the General Application Regulations and how the provisions will be enforced by the Norwegian Labour Inspection Authority. The guide is primarily directed at tour bus enterprises and purchasers of tour bus services.

The guide is based on:

- **Forskrift om allmenngjøring av tariffavtale for persontransport med turbil**
("Regulations on general application of collective agreements concerning passenger transport by tour bus" — currently available only in Norwegian)
- **Section 1-7 of the Working Environment Act**
- **Regulations concerning posted workers** (in Norwegian)
- **Forskrift om lønns- og arbeidsvilkår i offentlige kontrakter**
("Regulations concerning pay and working conditions in government contracts" — currently available only in Norwegian)
- **Forskrift om informasjons- og påseplikt og innsynsrett**
("Regulations on the obligation to provide information, the obligation to ensure compliance, and the right of inspection" — currently available only in Norwegian)

What do the General Application Regulations entail?

The General Application Regulations provide the employees covered by the Regulations a right to generally applicable pay and working conditions. For the employers who are covered, the Regulations entail an obligation to ensure that employees:

- **receive a generally applicable minimum wage**
The Tariff Board can change the rate based on a collective agreement revision.
For updated minimum wage rates, see: www.arbeidstilsynet.no/minimumwage
- **receive board and lodging from the employer or have their board and lodging expenses covered by agreement**



Wages shall be paid based on working hours, as this is defined in **Forskrift om arbeidstid for sjåfører og andre innenfor vegtransport** (“Regulations concerning working hours for drivers and others in road transport” — Norwegian acronym: FATS — currently available only in Norwegian). For employees who provide passenger transport by tour bus but who are not covered by FATS, wages shall be paid based on working hours as defined in Chapter 10 of the Working Environment Act.

Remuneration for work is considered wages. Coverage of expenses falls outside the term wages. In other words, compensation for expenses such as travel, meals and accommodation shall not be considered a part of the minimum wage under the Regulations.

Applicability of the Regulations

The Regulations apply for employees of companies that provide passenger transport using tour buses, provided that the transport does not require the allotment of a licence by public tender pursuant to Section 8 of the Professional Transport Act.

The reference to Section 8 of the Professional Transport Act is intended to limit the regulation to passenger transport on services where a licence has been granted following a public tender process.

The Regulations do not apply to sole traders, apprentices and persons involved in labour market measures.

Foreign enterprises

For employees of enterprises established outside Norway, Section 1-7 of the Working Environment Act and the Regulations concerning posted employees govern *whether* and in such event *which* Norwegian rules will apply.

When foreign enterprises provide passenger transport using tour buses in Norway, this will normally be in the form of international transport and/or cabotage driving.

In this connection, the Application Regulations only apply to cabotage driving; see Section 2, first paragraph. Cabotage driving is when a foreign transport enterprise operates short-term tour-bus transport with embarkation/disembarkation in Norway. International transport is not covered by the scope of the regulations. International transport means transport assignments that cross international borders, typically transport with a starting point in the transporter’s home state and an endpoint in a different state. Transport that starts and ends in the same state, but where passengers are taken on or set down in a different state, is considered to be international transport.



Exemptions from the Regulations

The Regulations do not apply where an employer can substantiate that an employee overall has more favourable wages and working conditions under an agreement or according to the law of the country that otherwise applies for the employment relationship. The exemption provision is intended to catch instances where the driver receives other forms of remuneration for work effort, such as commission or redundancy payments. It is required that the matter involves goods or services that are commonly regarded as a part of the pay and that are included in the calculation basis for holiday pay, taxes and social insurance benefits.

It is the pay and working conditions seen *as a whole* that must be in accordance with the regulations. The pay and working conditions may deviate from the regulations on one or more points, but seen as a whole they must be just as favourable or provide better conditions. For example, the hourly pay may be somewhat lower than the minimum rate in the regulations, but it is then assumed that an employee will receive other forms of remuneration tied to work performed. Lower hourly rates may not be compensated for by covering expenses.

Documentation requirements

The Labour Inspection Authority is entitled under **Section 11 of the Act relating to general application of wage agreements etc.** to demand necessary information from the enterprises. The driver is obligated to have certain documents in the vehicle. The Labour Inspection Authority can also request other documentation, which the driver is not obligated to have in the vehicle but which is advantageous to have in the vehicle for more efficient completion of the inspection for all parties.

The enterprise is obligated to ensure that the following documentation is in the vehicle:

- Driving time and resting time data
- Driving licence and authorisation (for example, professional transport authorisation or other valid identification of the driver)
- Vehicle registration (applies to all vehicles, both Norwegian and foreign)
- Transport licence
- Bilateral agreement between Norway and the state concerned, or a special permit if the transporter is established in a state outside the EEA
- In addition to a permit, Norwegian authorities require a control document/passenger list for most transporters.

Foreign enterprises that send workers to Norway in connection with the performance of their work are obliged to provide the following documentation in the vehicle:

- Employment agreements
- Overview of working hours
- Pay slips

This documentation shall be available in writing or electronically in Norwegian, Swedish, Danish or English.



In order to carry out quick inspections, it is an advantage if the driver has with him or her:

- Pay statement, employment contract or other documentation showing that the driver is being paid a generally applicable minimum wage while driving in Norway.
- A signed agreement on covering expenses for board and lodging.
- Documentation showing a summary of the working hours in Norway; see **Section 6 of Forskrift om arbeidstid for sjåførere og andre innenfor vegtransport mv.** (“Regulations concerning working hours for drivers and others in road transport etc.” — Norwegian acronym FATS — currently available only in Norwegian) or **Section 10-7 of the Working Environment Act.** This is necessary in order for the Labour Inspection Authority to check whether the employees are receiving generally applicable wages for the working hours in Norway.
- Any agreements on average calculation showing that the employee is receiving a generally applicable minimum wage for work performed in Norway.

Enforcement by the Labour Inspection Authority

Inspection of driver/enterprise

The Labour Inspection Authority will conduct checks along roads in collaboration with the Norwegian Public Roads Administration, among others. The drivers who are stopped will be asked to present documentation that the person in question is receiving wages according to generally applicable rates, and an agreement on board and lodging for the portion of the assignment being performed in Norway, as well as an overview of working hours.

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

If the driver can document that he or she is being paid a generally applicable wage and has an agreement on board and lodging, the inspection will then be concluded with an inspection report to the driver’s employer.

If the driver cannot present documentation that makes it possible for the Labour Inspection Authority to check the wages and/or daily allowance of the person in question, the Labour Inspection Authority may send a letter to the employer with a request that they send the necessary documentation.

If a violation of the regulations is revealed, the Labour Inspection Authority may follow up with an order to the enterprise. In instances where gross violations of the regulations are revealed, or where this is suspected, the Labour Inspection Authority may impose fines for violations or report the enterprise to the police. In the event of a report to the police, the employer may risk fines or imprisonment for 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 in cases where the driver has been posted. The Labour Inspection Authority can request information through international systems about enterprises that it supervises – for example, who the owners are.

When assessing documentation for paid wages, the Labour Inspection Authority will assume at the outset the foreign currency exchange rate at the time of the check or inspection.

Inspections at purchaser and principal supplier

The Labour Inspection Authority will conduct inspections at purchasers and principal suppliers of transport services in order to check for compliance with the Regulations on the obligation to provide information, the obligation to ensure compliance, and the right of inspection. For government 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 information obligation means that the purchaser of the transport service communicates in its contract with the supplier that an employee must be paid in keeping with the General Application Regulations. Suppliers will have the same information obligation when they enter into agreements with subcontractors.

The obligation to ensure compliance means that a purchaser (in those instances when a subcontractor is not used) and a principal supplier must have systems and procedures for investigating, and if necessary monitoring, compliance with the General Application Regulations at the supplier.

For example, the obligation to ensure compliance may be met by including contract clauses stating that the supplier’s employees must as a minimum have the pay and working conditions resulting from the General Application Regulations, and that this is monitored by obtaining documentation of an employee’s wages and daily allowance. A procedure or system must therefore be established in order to ensure that the obligation to ensure compliance is met. No special written procedure is required for the obligation to ensure compliance, as this can be included in other management documents or procedures.

However, the Labour Inspection Authority requires that a purchaser’s system or procedure for ensuring that suppliers comply with the General Application Regulations are suitable for discovering whether a supplier is violating the provisions in the Regulations. In instances where subcontractors are used, the Labour Inspection Authority will conduct inspections to verify that the principal suppliers are attending to their obligation to inform and ensure compliance.

It is important to note that the Regulations do not grant a purchaser a right to conduct checks at a supplier. Nor does it grant a right to penalties for violations of general application provisions. A purchaser and a principal supplier must therefore obtain such a right through contract clauses. Suppliers and subcontractors are jointly and severally liable for the payment of wages and accrued holiday pay under the General



Application Regulations; 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 police. The purchaser or principal supplier may also be held criminally liable for complicity in violations of the General Application Act.

Access right of employee representatives

Pursuant to the General Application Regulations, employee representatives at the principal supplier are entitled to have access to information regarding pay and working conditions at the enterprise's subcontractors. If there are no employee representatives at the principal supplier, the employee representatives of the nearest subcontractor may request information from the subcontractors of the subcontractor in question. The right to access provides the employee representatives an opportunity to assist the enterprise in complying with the requirements in the General Application Regulations.

The enterprise shall document that the pay and working conditions are in accordance with the General Application Regulations when employee representatives request this in writing. The right to access applies down through the entire contract chain.

The request for access must be presented in writing. It must indicate the grounds for the employee representative's request and the enterprises and employer groups to which it applies. Access may only be demanded for employees who perform work covered by the scope of the Regulations.

Information regarding pay and working conditions shall be documented with copies of employment contracts, payslips and timesheets.

The access right provision means that the principal supplier has an obligation to collect information regarding pay and working conditions from subcontractors and to forward this to employee representatives. In the same manner as for the obligation to ensure compliance, a client should regulate by contract the obligation to furnish information, the method for collecting and furnishing, and any sanctions if the obligation is not met.

Anyone who receives information about pay and working conditions pursuant to this Regulation is subject to a duty of confidentiality; [see Section 11](#).

If employee representatives discover and notify the enterprise of violations of the General Application Regulations, and the enterprise does not remedy the violations, the employee representatives may notify the Labour Inspection Authority despite the duty of confidentiality.

