



Caution Urged for VOSA's Operator Scoring Scheme

Are you signed up to the Operator Compliance Risk Score (OCRS) scheme? Chances are you're probably not, according to VOSA figures, which reveal that only 46% have registered to receive their compliance scores.

There are many who would agree that a system which indicates the likelihood of an operator being non-compliant is a valid and effective use of VOSA's limited resources.

But there are signs that the procedure is flawed and that the enforcement agency cannot hope to attract more signatories until these problems are ironed out.



The biggest problem appears to be how new operators or those with smaller fleets are scored. A 10-vehicle outfit that has had one fail an annual test could be plunged straight into the red and therefore subject to more scrutiny by VOSA.

As more vehicles are put through tests the accuracy of the scoring – for roadworthiness and traffic enforcement – should increase, but for firms with fewer vehicles it could take a long time for their score to accurately reflect its true compliance rate.

Predictive scoring is used for new operators, and if you are working within a sector that is home to higher than average numbers of businesses shown to be non-compliant then you could also find yourself in the red category before you've even driven a vehicle.

Rothera Dowson believes these predictive scores should be ditched for an 'unrated' category in the short term, in order that scores are not simply based on speculation.

The success or otherwise of OCRS has yet to be determined and for the moment views remain mixed. VOSA is placing increased emphasis on the system and therefore we urge it to exercise caution in its scoring, and make more information available about exactly how OCRS works and its benefit to road safety.



For more information contact Anton Balkitis or Lucy Wood at Rothera Dowson Solicitors on 0115 9100 600.



Satellites To Replace Manual Tacho Recording?

The European Commission has taken many in the industry by surprise by proposing to do something that would actually reduce operators' administrative burden and overhaul tacho legislation.

Five years after digital tachographs were made mandatory for new vehicles the EC says the law, which actually dates back to 1985, needs updating to take account of technological advancements. Its wish is to crack down on fraud and unfair competition across Europe and reduce the estimated annual 2.7 billion Euros cost of compliance.

The idea is to take advantage of satellite positioning systems to replace manual recording by drivers of their driving times and rest periods.

Roadside checks could be made more efficient through reliance on "remote communication" and if you throw in the merging of digi-tach driver cards and driving licences and force higher standards upon workshops charged with fitting and calibrating tacho technology then companies will end up saving 500 million Euros in admin costs and fraud will be reduced.

Not many are arguing with the proposals, which have been submitted to the European Parliament and Council. However, the Freight Transport Association questions how exactly the EC has come up with the 500 million Euros figure and the International Road Transport Union questions why the EC thinks fraud will be driven out of the industry.



The IRU says anyone determined enough will not hesitate to block the satellite signal if they wish to circumvent tacho laws and that the measures that should be adopted must include more targeted enforcement and tougher sanctions. It's likely to be a debate that will roll on for a long while yet.

Government Injects Some Good News into the Industry

"It's the best news I've had in 23 years."

It's likely that many other drivers who lost their HGV driving entitlement after being diagnosed with diabetes will feel the same as Archie Meechan now that the government has confirmed a programme of individual medical assessments will be launched in October.

The Transport Minister Mike Penning used a Parliamentary debate to announce that people like Meechan who treat their condition with insulin injections will be given back their licences if they pass a medical.

Campaigners had urged the government to overhaul the law after it emerged that those who have stabilised their condition in this way are at no greater risk of causing accidents on the road than the rest of the driving population.

A few days later the DVLA gave the industry another boost and said it would fund the cost of the assessment. However, charity Diabetes UK warns that the DVLA has made it almost impossible for people to take the assessment in October after it announced that drivers must first provide three months' worth of blood glucose readings. It is currently asking for flexibility in the introduction of this requirement.



Stowaway Campaign Calls for Driver Vigilance

Haulage companies are being encouraged to “Keep it Locked” in a joint summer campaign by the UK Border Agency and the Serious Organised Crime Agency (SOCA) to tackle illegal immigration.

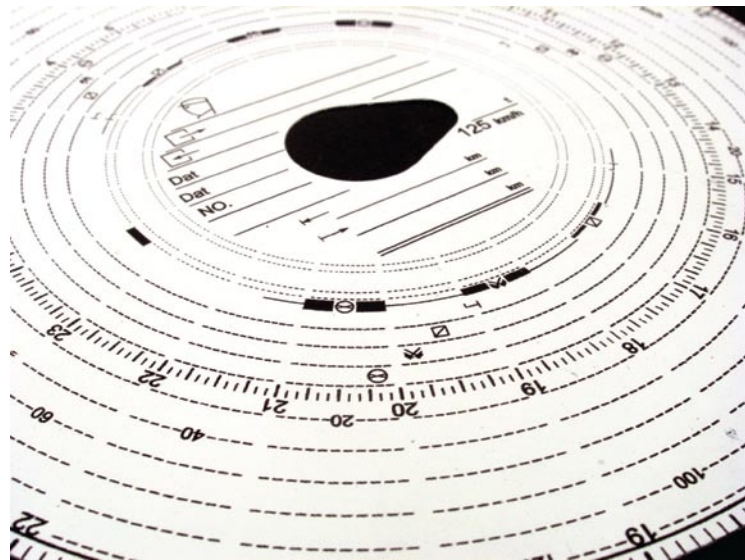
Truckpol estimates that criminals who steal lorry consignments cost the economy about £250m a year and coupled with the constant threat of illegal immigration whilst returning from the continent the campaign is urging drivers and hauliers to remain vigilant.

A booklet has been produced to raise awareness of the threats companies face by illegal attempts to gain access to their vehicles and also the penalties incurred of up to £2,000 per stowaway.

The booklet is available on the UKBA's and SOCA's websites and 12,000 are also being distributed at UK ports of entry.

VOSA Highlights Tacho Fiddling Problem

In 2010 VOSA recorded 438 cases where drivers falsified their tacho records and it says many of these were through the use of a magnet to interfere with the equipment.



The enforcement agency says it's an alarming and

rapidly growing trend and so it's now teamed up with the police to create a leaflet – ‘Dead Tired’ – warning drivers what's in store if they are found guilty of the offence: a two year prison sentence and/or an unlimited fine.

It is aware that this problem is not the sole preserve of UK drivers and so the leaflet is written in four other languages so that everyone is in no doubt about the risks involved.

VOSA also wants to make employers aware that they risk losing their O licence if their drivers are caught fiddling with their tachograph.

The Road Haulage Association welcomes the campaign, but it rightly points out that there is an important message for Magistrates Courts here too; they must reflect the seriousness of the offence in their penalties as well.

Tragedy After Unsecure Load Kills Couple

The jailing of HGV driver Graham Morgan once again throws into sharp relief the devastating consequences of not ensuring loads are secured before driving.

Gammond Transport driver Morgan was carrying timber roof trusses which fell off his vehicle and struck pedestrians Thomas Matts and Teri-Ann Barnett, who had just dropped their son off at nursery in Hereford, earlier this year. Both were killed. He received a 12-month sentence after pleading guilty to two counts of causing death by dangerous driving and he will serve at least six months before being released.

The Health and Safety Executive says that in 2009 its checks revealed almost 80% of loads were not sufficiently restrained. It takes just a few minutes to carry out these checks and yet the consequences of not doing so can last a lifetime.

Appeal Tribunal Finds Favour of Wincanton

Haulage companies will welcome a recent appeal tribunal decision that found Wincanton did not unfairly dismiss two of its drivers after discovering they had mistakenly allowed their HGV licences to expire.

The decision has far reaching effects on employees because it clarifies that drivers can be found guilty of serious negligence even when their actions do not result in an adverse effect on their employer.

The two drivers were over 45 and therefore required to pass a medical test every five years in order to renew their licenses.

However, an internal audit by the logistics company found that both men had forgotten to do this and therefore were found guilty of misconduct.

Given the potentially serious adverse effect this could have had on Wincanton they were both dismissed.

The men appealed and an Employment Tribunal upheld their claim that they were wrongly and unfairly dismissed because the mistakes led to no regulatory action, insurance issues or adverse publicity.

But an Appeal Tribunal has now found that this decision was wrong and says the men were not unfairly dismissed. It has now ordered that another Employment Tribunal must decide whether the two men were wrongly dismissed.



For help with employment law issues contact John Buchanan (pictured above) on 0115 9100 600.

News in Brief

➤ Inverness hauliers MK Leslie and Daviot Farms have had their licences curtailed and suspended respectively by Scottish TC Joan Aitken after she found that they had been involved in an O-licence disc sharing scheme.

➤ Suffolk commercial vehicle dealer Orwell Truck and Van has been fined £4,500 and ordered to pay costs of £2,726 after a lorry cab fell on a technician, breaking his ribs. The company pleaded guilty to breaching a section of the Health and Safety at Work act at Ipswich Magistrates Court.

➤ Doubts over the ability of Euro-standard Low Emission Zones to tackle NOx emissions from commercial vehicles have delayed plans in Aberdeen to introduce a scheme by 2013, according to Scottish regional transport partnership NESTRANS.

➤ Rothera Dowson's online blog is updated weekly with news and views from the transport world. Our aim is to help you preserve your O-licence, as well as providing advice about keeping on the right side of the law. Go to: www.keepmeontheroad.co.uk/blog

➤ A pocket guide that helps professional drivers understand complex drivers' hours rules has won a national award. VOSA's 'Staying Legal – the Basics' handbook, which gives simple tips on hours, vehicle condition and drivers' responsibilities, won a Print Innovation Award. It can be downloaded at: www.vosa.gov.uk

LEGAL INFORMATION SERVICE

If you would like more information about our services, please email us at:

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