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REGULATORY

AdBlue cheat clampdown

DVSA and traffic commissioners are taking a dim view of the use of emulators that effectively disable AdBlue systems designed to reduce levels of air pollution. In one case, the presence of an AdBlue emulator recently resulted in the revocation of an operator's licence. Commissioners say that they are treating them in the same way as magnets fitted to falsify digital tachograph records.

DVSA is using the discovery of one of these devices as a springboard for a full inspection of the rest of the fleet, including maintenance systems generally. Any evidence of 'emissions cheating' results in an S-marked prohibition, followed by a full inspection of the rest of a company's fleet.

Backhouse Jones is advising numerous operators whose vehicles have been found to have these devices fitted. It is expecting large numbers of public inquiries arising out of this issue, and strongly suggests all operators that have received a prohibition should seek advice. Gathering and preserving evidence at the

earliest opportunity could make the difference between keeping the operator's licence or a revocation. All operators are advised to check their fleet for the presence of these devices and remove them.

Brake performance testing

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.

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 non-compliant face fines up to €20 million or 4% of annual global turnover. Information Commissioner guidance: <https://is.gd/hoxelu>.

EMPLOYMENT LAW

Minimum wage rising

The National Minimum Wage (Amendment) Regulations 2018 have been laid before parliament. They provide for an annual increase of about 30 pence to the minimum wage and national living wage with effect from 1 April 2018. Salaries for employees aged over 25 would increase to £7.83, those 21-24 to £7.38, those 18-20 to £5.90, and those under 18 to £4.20. The accommodation offset will be £7.00 per day (previously £6.40).

Payslips - more information required

The Employment Rights Act (Itemised Pay Statement) (Amendment) Order 2018 will bring into force a requirement for employers to itemise payslips to show the number of paid hours, where a worker is paid an hourly rate. Currently, under section 8 Employment Rights Act 1996, only the total net and gross amounts of pay, and any applicable deductions, have to be shown on a payslip. The order is due to come into force on 6 April 2019.

Tribunal fees refund scheme

A July 2017 Supreme Court judgement found that the introduction of employment tribunal fees breached domestic and EU law. In light of this, the government is beginning to refund those claimants who have paid fees from 2013 onwards.

The Ministry of Justice is working with trade unions that supported claims involving multiple claimants, and individuals will also be contacted by the government in respect of the scheme. As well as having their original fee returned, successful applicants to the tribunal fee refund scheme will also be paid interest of 0.5%, calculated from the date of the original payment up until the refund date.