



# Change in drivers' hours regulations?

**Q:** I have recently heard a rumour there is going to be a change in relation to Drivers' Hours Regulations. I am not quite sure if this is correct as there has only recently been a change in the regulations. Can you help with this?

**A:** This is a question I have been asked a numbers of times recently. From what I have learned the Department for Transport is about to begin to look at drivers' hours in a wider context than ever before. The consultation will look at all aspects of professional driving, not just the coach and bus industry.

The consultation will look at, for instance, van drivers, who currently are not as heavily regulated as other professional drivers. It is my understanding that the purpose of the review is to ensure that all professional drivers, regardless of the type of vehicle they drive, are subject to regulations to limit the number of hours worked/driven to ensure they are safe on the road and do not present a danger to other road users.

Once the Department for Transport has formalised the consultation process and/or there is more information on this matter I shall update the members accordingly.

## Breathalised: What should I do?

**Q:** I was recently stopped while driving my car to work. I had been out the night before to a family party. The police officer who stopped me asked me to conduct a breath test which I did



Drivers' Hours: DfT to look at them in a wider context

and I was slightly over the limit. I was taken to the police station where I undertook another breath test but found under the limit. The officer said the matter would be referred to the CPS. I am really concerned what should I do?

**A:** This is a situation in which a number of drivers find themselves. Drivers sometimes forget that, if you have been out drinking the night before and drive in the morning, there could still be sufficient alcohol in their system to provide a positive breath test.

From a practical point of view, if you are driving, don't drink too much the night before. In this situation the matter will be passed to the Crown Prosecution Service, which will take the decision whether or not to prosecute the matter.

It is my advice that the driver seek legal advice as soon as possible to deal with any correspondence from the Crown

Prosecution Service. Should the matter proceed to court the driver will face a minimum ban to 12 months. However, this could be greatly increased depending on the circumstances of the offence.

Nevertheless, from the information provided it would seem that the second police station test came back as negative and as such it is possible that no further action will be taken.

This should serve as a warning to the driver concerned as loss of licence would mean the loss of job and the associated impact that would have.

## Have fixed penalty laws been altered?

**Q:** I am currently a coach operator and have been so for a number of years. I have been told by a business colleague that the law is due to change in relation to financial penalties for various offences. Is this true and if so what will the new regulations mean?

**A:** On 31 March 2009 new regulations came into force which introduced new fixed penalties, financial penalty deposits and immobilisation, removal and disposal of vehicles. It is essential that all drivers and operators are aware of this change in the legislation.

The application of these new penalties varies from agency to agency. VOSA stated it was unlikely it would enforce the new penalties until the end of May 2009. However, a number of police forces said they would be making reference to the new penalties from 1 April 2009.

The essence of the new regulations is to detail new fixed penalties that had not been previously covered by existing fixed penalty schemes taking into account domestic and EU drivers' hours rules and tachograph use, prohibitions of foreign vehicles, failure to hold an O-licence, community authorisations and cabotage etc.

Contained within separate regulations are listed the amounts

of £200, £120 and £60 which are applicable to each new fixed penalty offence. It is important to note that drivers' hours offences and overloading offences are graduated in penalty according to seriousness.

The new regulations have provided a separate section that deals with financial roadside deposits. This section of the new regulations lists all offences (including those that were previously dealt with under fixed penalties by the police) which have now come under the ambit of the scheme and as such sums of £200, £120 and £60 can be imposed on drivers without a satisfactory UK address. Also available under the scheme is a £30 penalty for specific situations.

Should a driver be subject to prosecution in such a circumstance they will be required to pay a deposit of £300 for a maximum of three offences against any future fines. This is up to a maximum of £900.

In the new regulations separate provisions have been made to deal

with immobilisation, removal and disposal of vehicles, for example, because the vehicle is unroadworthy, overloaded or there has been an offence committed under the drivers' hours regulations. The new regulations also detail fees in relation to the release of a vehicle in such a circumstance.

## Section 19/22: What's going on?

**Q:** I have been reading a lot in the transport press about section 19/22 operators and the fact that commercial operators are not happy about some of the contracts/work that is being awarded to these organisations. Can you please let members know what is happening in relation to this?

**A:** In relation to this question by one of the members he is indeed correct about a great deal of press coverage in relation to section 19/22 operators and a degree of unhappiness in the industry surrounding these types of operations.

However, at this stage it is not possible to provide details to members as to what is happening. Once matters have progressed to a certain level it will be possible to fully update members.



Existing Section 19 permits do not have an expiry date

**Hammonds**  
Andrew Sanderson  
Solicitor



Legal Jottings is brought to you through CDC's partnership with leading transport lawyer, Andrew Sanderson.  
Tel: 020 7655 1060 Email: [andrew.sanderson@hammonds.com](mailto:andrew.sanderson@hammonds.com)