



FREIGHT TRANSPORT ASSOCIATION

A horizontal blue banner with a white arrow pointing to the right on the left side. The text 'New enforcement powers' is written in white, bold, sans-serif font.

New enforcement powers

24 June 2009

Sally Thornley

Non-profit making democratic organisation:

- **R**epresentation
- **I**nformation
- **T**raining
- **A**uditing
- **S**upport Products and Services



New enforcement powers

- **Fixed penalties:**
 - **Offences**
 - **Levels of fines**
 - **Process and policy**
- **Deposit scheme**
- **Immobilisation**
- **Driver records**
- **Operator licensing**
- **Actions for operators**



Fixed penalty offences

- **Fixed penalties (conditional offer – Scotland):**
 - **No criminal record for offender**
 - **No need to take to court**
- **Available to Police for some years**
- **New legislation means:**
 - **VOSA examiners may also issue**
 - **More offences can be dealt with by fixed penalty**



Existing FP offences

Parking and stopping

Use of roads and road speeds

Traffic signs and directions

Driver licensing, insurance, VED and registration

Driver/passenger safety (seat belts, helmets etc)

Identification of driver

Construction and use



New FP offences

Drivers' hours and records

Operator licensing

Driver CPC

Vehicle prohibitions

- **All existing offences – but now can also be dealt with by FP**
- **VOSA will not enforce Police areas (e.g. speeding)**



Fixed penalty offences

- **VOSA only intend to issue to drivers at roadside checks**
- **Currently for offences committed at the time of detection**
- **DfT will amend law to include historic offences – such as drivers' hours infringements detected at roadside from tacho records**



Fixed penalty levels

- **Offender must pay a fine and, in some cases, accept penalty points on driving licence**
- **Level of fine set in law or default of:**
 - **£60 endorsable offence**
 - **£30 non-endorsable**
- **New law sets fines for certain drivers' records and C&U offences (£60-£200)**

Graduated penalties

- **New law sets graduated fines for same offence:**
 - **Overloading**
 - **Drivers' hours**

Overloading	£60	£120	£200
Exceeding maximum permitted weight	Up to 10%	≥10% <15%	15% or more

- **Current VOSA guidance is to refer to court if overload is over 30% or 5t**

Graduated penalties

- **Drivers' hours graduated by:**
 - **Amount driven over the legal limit**
 - **Amount worked over legal limit**
 - **Shortfall of required rest or break**

Drivers' hours	£60	£120	£200
4.5hrs <u>driving</u> break (EU, AETR)	>4.5hrs <5.5hrs	≥5.5hrs <6.5hrs	6.5hrs or more
11hrs daily <u>duty</u> limit (GB)	>11hrs <12hrs	≥12hrs <13hrs	13hrs or more
11hrs regular daily <u>rest</u> (EU, AETR)	<11hrs >10hrs	≤10hrs >9hrs	9hrs or less rest



Fixed penalty process

- **At discretion of enforcement officer whether to:**
 - **Give a verbal warning**
 - **Offer a fixed penalty, or**
 - **Take offender to court**
- **FP run alongside prohibitions**
- **Cannot offer FP if an endorseable offence means driver is disqualified**
- **Driver licence for endorseable offences produced at roadside or within 14 days**



Fixed penalty process

- **Driver is issued with notice and has 28 days to decide**
- **If accepts, must pay within 28 days, if not:**
 - **England & Wales – fine increases by 50% and sent to court as an unpaid fine**
 - **Scotland – Procurator Fiscal for consideration of court action**
- **If wish to defend in court:**
 - **England & Wales – request within 28 days**
 - **Scotland – do nothing**

- **Money goes directly to Treasury**
- **No performance targets set**
- **Maximum of 3 FPs per examiner and only one endorseable per occasion**
- **Endorseable VOSA offences:**
 - **Using a dangerous vehicle**
 - **Tyres, steering-gear, brakes**
- **Will consider if driver should have spotted defect in check or when driving**



Deposit scheme

- **Only on-the-spot payment (card or cash)**
- **Only if offence committed and driver fails to supply a satisfactory UK address**
- **Most UK drivers have DVLA record**
- **Deposit taken for fixed penalty or £300 per court offence (£900 max)**
- **Driver can challenge in court and deposit returned if not guilty**
- **If not paid prohibition & immobilisation**

Immobilisation



- **New powers to immobilise prohibited vehicles:**
 - **Unroadworthy/overloaded**
 - **Drivers' hours offences**
 - **International transport rules**
 - **Failure to pay a deposit**
- **May only be removed by Police, VOSA, or their contractors once:**
 - **Prohibition lifted**
 - **£80 release fee paid (where charged)**

- **Two key areas of driver record:**
 - **DVLA driver licence record**
 - **VOSA vocational driver conduct**
- **DVLA record:**
 - **Penalty points/disqualifications:**
 - **12 points/3yrs ‘totting up’ disqualification**
 - **6 points/2yrs new driver disqualification**
 - **As shown on counterpart to licence**
 - **New records for foreign or unlicensed**
 - **Affects entitlement to drive ANY vehicle**

- **VOSA vocational driver conduct**
 - **DVLA informs TAO of endorsements**
 - **New VOSA central record of FPs and court action (VOSA only)**
 - **VOSA may decide to:**
 - **Send warning letter**
 - **Refer matter to local Traffic Commissioner**
 - **TC may decide to suspend or revoke vocational driving entitlement at PI**
 - **Driver entitled to ask for copy of record**



Operator licensing

- **VOSA will not issue FPs to operators (unless owner-drivers)**
- **FPs affect OCRS and may lead to investigation of operator**
- **Notification letter sent to operator**
- **Operators must notify TCs of FPs**
- **TC can call to PI and curtail, suspend or revoke licence**



Actions for operators

- ✓ **Remember no new offences, just new penalty method**
- ✓ **Ensure all drivers required to notify you of any FPs received**
- ✓ **Consider whether to ask applicants to provide a copy of VOSA driver record**
- ✓ **Ensure all drivers can supply UK address**
- ✓ **Decide whether to offer drivers access to legal advice on FPs**



Actions for operators

- ✓ **Communicate changes to drivers (FTA sample letter)**
- ✓ **Audit compliance systems:**
 - ✓ **Preventative maintenance systems**
 - ✓ **Drivers' hours and records**
 - ✓ **Vehicle loading systems**
- ✓ **Take steps to remedy issues found by audit or FPs and document action**
- ✓ **Ensure FPs are notified to TCs along with details of remedial actions**

Further help

- **FTA compliance guide and driver letter**
- **FTA DVD on routine checks**
- **Driver card and poster**
- **FTA exit audits**
- **www.fta.co.uk**

**Any
questions?**

