

# TE LEGAL UPDATE

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### CARTEL COMPENSATION

Operators affected by the cartel involving DAF, Iveco, MAN, Mercedes-Benz, Renault and Volvo are entitled to bring an action for loss and damage against the truck OEMs. Anyone who purchased medium- or heavy-duty trucks between 1997 and 2011 anywhere in the European Economic Area is likely to have been affected.

They may be entitled to recover the difference between what they paid versus what they should have paid in the absence of a cartel. The level of overcharge remains unclear, but a study for the EC suggests cartels typically result in 10–40% overcharges.

### REGULATORY

#### **Weight increase for efficient trucks**

Trucks that carry new equipment aimed at reducing emissions will be allowed to run up to 45 tonnes, although payload must not be increased. An updated EU weights and dimensions directive comes into force on 7 May 2017. However, no dates are available for implementation into UK law and Brexit may slow the process.

#### **New-generation tachographs**

European Regulation 165/2014 mandates the introduction of a new generation of digital tachographs. These will be required on newly registered vehicles from 2019, and will use a global navigation satellite system to produce location stamps at the start and end of each drive, and at three-hourly intervals. They will include wireless to alert enforcement officers to possible manipulation.

#### **Driver CPC**

DfT relaxed exemptions to Driver CPC rules in January 2016 for those whose main activity is not driving HGVs. Included are technicians. The radius a vehicle can be driven without a Driver CPC holder increased from 50km to 100km, provided the vehicle is unladen. Amended regulations also allow HGV drivers to use a truck with an automatic gearbox when taking a Driver CPC practical test.

#### **In-service ATP**

Operators owning or running vehicles that transport perishable foodstuffs across international borders must have ATP certificates – this



applies to all signatory countries to the Agreement on the International Carriage of Perishable Foodstuffs.

An in-service inspection can be undertaken at ATP designated stations – at the Refrigerated Vehicle Test Centre, Cambridge, and Conway Bailey Transport, Redruth, or at an operator's site by Cambridge Refrigeration Technology staff.

#### **Container weight verification**

Back in July 2016, IMO (International Maritime Organisation) amended the SOLAS (Safety of Life at Sea) convention, requiring packed containers loaded on to ships to show verified gross weights. Shippers are responsible for providing the information, which is the certified cargo weight plus container tare weight. Weighing equipment must meet national standards.

#### **AEBS and LDWS introduction**

Under EC Regulation 661/2009, since 1 November 2015, newly registered HGVs over 7.5 tonnes have been required to have Level 1 AEBS (autonomous emergency braking systems) and LDWS (lane departure warning system) fitted. Level 2 AEBS will become mandatory for new types from 1 November 2016 and all new vehicles from 1 November 2018.

### EMPLOYMENT LAW

#### **Smoking at work**

Smoking is not allowed in any enclosed workplace, public building or on public transport. Operators must ensure they have 'no smoking' signs in all workplaces and vehicles, and ensure that people do not smoke in work premises or shared vehicles. Business can be fined up to £2,500 for failure to prevent people smoking, or £1,000 if they do not display signage.

#### **Diabetic drivers**

Changes to DVLA licence renewals for diabetic drivers follow approval from the Secretary of State for Transport's Honorary Medical Advisory Panel. They now require a GP examination for every other renewal, with only a self-declaration and independent diabetologist examination every year. The rules are complex, so it is important that drivers are transparent with the DVLA.

#### **Licence form guide**

DVLA has developed a guide to help vocational driving licence applicants complete the vocational application forms D2 and D4. The guide has been produced to give an overview of how the licensing system works. It is an attempt to streamline the application process and decrease delays and rejections from DVLA.