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REGULATORY

Brake performance testing

The traffic commissioners and the DVSA have recently issued separate warnings to operators of the need to improve their approach to brake performance testing. The latest edition of the DVSA's 'Guide to Maintaining Roadworthiness' makes it clear that a metered assessment of vehicle and trailer brake performance must take place at every safety inspection.

That guide strongly advises that a calibrated roller brake tester is used at every inspection to measure individual brake performance and overall braking efficiencies. However, it also allows an approved and calibrated decelerometer to test vehicles without trailers to measure overall brake efficiencies. Recommended best practice is to test vehicles and trailers in a laden condition to get meaningful results. If a brake test cannot be carried out during a safety inspection, the vehicle's braking performance must be assessed using a road test. This needs to be carried out under controlled and safe conditions, and the safety inspection record should state

that a road test was used. Road tests will generally be inadequate for assessing brake performance for all planned safety inspections.

No more exemptions

Certain heavy vehicles based on an HGV chassis will no longer be exempt from plating and testing, including: mobile cranes, breakdown vehicles, engineering plant, asphalt trailers, tower wagons, road construction vehicles (but not road rollers), electric trucks under three years old, volumetric concrete mixers, fast tractors and all types of trailers. These vehicles will need either a valid Goods Vehicle Testing Certificate from 20 May 2018, or such a certificate at the time of the unit's vehicle excise duty (VED) renewal date after 19 May 2018.

Carillion's demise

The repercussions of the failure of Carillion are likely to be far-reaching. First, operator's licence holders are required to meet certain financial standing requirements (£7,950 for the first vehicle and £4,400 for additional vehicles for a standard national and international licence). Poor or reduced cash flow could



create difficulties in meeting those requirements. Holders who can no longer do so are required to notify the Office of the Traffic Commissioner within 28 days. Solicitors such as Backhouse Jones might be able to negotiate a period of grace with the Office of the Traffic Commissioner.

Second, previously reliable payers may now not be able to pay on time, or at all. Unsecured creditors may well be at the back of the queue.

Third, if the situation worsens, holders might consider an insolvency arrangement for their own businesses. They should be aware that operator's licences cannot be transferred as part of an asset sale. Insolvency law is a very specialist area.

GDPR

This new regulation will be compulsory from May 2018. The general idea is to provide a single legal framework to streamline and simplify the jumbled legislation that currently covers data protection. Those found not to be compliant face fines up to €20 million or 4% of annual global turnover. Information Commissioner guidance: <https://is.gd/hoxelu>.

Life sentences

The maximum sentences for the offences of causing death by dangerous driving and causing death by careless

driving while under the influence of drink or drugs are due to be increased to life imprisonment, following a government consultation. A new offence of causing serious injury through careless driving will also be introduced.

Fitness to drive

On 1 January 2018, the DVLA released an updated 'Assessing Fitness to Drive: a Guide for Medical Professionals'. Changes have been made in advice on: insulin-treated diabetes, neurological disorders, cardiovascular disorders, diabetes mellitus and visual disorders. More information is available for medical professionals - <https://is.gd/pesaso> - and non-specialists - <https://is.gd/ovegip>.

EMPLOYMENT LAW

Rest stops

Drivers must be given access to toilets during their working day, the Health and Safety Executive (HSE) has confirmed, following campaigning from the RHA and Truckers Toilets UK and re-examination of the Workplace (Health, Safety and Welfare) Regulations 1992, in particular Regs 20 and 21. HSE guidance will now state that drivers must have access to welfare facilities in the premises they visit for work.