



ROAD TRANSPORT FORUM

'S' Marked Prohibitions

The DVSA will issue an "S" marked prohibition where there appears to have been a significant failure in the maintenance systems. For example, a defect which appears to have been present for a number of days and which a driver should have picked up on his daily checks.

"S" marked prohibitions are serious because they usually lead to a full fleet inspection by the DVSA, meaning all of the operator's systems being checked.

The next stage after the fleet inspection is that the Operator will be invited to provide a written explanation for the "S" marked prohibition and any other shortcomings found at the visit. Depending upon the contents of the Operator's

response, the matter may then be referred to the Traffic Commissioner which could lead to a Public Inquiry being called. Although the "S" marked Prohibition could have resulted from a one-off episode, the whole of the operators systems are left open to investigation and the full disciplinary powers of the Traffic Commissioner could come into play, potentially leading to the licence being revoked.

Operators therefore need to discover the exact reason why the "S" marked Prohibition occurred so that a proper explanation can be provided to the authorities. The same rigorous investigation should be applied to any prohibition though.

Driving Licence paper-based counterpart to end in January 2015

The DVLA's business plan 2014-15 confirms that the DVLA will stop issuing the paper-based counterpart to the photocard driving licence from January 2015.

This proposal was first announced in 2011 and was seen as an attempt to minimise red tape and expenditure for motorists and the authorities. At the time, Transport Secretary, Justine Greening, said: "Motorists shouldn't have to keep numerous bits of paper just to prove they can drive and have bought insurance - we live in a digital age and we need to embrace that."

No action will be required by drivers, although they will be permitted to destroy the counterpart if they so choose; the photocard element will remain valid and unchanged.

The DVLA's online driver enquiry service will provide customers with a 24/7 online access to their driver entitlements. This service will replace the requirement for a paper counterpart.

Plans for Nationwide DVSA Remote Enforcement Office

Following a pilot scheme which was launched a year ago, the DVSA plans to roll out remote enforcement office strategy nationwide. The pilot scheme originally operated in the Western Traffic Area and was deemed a success.

The intention of the scheme is to help reduce the burden on compliant operators and allow the DVSA to use its resources more efficiently. The scheme enables information to be sent in to the DVSA's office, rather than have an examiner visit the operator's premises.

Clandestine fines to increase?

The Home Office recently announced that it is in planning to release a consultation on proposals which would mean that the fine for carrying a clandestine would increase by more than a third. It would mean also that the maximum fine for each clandestine found in an HGV could rise to almost £3,000.

In 2012-13, over 900 HGV drivers were fined for entering the UK via the Port of Dover with stowaways on board. This is an increase on the previous year but the figure is down from the 2008-09 figure of over 1500.

There is a defence to incurring a civil penalty. To rely on the defence an operator/driver must demonstrate the following:

1. They did not know, nor had reasonable grounds to suspect, that clandestine entrants were concealed in the vehicle;
2. An effective system was in place for preventing the carrying of clandestine entrants;
3. That the system was being properly operated at the time.

DVSA warns Drivers they can't drive a 7.5T vehicle without a Driver CPC, even if they have the entitlement on their licence.

The DVSA has recently warned drivers that they can't legally drive a 7.5T vehicle professionally, even if the entitlement is showing on their driving licence, unless they have completed the Driver CPC.

Drivers issued with a car licence before 1996 automatically have a C1 entitlement on their licence. This allows them to drive a vehicle up to 7.5T professionally. However, since the introduction of the Driver CPC this month, the entitlement no longer exists unless a driver has completed the Driver CPC training (or is exempt for some reason).

Jared Dunbar comments that "for a company, an effective system to secure a vehicle should include:

- *Written instructions for drivers on how to use the system;*
- *Robust security devices to effectively secure the vehicle, load and load space;*
- *Training for drivers on how to use the system and security devices;*
- *Giving vehicle security checklists to drivers;*
- *Checking that drivers are following the instructions.*

Drivers should:

- *Make sure they have adequate security devices (e.g. a padlock, seals and tilt cord) to secure vehicles after loading;*
- *Check the security devices and vehicle **thoroughly** after each stop and before entering the UK;*
- *Record their checks on a vehicle security checklist."*

Commercial Editor and Contributor: Jared Dunbar (jid@dynesolicitors.co.uk)

Dyne Solicitors Limited

Chester Office: The White House, High Street, Tattenhall, Chester, Cheshire CH3 9PX
Tel: 01829 770100, Fax: 0845 384 9328, Email: advice@dynesolicitors.co.uk

Bangor Office: InTec, Ffordd Y Parc, Parc Menai, Bangor LL57 4FG
Tel: 01248 672610, Fax: 0845 384 9328, Email: info@dynesolicitors.co.uk

www.dynesolicitors.co.uk