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REGULATORY

Lorry emissions crackdown

Starting this month, DVSA officers will be carrying out roadside emissions checks on commercial vehicles (above). They will also be making sure that emission 'defeat devices' are not being used, and that diesel particulate filters have not been removed. If tampered emission readings are found, drivers will be given 10 days to fix the emissions system before fines and prohibition notices are imposed.

Central London ULEZ plans may be brought forward

The Mayor of London has proposed to introduce the ULEZ in central London in April 2019 - 16 months earlier than originally planned. The ULEZ will cover the same area as the existing congestion charging zone, and will apply 24 hours a day, 365 days a year. Vehicles that do not meet Euro 6/VI emission standards must pay a daily charge to drive within the zone.

European mobility: all change!

The European Commission has recently published its European Mobility and Transport Package that will result in important changes to EU law regulating

road transport (see also article, pp10-12). Proposals include clearer rules on driving and rest times, measures to reduce CO₂ emissions, air pollution and congestion. The Commission is also looking to make changes to allow unlimited cabotage operations within five days of the international delivery. Vehicles under 3.5 tonnes are also likely to be made subject to some EU transport rules.

Driver digital tachograph cards - Error 48

A batch of some 4,000 digital tachograph cards produced between 3 March 2012 and 14 May 2012 may be prone to generate an Error 48 (indicating the card had expired), even though the card date is actually valid. Those cards should have either been replaced or renewed via the normal process, but any others affected should be returned for replacement. Anyone experiencing problems is advised to contact the DVLA on 0300 790 6801.

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 Number 6) Order 2017.

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 several months ago, 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 per 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.

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.