



Transport Worker on Good Vehicles

Can an employer deduct monies from an employee's salary if the employee fails to give proper notice of resignation? Does verbal resignation suffice or should it be in writing? What if an employee resigns to avoid disciplinary action? Can the employer reject the resignation and proceed with the disciplinary action? Can an employer offer resignation as an alternative to disciplinary action?

There is much confusion at the present time regarding the legality of transporting workers on goods vehicles. Briefly, the situation is as follows:

1. Construction regulations 21 (2) (i) of July 2003 states that vehicles used to transport workers must have seats firmly secured and adequate for the number of employees to be carried.
2. National Road Traffic Regulation 2000, regulation 247 states that no person shall operate on a public road a goods vehicle conveying persons unless that portion of the vehicle in which such persons are being conveyed is enclosed to a height of –
 - a) at least 350mm above the surface upon which such person is seated;
 - b) at least 900mm above the surface on which such person is standing, in a manner and with a material of sufficient strength to prevent such person from falling from such vehicle when it is in motion.

Where does that leave the employer legally should an employee be injured? What about the COID Act cover?

A. Legally

Employers in the construction industry are permitted to convey workers on the back of goods vehicles on public roads, provided that 1 and 2 above are adhered to. Regulation 250 also states that no person shall on a public road carry any person for reward in the goods compartment of a motor vehicle.

Material/goods/equipment conveyed on the back of construction vehicles together with employees would have to be so secured that movement of the material/goods/equipment would not be possible, so as to prevent injury to employees.

The MBA understands that compliance with the above is not always practical and as a result efforts are being made to amend the Construction Regulations accordingly.

In the interests of safety, members are requested to exercise extreme caution when transporting workers on bakkies or trucks particularly in respect of overloading and roadworthiness. Drivers should also take extreme care when transporting people and any disregard of traffic rules or reckless driving should be seriously addressed.

B. Insurance Cover (C.O.I.D. Act, 1993).

The following hypothetical questions have been compiled and the answers supplied by Federated Employers Mutual Assurance (FEM):

- Q. Private after hours' use of a company vehicle with the employer's permission?
- A. The after hours' use of a company vehicle for private tasks is not covered under the Act.
- Q. Picking up of employees at home/at a collection point to transport them to site?
- A. The conveyance of an employee to or from his place of employment, for purposes of his employer, is covered under the Act (provided that the vehicle is specially provided by the employer, is driven by the employer or one of his employees, and is provided free of charge).
- Q. Transporting of employees to church with a company vehicle and with the employer's permission?
- A. The employees would not be covered under the Act. They would be using the vehicle for private reasons, which have no bearing on their employment.
- Q. Transporting employees to after hours' Union meetings with the employer's permission?
- A. If the employee is obliged to attend the meeting on behalf of his employer, he would be deemed to be acting within the scope of his employment. This would only apply in specific cases, as belonging to a union and attending meetings is generally not deemed to fall within the scope of a worker's employment.

To summarize, before FEM/WCC would consider a claim, it would first establish that:

- a) there was an injury or death;
- b) it occurred during the course of the employee's duty;
- c) there was a contract of employment, either verbally or in writing, between the employer and the employee;
- d) the employee acted within the scope of his authority.

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