

Unite brief on fixed penalty fines

Motoring penalty clamp-down on foreign drivers

New powers to ensure that all drivers who break the rules of the road in the United Kingdom (UK) face tough penalties which came into force on the 1st April 2009. These powers apply to offences connected with commercial vehicle-related offences such as breaches of driver's hours rules and overloading of vehicles.

Motorists from abroad

For the first time police and VOSA officials, will be able to issue fixed penalty notices to non-UK residents regardless of whether the offence is endorsable (i.e. if penalty points are to be endorsed on the driving licence/driving record) or not. For example:

- offences under Driver's hours rules
- failing to hold an Operator's Licence
- overloading a vehicle
- cabotage' offences
- failing to produce evidence of a driver Certificate of Professional Competence

Under new provisions foreign drivers -including hauliers-, and British residents who can't prove a valid address in Britain, face on the spot financial payments of up to £900. Police and examiners from the Vehicle Operator and Services Agency (VOSA) have the power to request immediate cash in pounds sterling or credit/debit card payment. If the alleged offender can't pay the payment the vehicle can be immobilised until the payment is made.

VOSA examiners will also be continuing to issue vehicle defect notices and to give verbal warnings for minor cases of non-compliance. They will also continue to prosecute very serious offences. This approach to enforcement policy will mirror existing police practice.

Details of the offence, including the penalty points if applicable, will be recorded on the Driver and Vehicle Licensing Agency (DVLA) driver record. However, VOSA will not be issuing fixed penalties/penalty points for all endorsable offences, eg speeding.

Size of the problem

In the past drivers' hours and overloading offences in the most part, have been dealt with by VOSA, rather than the police because they relate to the operation of commercial vehicles.

Drivers' Hours and Overloading Offences in 2007-08 dealt with by VOSA				
Offence Type	UK HGV	Non-Uk HGV	UK PSV	Non UK PSV
Drivers' Hours	7,339	7,329	1,349	113
Overloading	4,377	3,383	257	19

The levels of Fixed Penalties

The levels of Fixed Penalties will range from £30 to £200. Drivers' hours and overloading offences will be subject to graduated fixed penalties (according to the seriousness of the offence).

Offence Description	Band 2 - £60	Band 3 - £120	Band 4 - £200
Insufficient weekly rest	Excess over 1 hr up to 2 hrs	Excess over 2 hr up to 3 hrs	Excess over 3 hrs
Failure to take required break from 4.5 hrs driving	Excess over 15 mins up to 1 hrs	Excess over 1 hr up to 2 hrs	Excess over 2 hrs
Overloading axel, gross or train weight	Excess between 5 – 10% (and under 5 tonnes)	Excess between 10 – 15% (and under 5 tonnes)	Excess over 15% but under 30% or 5 tonnes

VOSA are only intending to issue fixed penalties to drivers of vehicles – in respect of road traffic offences detected on the spot – and not to vehicle operators. This is because VOSA will continue to follow up offences with (GB-based) vehicle operators when they deem that the situation warrants further investigation and possible prosecution. They will also be feeding information about fixed penalties issued to drivers into the enforcement targeting records of vehicle operators. Operators with drivers found to be repeatedly offending will be investigated and referred to the Traffic Commissioners (TCs).

A deposit for foreign drivers -including hauliers-, and British residents who can't prove a valid address in Britain will be the same as the level of a fixed penalty (between £30 and £200) or surety for prosecution of up to £300.

The driver will also be held responsible for maintaining compliance with pre-use and post-use inspections and correct defect reporting procedures.

Offence Description	Band	Penalty
Oil leak from engine/assembly	1	£30
Defective parking brake	2	£60
Failure to produce records	3	£120
Tachograph not fitted in accordance to regs	4	£200

The new law seeks to reduce the number of people who are killed or seriously injured on our roads each year. It also is intended to send a very clear message to motorists, both UK and foreign, that no one is immune from the law.

Those caught committing an endorsable offence will also have penalty points put on their UK driving record, which could lead to them being banned from driving in the UK.

Those drivers without a satisfactory UK address who commit traffic offences will have to pay a financial penalty deposit equal to the amount of the fixed penalty or £300 as a deposit in respect of a potential court fine.

Jim Fitzpatrick, Road Safety Minister, said: "We want to keep our roads as safe as possible and these tough new measures mean that any driver who breaks the rules of the road - putting themselves and others at risk - will have to face the consequences.

"The only way for drivers and hauliers to avoid tough penalties will be to obey our traffic laws and ensure their vehicles are fully roadworthy."

The new measures will also enable the Police and VOSA to immobilise any vehicle that has been prohibited from continuing a journey where a driver is breaking the rules on drivers' hours; is driving an overloaded or unroadworthy vehicle; or in cases where a driver refuses to pay a requested financial fine or deposit.

Head of the Roads Policing Unit, Chief Inspector Roscoe Walford, said: 'The new law will help police deal more effectively with non UK residents who commit driving offences.

'The motoring public and general community have long wanted this. It provides a much fairer system whereby all motorists are treated the same regardless of who they are and where they are from, and it brings us into line with other European countries.

'Many foreign drivers ignore our road rules because they know that even if they are caught, nothing will happen. But by hitting them in the hip pocket immediately, the new law creates a disincentive to break the law. If this saves one person from death or serious injury, and one family from suffering the trauma of losing a loved one, the new law has done its job.'

According to the Department for Transport (DfT) enforcement figures show that heavy goods vehicles from overseas are more likely to be unroadworthy, overloaded or being driven in excess of drivers' hours rules than their UK counterparts. Jim Fitzpatrick said 'That's why in the last two years alone we have more than doubled enforcement against these HGVs and thanks to an extra £24 million investment VOSA has now stepped up enforcement again. More inspectors are undertaking more checks at more sites round the clock making our roads safer for everyone. Since the £24.3m three-year package was

announced in 2008, VOSA has been recruiting and training around 130 new staff dedicated to 24/7 roadside enforcement across Britain. This increase in inspectors is welcomed, but it is only a drop in the ocean to deal with overloaded vehicles or vehicles being driven in excess of drivers' hours rules by foreign and UK drivers'.

More than 74,000 freight vehicles travel on Kent roads weekly. It's believed that about one fifth of those are registered abroad. About three million foreign vehicles enter Britain annually with many of them travelling through Kent as the county is the gateway to the UK and Europe.

In addition, there were 72 collisions and 113 injuries involving non UK registered left hand drive vehicles on Kent roads between 1 October 2007 and 30 September 2008.

VOSA is also increasingly using a smarter, intelligence-led approach to tackling un-roadworthy vehicles, utilising modern technology - such as weigh-in-motion sensors - to spot overweight vehicles, and also automatic number plate recognition technology to spot those companies or individuals who have a poor record of compliance

Irish drivers who flout the law whilst in the UK will be liable to pay on-the-spot fines and face having their vehicles immobilised

Irish hauliers operating in the UK have been warned that they will be forced in future to carry cash or hold a company credit so that on-the-spot fines for flouting traffic laws can be paid immediately. If they do not pay the on-the-spot fine they face having their vehicles immobilised.

Under the old system...

Police issued fixed penalties for a range of endorsable and non-endorsable offences as set out in Schedule 3 to the Road Traffic Offenders Act 1988. There is a publication called "Revised Guidance on the operation of the Fixed Penalty System for Offences in Respect of a Vehicle" available on the Home Office website.

Until now, police couldn't issue Fixed Penalty Notices (FPNs) to offending foreign drivers because there was no guarantee that a penalty would be paid within 28 days and there was no provision for checking whether or not they had already committed previous offences which would lead to automatic driving disqualification in the UK.

While the police have always been able to arrest foreign drivers who have committed an offence, it has been very difficult until now to take follow up action

in respect of other than the most serious offences. This new system overcomes that former difficulty.

Penalty notices for lorries

VOSA examiners will also - for the first time - be able to issue fixed penalty notices to drivers of heavy goods vehicles from both the UK and abroad, in addition to immobilising vehicles where driving hours, weight or vehicle safety rules have been broken.

Police can also immobilise defective vehicles until they are repaired or until commercial vehicle drivers have taken a rest break if they have exceeded their permitted driving time.

The immobilisation powers are an additional sanction to help enforce prohibitions issued against vehicles.

The decision on whether to issue a fixed penalty or to prosecute an offender will be discretionary and a matter for the VOSA examiner concerned in each and every case – taking all factors into consideration – in just the same way as it is currently for a police constable;