



# Using your Minibus legally and safely

Church of Scotland Law Department



## Why is this guide important?

The use of minibuses and other large vehicles by voluntary organisations is regulated by a number of pieces of legislation, which may affect you and your congregation or other church group. Important elements of the Transport Act 1985 were changed by the Local Transport Act 2008. This circular aims to give anyone already using a minibus or similar vehicle in connection with their Church activities or those who plan to do so in the future, a broad outline of what is legally required of them. It also includes advice on how to maintain the highest standards of safety for the benefit of passengers and organisers alike.

This guide covers:

- **What a bus permit is, when you need it, and what it requires of you (p2-4)**
- **Who may legally drive a minibus and in what circumstances (p4-6)**
- **What you have to do to make sure your minibus is roadworthy (p4-6)**
- **What are the general legal requirements and good practice for safe driving and passenger safety (especially seatbelt legislation) (p7-8)**



If you have specific questions either arising from this guide or your specific circumstances, these should be directed to

- **The Traffic Commissioner (Tel: 0300 123 9000); or**
- **The Church of Scotland Law Department ([lawdept@cofscotland.org.uk](mailto:lawdept@cofscotland.org.uk))**

Additional general information is available via the Community Transport Association (CTA). You can contact them by telephone (0161 351 1475); by email ([advice@ctauk.org](mailto:advice@ctauk.org)); or visit their website ([www.ctauk.org](http://www.ctauk.org)), where you can download various advice leaflets.

## What is a Public Service Vehicle?

Any motor vehicle which is used for carrying passengers for hire or reward AND which is adapted to carry 9 or more passengers is defined as a Public Service Vehicle (PSV).

Hire or reward means any payment made by a person that lets them travel on the vehicle, even if it is not enough for the operator to make a profit. Any payment made, whether in cash or in kind, giving a passenger the right to be carried, is treated as a charge and constitutes “hire or reward”.

***Even where a payment is only made for attending an event or to cover accommodation connected with the event, it will be treated as though payment for transport is a “hidden” part of that payment***

The vast majority of voluntary and “not-for-profit” minibuses will operate in the “for hire or reward” category. In these cases, the full PSV statutory requirements (such as those for commercial transport operators) will apply **unless the vehicle concerned meets one of the exemption categories** in the Permit legislation. These categories are:

- Vehicles held under a community bus permit
- Vehicles held under a standard bus permit (previously “small bus permit”)
- Vehicles held under a large bus permit

## What is a bus permit and do I need one?

The Permit legislation serves two purposes. The first is to enable voluntary groups and certain other bodies to accept remuneration for providing transport to their members or the people their organisation serves. The second purpose is to make it less burdensome for these organisations than if they had to comply with the full PSV operating licensing and the PSV driving licence requirements.

You will therefore need a permit if you operate a PSV for hire or reward and wish to avoid the more extensive regulations that apply to commercial transport operators.

***NB: If you already hold a Section 19 Small Bus Permit, and it was issued before 6th April 2009, it was issued without a time limit. The new legislation imposes a retrospective time limit on all of these permits. You will therefore have to renew your permit before 6th April 2014. All permits issued after 6th April 2009 run for 5 years and must be renewed at the end of each 5-year period.***

## What kind of permit do I need?

There are, broadly speaking, two kinds of permit relevant to most voluntary organisations.

- **Section 22 – Community Bus Permits** – these are used for a regular bus service in support of one or more communities.
- **Section 19 – Standard Bus Permit (previously “small bus permit”)** – these are used by organisations providing transport services to



**their members or to individuals or groups the organisation exists to assist.**

**Standard permits** are mostly held by organisations using a minibus to carry their members on trips or outings ancillary to their main activity. A “minibus” is a vehicle adapted to be capable of carrying between 9 and 16 passengers. This permit type is likely to be the one appropriate for most Church groups; hence this circular will focus on the use of minibuses under a standard permit.

### **What does the standard permit let me do?**

As a “non profit making body concerned with religion” Church groups are among those who may hold a standard permit. This allows them either to charge or accept remuneration (in cash or in kind) for providing transport for their members.

The purpose is to allow groups to recoup their costs from their passengers. Fares or contributions can be set at a level to recover some or all of the costs of running the minibus, and may include allowance for vehicle depreciation. Specific costs arising from a particular trip, such as fuel, volunteers’ expenses etc. may also be factored in.

**However** the legislation does not allow the minibus to be used with a view to making a profit. Nor indeed does it permit use for a purpose which is incidental to another activity, which is itself carried on with a view to making a profit.\* This means that charges levied must not be sufficient to make a profit, even if that profit is put back into other running costs or charitable purposes. Operating for

profit makes the minibus ineligible to operate under the standard permit. Its use would instead have to comply with the full PSV regulations.

A standard permit does not cover situations where services are being provided to the general public or for purposes which are unconnected to the organisation or its purposes. The use of a minibus (e.g.) by a member of the Church to transport a number of friends, who share the cost of the trip, to a social outing not connected with the Church, such as a sporting event or night out, would not be covered by the permit.

***\*NB: Genuine fundraising activities are not regarded as falling within the “with a view to making a profit” definition. Minibuses can, therefore, be used to transport people to a fundraising event.***

### **How do I obtain a standard permit?**

The legislation designates a number of bodies which are able to issue permits, either to themselves or any of their local organisations. You can obtain a **standard permit** from any one of the following:

- **The Church of Scotland**
- **Your Local Authority**
- **The Vehicle & Operator Services Agency (VOSA)**
- **The Traffic Commissioner**

The Church of Scotland’s permit scheme is operated by the Department of the General Assembly. Permits are usually issued to Church Congregations and other Church bodies, though in certain cases a permit may be granted to a named individual on behalf of a Church body which he or she represents.



To apply for a permit you should contact the Department of General Assembly on 0131 225 5722 Extension 2250 with the following information:

- Name of Congregation;
- Name of other organisations whose members will be authorised as passengers to use the vehicle; and
- Make and registration number of vehicle

If you require a permit for a large bus, this can be obtained by application to the Traffic Commissioner. **The Church of Scotland cannot issue large bus permits.**

The relevant Application Form for bus permits is available via the VOSA website ([www.dft.gov.uk/vosa](http://www.dft.gov.uk/vosa)). Select “Forms”, then “Bus Registration Forms” then “Application for a Standard or Large Bus Permit” (form PSV 372).

## I have my permit – what do I do now?

Once you have been granted your permit, you will be issued with a disc (akin to a tax disc) which must be prominently affixed to the inside of the windscreen (without obstructing the driver’s view of the road) while the minibus is being used under the permit. If you operate more than one minibus at any given time, there must be a permit for each bus in use.

Your permit may be varied or revoked at any time by the body that issued it and must be renewed every 5 years. A permit may also cease to be valid if the issuing body has ceased to operate or has had its right to issue permits revoked.

## Can my organisation’s minibus be driven on the road?

Any motor vehicles can only be driven on the road if:

- It is insured against liability for personal injury to third parties (including passengers in the same said vehicle);
- The vehicle is roadworthy; and
- The driver is licenced to drive that class of vehicle

### Insurance

When procuring insurance cover, you must disclose to the insurers that the vehicle is being used for “hire or reward” but that (if relevant) it is exempt from the PSV operator licensing requirements through the permit scheme. Unlawful operation of the bus may invalidate your insurance cover and lead to criminal prosecution.

### Roadworthiness

Minibuses operating under the permit scheme, despite being exempt from some PSV operator and driving licence requirements, are still subject to spot checks by VOSA Vehicle Examiners to ensure that they are roadworthy. It is recommended that all minibus operators follow the guidance provided to the commercial sector. This will allow you to demonstrate that you are operating within safe guidelines and best practices available. We also recommend you read the VOSA Guide to maintaining roadworthiness.

The CTA have produced an advice leaflet called “Maintenance Schedules”. This outlines what organisations should be doing to maintain their minibuses, and



includes helpful forms enabling them to demonstrate that the appropriate checks have been carried out.

### **MOT**

Minibuses must be M.O.T. tested every 12 months after their first year from new. Despite being PSVs, buses with standard permits are exempt from the additional PSV test. Vehicles can be M.O.T. tested:

- **If they carry 12 or fewer passengers, any so authorised M.O.T. testing station**
- **If they carry 13-16 passengers (Class V), at any HGV/LGV approved testing station or any other specifically designated station**

***NB: Where seatbelts have been added to a vehicle since its last annual test, an additional special test will need to be undertaken.***

### **Other Procedures**

In addition to the annual statutory M.O.T. test, organisations must ensure that their vehicles are kept in a condition so as they do not to cause damage nor are likely to cause damage to any person or vehicle on the road. To ensure this, we recommend the following at set intervals:

#### **1. Daily driver checks**

- Before every journey the driver should check items such as the engine oil, brakes, steering, tyre pressure and condition, warning instruments (including horn), lights, windscreen washers and wipers, windows, fire extinguisher and first aid kit.
- To demonstrate these checks have been carried out, drivers should

use the CTA's form "Drivers Daily Walk around Checklist", should a spot check be conducted by the Police or a VOSA Enforcement Officer.

- There should be a system for drivers to report defects potentially adversely affecting the safe operation of the minibus to the person responsible for its upkeep. Such a system should also be capable of demonstrating any defects have been repaired by a competent person.

#### **2. Supervisor maintenance checks**

- The person designated as in charge of the vehicle should conduct fortnightly checks, covering, in addition to the matters covered by a daily driver check, its cleanliness, its permit status and its vehicle taxation disc.

#### **3. Safety Inspections**

- These are of vital importance in order to prevent the development or worsening of any mechanical issues or other factors which may otherwise compromise the safety of passengers and other road users. It is recommended that a safety inspection is carried out at least once in every ten-week period.
- The owner's manual supplied by the vehicle manufacturer will indicate the minimum recommended maintenance checks that should be carried out. It is strongly recommended, given the possibility of a number of drivers being used on rotation, and



that passengers will be carried by the vehicle, that you conduct checks more frequently than this minimum.

- In addition to the standard daily-check items, the following should be checked by someone of sufficient knowledge to identify problems, such as worn or defective parts:
  - **Tyre, clutch & break wear**
  - **Steering**
  - **Engine noise**
  - **Exhaust emissions**
  - **Seat and belt conditions**
  - **Condition of safety equipment**
  - **Vehicle body condition**
- Comprehensive records should be kept detailing when safety checks were carried out, the results of the inspection, and what work, if any, was done and by whom. For an example of a Safety Inspection sheet, please consult the CTA's Maintenance Schedules. These should be completed by the maintenance provider and they must sign to certify that the vehicle is roadworthy until its next scheduled Safety Inspection. All records must be retained for a minimum of 15 months along with other vehicle records.

## Who can drive my organisation's minibus?

### Driving Licence

Following legislative changes between 1997 and 1998 the driving licence requirements to operate a permit minibus have become more complicated.

Those who passed their standard driving test before 1st January 1997, are automatically entitled to drive vehicles falling under the D1 101 class. This allows them to drive a permit minibus of any weight, though not for hire or reward, until either their licence is due for renewal at the age of 70 or for as long as their licence is valid.

Shortly before a driver turns 70, the DVLA will advise them as to how to renew their driving entitlement. To retain their D1 101 entitlement on their licence, they must additionally pass a PCV Medical undertaken by their doctor and supply it to the DVLA. For further information, consult the CTA's Advice Leaflet on Driving Licensing for Permit Vehicles.

Those passing their standard driving test on or after 1st January 1997 will not have automatically gained D1 101 entitlement. They can, however, drive permit minibuses on meeting all the following conditions:

- **they drive for a non-commercial body for a social purpose (not hire or reward);**
- **the driver is over 21 years of age;**
- **they have held a car (category B) licence for at least 2 years;**
- **they receive no payment or consideration other than out-of-pocket expenses (strictly voluntary provision);**
- **the minibus' maximum authorised weight is less than 3.5 tonnes; and**
- **they do not tow a trailer**

If someone seeks to drive a minibus in the course of their employment or for hire or reward, and it is not covered by the permit scheme, they will have to pass the relevant additional PCV test. There may



be restrictions on driving minibuses for drivers with certain medical conditions.

Official Department of Transport advice states that permit minibuses used for hire or reward can only be driven outside of the United Kingdom by a driver who has passed a test for category D1 or D or holds a Passenger Carrying Vehicle (PCV) Licence.

For further information on driving licencing requirements, please consult the CTA or alternatively the Driver and Vehicle Licensing Agency (DVLA) website [www.gov.uk/browse/driving/driving-licences](http://www.gov.uk/browse/driving/driving-licences) or call the DVLA Customer Enquiries line (0300 790 6801).

### Drivers – Rest Periods

The European Community Drivers' Hours and Tachograph Rules impose specific obligations on minibuses being driven in other countries within the European Union. For the majority of permit minibus users, this should not be an issue, as the rules do not apply to journeys made within the United Kingdom. Those who do travel abroad will be required to fit and use a tachograph for the minibus and abide by EU and domestic laws in relation to driving hours and statutory rest periods in the relevant country.

However, both to reduce the risk of injuries and fatalities and the possibility of being sued for negligence, all drivers are strongly advised to take breaks at reasonable intervals (ideally at least ten minutes for every two hour period of driving). Drivers of permit minibuses should not embark on long journeys after

a full day's work, irrespective of whether that work involved driving.

For more detailed information about taking permit minibuses abroad, please consult the CTA's guides "Minibus Management – Going to Europe" and "Minibus Management – Tachographs" (available at [www.ctauk.org](http://www.ctauk.org)).

VOSA also produce a detailed guide on Drivers' Hours and Tachographs, available at [www.vosa.gov.uk/vosacorp/publications/manualsandguides/drivershoursandtachographguides.htm](http://www.vosa.gov.uk/vosacorp/publications/manualsandguides/drivershoursandtachographguides.htm).

### Keeping safe – seatbelts and the law

All minibuses (vehicles capable of carrying between 9 and 16 passengers, excluding the driver) built from 2001 must have fitted anchorage points and seatbelts for all of their seats.

The following classes of vehicle are not required to have fixed anchorage points or seatbelts provided that they do not carry children:

- vehicles first used before 1<sup>st</sup> October 1988 constructed for more than 12 passengers
- vehicles first used after 1<sup>st</sup> October 1988 but before 1<sup>st</sup> October 2001 with a gross vehicle or maximum permitted weight of 3500kg

If a vehicle is fitted with seatbelts and anchorage points, they must comply with the requirements of the relevant European Union Directives key provisions include:

- Where a minibus carries 3 or more children between the ages



of 3 and 15 inclusive there must be a forward facing seat fitted with a two or three point belt for each child.

- Rear facing seats fitted with belts have been permitted since October 2001
- The driver is responsible for ensuring that an appropriate child restraint or seatbelt is worn by any passenger under the age of 13. Those aged 14 and older are legally responsible for wearing their seatbelt.

From 18<sup>th</sup> September 2006, new regulations impose a duty on bus and coach drivers (including minibus drivers) to take reasonable steps to notify passengers of the need to use their seatbelts, this being mandatory for all passengers aged 14 and over. This can be achieved by one of two ways:

- Making an official announcement or audio-visual presentation made within a reasonable time of the passenger joining the bus. An announcement from the driver/conductor or courier/group-leader in relation to a group of persons travelling on the bus is sufficient; **OR**
- Prominently displaying a sign at each passenger seat equipped with a seatbelt. There is no specific size and form the sign must take, but if it takes the form of a pictogram the image must show a white figure against a blue background.

Failure to notify passengers is an offence and operators may be fined up to a maximum of £2,500 for non-compliance.

Some forms of local transport are exempt from these regulations. If a bus used for local transport operates in an urban or

built-up area (where the street lights are no more than 175 metres apart and the normal speed limit is 30 miles per hour) these requirements to not apply.

These regulations are complicated and are likely to be amended further following an on-going government consultation on the implementation of a new EU Directive.

If you require further clarification on any specific issues related to this or anything else covered in this document, please contact the Church of Scotland Law Department.

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