



**RESPONSE TO THE DEPARTMENT FOR TRANSPORT'S
CONSULTATION PAPER:**

**"PROPOSALS TO MAKE HISTORICAL DRIVERS' HOURS AND HGV
LEVY OFFENCES SUBJECT TO FIXED PENALTY NOTICES AND
FINANCIAL PENALTY DEPOSIT REQUIREMENTS"**

8 August 2014

Introduction

This is the response of the Royal Society for the Prevention of Accidents (RoSPA) to the Department for Transport’s consultation paper, “Proposals To Make Historical Drivers’ Hours and HGV Levy Offences Subject To Fixed Penalty Notices and Financial Penalty Deposit Requirements”. RoSPA thanks the Department for the opportunity to comment on the proposals.

Drivers’ Hours Rules

The EU drivers’ hours rules (Regulation (EC) 561/2006) apply to goods vehicles weighing over 3.5 tonnes and passenger vehicles with 10 or more seats unless covered by specific exemptions and national derogations. The rules require the use of tachographs and set maximum limits on driving time and minimum requirements for breaks and rest periods.

The GB domestic drivers’ hours rules (contained in the Transport Act 1968) apply to goods vehicles weighing 3.5 tonnes or less and passenger vehicles not in scope of the EU drivers’ hours rules (such as local bus services).

These rules are an important road safety measure because they reduce the risk of sleep-related accidents involving drivers of these large vehicles.

Enforcement of the rules, by the Driver and Vehicle Standards Agency (DVSA) and the police, is mainly through roadside checks, and drivers who breach the rules can be issued with a fixed penalty notice, a financial penalty deposit (if the driver cannot provide a satisfactory UK address, or in more serious cases, prosecution in court. However, fixed penalty notices and financial penalty deposits can only be issued for an offence that is being, or has been, committed, on the day the enforcement check took place. If the enforcement officers discover that an offence had been committed in the past (up to 28 days before the enforcement check), the only enforcement option is to prosecute the offender in court.

Therefore, the Government is proposing to amend legislation to enable fixed penalty notices and financial penalty deposits to be issued for “historical” offences, which are offences committed up to 28 days before the enforcement check in which they were detected. The 28 day limit is set by EU Regulation 561/2006, which requires member States to check whether the rules have been followed in the 28 days before an enforcement check.

HGV Road User Levy

The HGV Road User levy is designed to ensure that foreign HGVs make a contribution to their road wear costs whilst operating in the UK. The HGV Road User Levy Act 2013 makes it an offence to use or keep an HGV on a day when the levy has not been paid and enables a fixed penalty notice to be issued for an offence on the day on which the enforcement action is taken, but not prior to that day. Offenders can be prosecuted in court for extended periods of non-payment of the Levy or where the vehicle has been persistently operated in the UK without paying the Levy. Upon conviction, a fine of up to £5,000 may be imposed.

The Government is proposing to amend legislation to enable fixed penalty notices and financial penalty deposits to be issued for concurrent offences of non-payment of the levy (for example, where the levy is paid for one day but the vehicle is used in the UK for a longer period).

RoSPA Responses to Specific Questions in the Consultation

Question 1

Do you agree that legislation should be altered to ensure EU drivers’ hours offences committed up to 28 days prior to the enforcement encounter are within the graduated fixed penalty and deposit scheme? Please explain your reasons.

RoSPA Response

RoSPA agrees that legislation should be amended to enable EU drivers’ hours offences committed up to 28 days prior to the enforcement check are within the graduated fixed penalty and deposit scheme.

This measure would improve the enforcement of drivers’ hours rules by providing a more efficient and practical means for the enforcement authorities to take action against offenders. The drivers’ hours rules are a very important road safety measure that protect not only the drivers of large vehicles, and their passengers, but also all other road users. The rules reduce the risk of these drivers driving when they are too tired to do so safely, and so reduce the risk of them falling asleep at the wheel, or being impaired by tiredness.

This is particularly important because sleep-related crashes tend to be more severe (because such crashes are more likely to occur on higher speed roads, such as motorways, and because a sleeping driver is unable to brake or swerve. Therefore, impacts tend to be higher speed. Crashes involving large vehicles are also likely to be more severe because of the size and mass of these vehicles, and in the case of passenger carrying vehicles, they are likely to involve multiple passengers.

EU Regulation 561/2006 requires member States to check whether the rules have been followed in the 28 days before an enforcement check, which is currently difficult for the UK to do because offenders must be taken to court, which is a time-consuming and expensive process.

Question 2

Do you believe this should also be extended to include domestic drivers’ hours offences committed up to 28 days prior to enforcement encounter? Please explain your reasons.

RoSPA Response

Yes, RoSPA believes that this should also be extended to include domestic drivers’ hours offences committed up to 28 days prior to enforcement encounter.

The road safety risks discussed in our response to question 1 apply equally to large vehicles that are subject to the domestic drivers’ hours rules rather than the EU drivers’ hours rules. Therefore, it is just as important to improve the enforcement of drivers’ hours rules for these drivers and vehicles.

Question 3

Do you have any comments about the effectiveness of the current legislative framework in relation to drivers’ hours offences detected in Great Britain (whether or not they have been committed elsewhere) and committed by drivers (whether or not they have satisfactory UK addresses at which they may be found for prosecution in the UK courts)?

RoSPA Response

RoSPA believes that current legislation does not enable the effective enforcement of drivers’ hours rules because fixed penalty notices and financial penalty deposits cannot be issued for drivers hours’ offences that are detected in an enforcement check, but which were committed in the days before the check took place. Although, offenders can be prosecuted in court, this is time consuming and expensive, and therefore, not a practical option, except in serious offences.

Fixed penalty notices and financial penalty deposits will provide an efficient and effective means of enforcement, which should increase enforcement levels, which in turn should provide a stronger deterrent against committing these offences.

Question 4

Do you agree that DVSA should also be able to enforce retrospectively for up to 28 days for HGV road user levy offences using fixed penalties and deposits? Please explain your reasons.

RoSPA Response

RoSPA agrees that the law should be amended to enable fixed penalty notices and financial penalty deposits to be issued for HGV road user levy offences committed up to 28 days before the enforcement check in which they were detected. This would provide a more efficient and practical means of enforcing the HGV Levy.

Question 5

If the Department was to consult further on the details of these proposals, do you want to be consulted?

RoSPA Response

RoSPA would be happy to participate in any further consultations on these proposals.

Question 6

Do you have any comments on the draft IA at Annex A?

RoSPA Response

The consultation paper appears to include two copies of IA No: DfT/00083, “Making ‘Historical’ drivers’ hours offences subject to fixed penalty notices and financial penalty deposit requirements”. Should one of these have been an impact assessment for the HGV Levy proposals?

Question 7

Can you provide any further relevant evidence for the IA, such as the costs associated with processing offences, on potential court costs, or on potential road safety benefits?

RoSPA Response

RoSPA is unable to provide any further evidence for the Impact Assessment.

RoSPA thanks the Department for Transport for the opportunity to comment on the proposals. We have no objection to our response being reproduced or attributed.

Road Safety Department
RoSPA
28 Calthorpe Road
Birmingham B15 1RP
www.rospace.com