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REGULATORY

Protecting cyclists with the Dutch reach

In 2017, 101 cyclists were killed on the road. An updated Highway Code aims to improve their safety. An important aspect of the new Highway Code is encouraging the 'Dutch reach' where drivers and passengers use the hand not next to the door to open it. This is a way to encourage people to look over their shoulder for cyclists potentially passing (video: <https://is.gd/ukiquil>). West Midlands Police are trying to promote the new initiative via education at the roadside. They do warn that drivers who are caught driving dangerously close to cyclists, or have done so on more than one occasion, will be prosecuted.

TC conduct issue insight

Traffic commissioners (TCs) frequently obtain reports on drivers who have acted in such a way as to prompt a review of their conduct. As part of this, the TC will look at the driver's conduct history, both good and bad. Often, this may include considering an offence which involved the police. They will then decide whether a driver should continue to hold their vocational licence.

For example, a four-week suspension would be the starting punishment for infractions such as the first mobile phone offence in a commercial vehicle, failing to undertake required Driver CPC training, or persistent/very serious/habitual drivers' hours offences.

Stay ahead of Brexit

Plans for the UK to leave the EU on 29 March 2019 are still being finalised.

During this time, hauliers that contract with a UK party but whose work takes place in an EU country, or that contract with EU-based businesses are urged to consider what kind of trading conditions they will require to continue business on similar grounds.

Open market access and smooth customs operations are key for a seamless transition into post-Brexit UK. However, if these aims are not met - or, at least, not straight away - any contracts currently in place could take a hit. For example, if there are obstacles to the free movement of goods, they may simply be unable to transport goods across the EU, risking serious repercussions in terms of breach of contract.

From a legal perspective, the sensible way to avoid



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these contractual problems is to incorporate provisions into the contracts which make obligations and pricing dependent on post-Brexit circumstances. These provisions could either be inserted into new contracts, or they could be negotiated as variations or side letters to current contracts.

Readers with questions about contract law are urged to contact Backhouse Jones for more information.

2019 financial standing rates forecast

Applicants for a standard operator's licence must prove that they are able to maintain their vehicles for the duration of their operator's licence. This is known as financial standing, and is set in euros and then converted to pounds sterling according to the exchange rate at the time. The first working day in October is when the rate is set for the following year for non-Eurozone countries. 2019's rate has increased from the previous year and has been set at 0.88730. That means that the rates should be:

- €9,000 (first vehicle) = £7,985 (currently £7,950).
- €5,000 (vehicles after) = £4,436 (currently £4,400).

Official figures, to be announced shortly by the Office of the Traffic

Commissioner, are expected to be rounded to the nearest £50.

Although this process does not tend to affect restricted licence holders, the senior traffic commissioner has recently consulted on proposals to review financial standing rates for restricted licence holders. If the rates do therefore change, an announcement is expected by the end of 2018.

Sorting out smart tachos

From 15 June 2019, smart tachographs are to be made mandatory for new vehicles. The new 'Annex 1C' compliant tacho aims to reduce administrative processes and digital tachograph tampering. These 'smart tachos' will use a GPS to record the start and end location of the drivers' work, and record every three hours of driving time. In order for operators to use the 1C tachographs, they will need to update their download tools and analysis software.

Also, it will no longer be necessary to stop vehicles to check the tachograph. Enforcement officers will be able to use digital devices to check tachos from a distance of up to 190m away.

Information recorded by the tachograph will be transmitted. Drivers' hours and break times will also be sent, to determine if the driver has exceeded daily driving limits.