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## REGULATORY

### Drivers' hours: new rules

Presently, a driver of an HGV, coach or bus can be fined up to £300, prosecuted or have their vehicle immobilised if they are caught breaking the rules on drivers' hours. Up until now, DVSA could only fine drivers for offences committed that day and ongoing offences, such as manipulating tachograph records. New changes to the rules will mean that DVSA traffic examiners will be given the authority to issue immediate fines for up to five drivers' hours offences committed within the last 28 days. This means a driver could be fined up to £1,500 if they've consistently broken the rules.

It doesn't matter if the offence took place in the UK or elsewhere, and drivers who do not live in the UK will have to pay their fines immediately or risk having their vehicle immobilised. The date of implementation is yet to be confirmed. Updated guidance on the rules is also expected.

In addition, from 1 November DVSA will begin fining drivers up to £300 if they spend their full weekly rest break in their vehicle in places where it causes a problem, such as residential areas and lay-bys.

### O licences online

DVSA and the traffic commissioners for Great Britain recently published information about the progress of their new digital services for operator licence applicants and licence holders (<https://is.gd/yezise>). The new online services have also apparently helped to reduce licence processing times - over the first three months of the digital service, processing times were shorter than the standard nine weeks. There are two proposed additions to the service: incorporating the [gov.uk](http://gov.uk) Verify digital identity verification system, and enabling users to extend the duration of their licence, which is required every five years.

### UK air quality plan

In July, the Department for Environment, Food and Rural Affairs and the Department for Transport published the UK Air Quality Plan (<https://is.gd/uxukuy>). It sets out how councils with the worst levels of air pollution at busy road junctions and hotspots must take robust action. Local areas will be expected to produce initial plans by April 2018 and final plans by the end of next year. Local authorities will be able to bid for money from a new Clean Air Fund to support

improvements that will reduce the need for restrictions on polluting vehicles. This could include changing road layouts, removing traffic lights and speed humps, or upgrading bus fleets.

### European mobility: all change!

The European Commission has recently published its European Mobility and Transport Package (<https://is.gd/uzinex>) that will result in important changes to EU law regulating road transport. Proposals include clearer rules on driving and rest times, measures to reduce CO<sub>2</sub> 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.

## EMPLOYMENT LAW

### Overnight subsistence allowance: guidance on mandatory checks

HMRC requires operators paying drivers the Industry Scale Rate for overnight subsistence allowance (£26.20 with sleeper cab; £34.90 without) to apply for an Approval Notice. In addition, operators must have a random checking system in place to

ensure that drivers are actually incurring the expenses that they are claiming. While an operator will need to cross-reference work schedules and time sheets, a further check on driver receipts, for example for hotels, food and parking, should be carried out.

### Tribunal fees

In July, the Supreme Court ruled that the Employment Tribunals and Employment Appeals Tribunals Fees Order 2013 has prevented access to justice and is unlawful. The decision follows a legal challenge from trade union Unison, which argued that the level of fees in the Employment Tribunal (reported to be £400-£1,200) compared to those in the Small Claims Court (£80-£455 or more, depending on the claim amount) prevented access to justice for employees. Not only are tribunal applications now free of charge, but also the decision has been applied retroactively: the Supreme Court ordered that fees already paid by claimants should be refunded.

Some say that this judgment is unlikely to mean the end of Employment Tribunal fees and that there is likely to be a consultation soon on a new, lower fee regime which may even include a transfer of the fee burden from the employee claimant to the employer defendant.