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## **REGULATORY**

### **Cross-border disqualifications**

UK driver disqualifications in Ireland, or Irish driver disqualifications in the UK, will soon be recognised by each country, thanks to The Criminal Justice and Courts Act 2015 (Commencement No 6) Order 2017. There are limits to this new law: disqualifications of less than six months, and those created by the accumulation of penalty points, or where an appeal is outstanding, do not count.

### **Common IVA failures**

IVAs (Individual Vehicle Approvals) are required of companies that manufacture or import a truck or trailer to ensure that the product meets the European law technical requirements. DVSA has reported the top five reasons that HGVs fail their IVA inspection. 1: In general construction, the most common failure is inadequate securing of piping or wiring. They should be clipped into place every 300mm; securement should also take the conditions of the truck into account. 2: Poor headlamp aim: the DVSA advises manufacturers to make sure that headlamps dip correctly

by having them tested. 3: As sideguards are used as lateral protection, they should be a sufficient length to protect road users from being dragged underneath. 4: Rear and side retro reflectors are required to be fitted to the vehicle correctly with the right symbol. 5: Statutory plates should be fitted to the truck at all times throughout the manufacturing process, containing information such as manufacturer, approval number, vehicle identification number (marked on chassis), maximum laden mass and maximum train weight.

### **Changes to 'View Driving Licence'**

Further changes have been incorporated into the DVLA's 'View Driving Licence and Share Driving Licence' service to include information on the tachograph card and driver CPC qualification card held by the driver. Additional information is now available.

### **Roadworthiness tests**

New EU Regulation 45/2014 on periodic roadworthiness tests for motor vehicles and their trailers have been published by member states. The measures of this regulation are not scheduled to come into force until after a DfT consultation.

## **EMPLOYMENT LAW**

### **Holiday pay claims**

In contrast to usual tribunal practice of a three-month limit, these claims can go back up to two years for non-payment or underpayment of holiday pay (in the case, for example, that holiday pay did not reflect regular overtime taken over the previous 12 weeks). When the case of *Bear Scotland & Ors v Fulton & Ors* originally went to the Employment Appeal Tribunal (EAT) in 2015, part of the judgement stated that a delay of more than three months between an underpayment of holiday pay - called a 'deduction' - broke what was called the 'series of deductions', and prevented the Employment Tribunal from considering the claim. After an appeal to the EAT by the claimant was denied last month, it appears settled that in respect of holiday pay claims, a three-month gap between underpayments will break the series of deductions and limit the scope of the amount of back pay for underpaid holiday.

### **Overnight subsistence pay**

As of 6 April 2017, HMRC requires operators paying drivers the Industry Scale Rate for overnight subsistence allowance (£26.20/night with sleeper cab; £34.90 without) to apply for an Approval Notice. Operators must now

demonstrate that they have a checking system to ensure that the amount claimed for subsistence correlates with the amount spent. Operators that regularly pay more than these amounts must apply for a Bespoke Scale Rate Agreement, backed up by an appropriate checking system.

### **Personal injury claims reforms**

A consultation has been announced on the reform of personal injury claims to discourage people from making minor, exaggerated or fraudulent whiplash claims. The small claims limit will be increased from £1,000 to £5,000 for all road traffic accident personal injury claims. For all other personal injury claims, such as employers' liability and public liability, the small claims limit will rise from £1,000 to £2,000 in line with inflation.

### **Whiplash**

The government will also introduce a tariff system for soft tissue injury (whiplash) claims. The new tariffs - on a sliding scale from £225 for injuries lasting up to three months, up to £3,725 for 19-24 months' injury - mean that every road traffic accident claim for whiplash of a duration of two years or less will fall within the small claims track limit where costs are not recoverable.