



AVRO News

Association of Vehicle Recovery Operators

Issue 34

May 2016

The new AVRO website is now live!

Check it out at

www.avrouk.com

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AVRO's new member service ... Licence Check! Saving you time and money

AVRO now has a driving licence verification service which will **save you time**, replace the burden of collecting paper records from your drivers and also support your corporate responsibilities as an employer under Duty of Care & Health & Safety legislation.

The Service

The AVRO licence check electronic service programme uses the latest technology to allow you to check your employee's UK driving licence details, status and credentials using the DVLA record. It is a **fully secure** service which allows AVRO access to provide full driver and licence reports.

Consent

To comply with the Data Protection Act, an employee must consent to their licence details being checked. AVRO licence check obtains this permission by issuing a D796 Driver Mandate Consent Document or by obtaining e-consent from the employee or driver. Once received consent is **valid for up to 3 years** providing he/she remains within your employ or control and does not withdraw their consent, meaning that you can recheck the licence as often as required.

The Process

Once consent has been granted and the Consent Document has been submitted, the AVRO licence check service is able to access the DVLA "LIVE" database via a dedicated secure Government Gateway connection. Licence information is then made available, **in real time**, to your customer portal account.

The licence results will;

- Verify that the driver is licensed to drive
- Verify the current endorsement status and penalty points (if any)
- Confirm all category entitlements, including start and end dates
- Provide warnings and Immediate Actions in case of expiries, revoked and disqualified drivers
- And more

The cost

You are simply charged for how many licence checks you intend to make, e.g. if you have 36 drivers and wish to check them once a year, you will be charged for 36 credits (1 credit = 1 check). You may of course purchase more credits at any time if your number of drivers or checks increase. Typically clients check their drivers at least twice a year.

From £4.25 per check*

Call 01788 572850 to find out how simple and cost effective it is for compliance and peace of mind

* Price for AVRO members, price excludes VAT. Non-member price is £5.50 + VAT per check.

Inspection services for the industry

Recovery Industry Engineering Standards Limited (RIES) provides a specialist inspection service for the vehicle recovery industry. RIES engineers are conversant with the vehicles and equipment and the training required. They know and understand the intended practical use of the vehicles and equipment and can therefore make valuable and objective judgements.

RIES currently operates throughout Scotland, England, Wales, Northern Ireland and Republic of Ireland. All inspections are recorded on a dedicated software programme for quick reference and easy up-date on customers next due inspection date, eliminating the proprietors' concern for their cover being overdue and reducing the risk element.

RIES services are punctual, friendly, efficient, thorough and cost effective. RIES assess the customer control and management of their business in an industry that continually changes.

RIES is a UKAS accredited Inspection Body. The United Kingdom Accreditation Service (UKAS) is the only official accreditation service recognised by BERR in the United Kingdom.

RIES is a Type A Inspection Body and accredited to ISO/IEC 17020 (EN45004), the internationally recognised Standard for Inspection Bodies; this is your guarantee of a quality inspection service. Inspections can be arranged for LOLER, Air Pressure Vessels and assessment for compliancy to the requirements of PAS 43, simply call for your quotation.

RIES was established in 2003 to provide efficient, expert inspections to businesses and individuals.

RIES is accredited by UKAS for the following:

- PAS 43
- LOLER
- Garage inspections
- Compressor inspections and written schemes

RIES can also offer the following through a Certification Body of which RIES is an OSP:

- ISO 9001
- ISO 18001
- ISO 14001
- OHSAS 18001

Contact RIES on 01945 589822,
inspectionsries@aol.com



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Prices from Fuelmate



W/C 16th May

Esso	: 88.22 ppl Excl VAT
BP Bunker	: 88.15 ppl Excl VAT
Shell	: 88.88 ppl Excl VAT
Texaco	: 87.89 ppl Excl VAT
UK Fuels	: 87.18 ppl Excl VAT
Keyfuels	: 87.73 ppl Excl VAT

W/C 9th May

Esso	: 88.11 ppl Excl VAT
BP Bunker	: 88.04 ppl Excl VAT
Shell	: 88.77 ppl Excl VAT
Texaco	: 87.78 ppl Excl VAT
UK Fuels	: 87.20 ppl Excl VAT
Keyfuels	: 87.90 ppl Excl VAT

For further details, or to obtain a fuel card please contact:

Tracey Easton
 T: 01482 387777
 F: 01482 338591
 E: tracey.easton@fuelmate.co.uk
 W: www.fuelmate.co.uk
 Witham House, 45 Spyvee Street,
 Hull HU8 7JR



Electronic brake performance monitoring system guidance

New guidance from the DVSA explains the requirements for vehicle operators using EBPMS.

The EBPMS monitors and records a commercial vehicle's braking performance during everyday operating conditions. It then uses this data to produce a brake performance report.

Vehicle operators can use these reports as acceptable brake performance evidence when completing safety inspection sheets.

Read the 'Electronic Brake Performance Monitoring Systems' guidance on the DVSA website for further information.



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June 14th - 18th, 2016

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RIES

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The DVSA's earned recognition scheme

The DVSA has launched a scheme whereby operators are rewarded for having highly compliant systems. Operators will 'earn recognition' by proving a strong track record of compliance, as well as allowing the DVSA to access their real time driver and vehicle data.

Operators will be rewarded for their good compliance by reducing or eliminating the number of routine roadside checks; these can be expensive for both operators and the DVSA.

Entry into the scheme will be through criteria across a number of operational compliance categories, such as a very high annual test pass rate. Operators will provide the DVSA with access to their records and maintenance programmes, e.g. tachographs, MoT and servicing data.

Only exemplary operators will be awarded earned

recognition status. For compliant operators and those who can be compliant with support, as well as potential rule-breakers, the Remote Enforcement Office will make a request for their documents and examiners will complete an audit of these documents remotely. They will then consider compliance levels; this avoids physical visits to operator premises.

For non-compliant and seriously / serially non-compliant operators, enforcement will be led by the Strategic Management Office of the DVSA. The aim is to make non-compliance simply economically non-viable to operators.

The earned recognition scheme has been piloted in the South East since October 2015 and will be rolled out to the rest of the UK. There is still a great deal of information which needs to be decided.

*Article courtesy of Backhouse Jones Solicitors
www.backhousejones.co.uk*

New tax measures come into effect

National insurance for apprentices

6 April 2016 saw reforms to the rules on national insurance, with employers no longer required to pay Class 1 secondary (employer) national insurance contributions (NICs) on earnings paid to qualifying apprentices under the age of 25. This is effected through the new 'zero rate' for 'relevant' apprentices on weekly earnings up to the Upper Secondary Threshold (UST), which is set at £827 for 2016/17.

The exemption has been largely welcomed by the business community. Dr Adam Marshall, British Chambers of Commerce (BCC) Acting Director General, stated: 'Abolishing employer contributions will encourage more businesses to hire young

apprentices, at a time when the UK is faced with a growing skills shortage'.

Employment Allowance

Additionally, the Employment Allowance for employer NICs has increased from £2,000 to £3,000. However, companies where the director is the sole employee will no longer be able to claim this allowance. The Government hopes the higher allowance will help businesses with the increased costs associated with the National Living Wage (NLW), which came into force on 1 April for workers aged 25 or over and has been set at a rate of £7.20 an hour.

www.newbycastleman.co.uk

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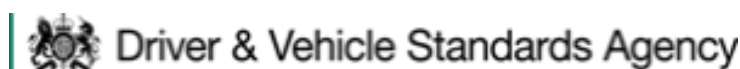
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Vehicle safety recalls: April 2016



R/2016/016	Renault: Kangoo (with seat conversion)	Bench seat may move forward without warning
R/2016/017	Renault: Trafic III	Bonnet may open without warning
R/2016/034	Mercedes-Benz: 204 C-Class	Airbags may fail to deploy, or airbags may deploy without obvious cause
R/2016/042	Citroen: C3, DS3, C3 Picasso, C4, DS4 & C4 Picasso	Oil leak may damage engine
R/2016/043	Peugeot: 208, 2008, 308, 3008 & 5008	Oil leak may damage engine
R/2016/044	Wrightbus: StreetDeck	Directional control may be lost
R/2016/046	Maserati: Ghibli and Quattroporte	Throttle pedal may stick in any position
R/2016/047	Mercedes-Benz: Unimog	Tyres may fail during 'Road Railer' use
R/2016/048	Mercedes-Benz: Citan	Passenger bench seat may fail
R/2016/049	Scania Truck: P, G & R Series	Driver's seat backrest may detach from seat base
R/2016/050	Nissan: Pulsar (C13)	Headlight auto-levelling system may malfunction when vehicle is fully laden
R/2016/051	Volvo Bus: B5TL	Risk of fire
R/2016/052	Citroen: C4 Picasso (B78)	Door may open unexpectedly
R/2016/053	Peugeot: 308 (T9)	Door may open unexpectedly
R/2016/055	Citroen: C4 Picasso	Door may open unexpectedly
R/2016/055	Citroen: C4 Picasso (B78)	Door may open unexpectedly
R/2016/056	Peugeot: 308 (T9)	Door may open unexpectedly
R/2016/057	Citroen: C4 Picasso (B78)	Seat buckle strap may fail
R/2016/058	Peugeot: 308	Door may open unexpectedly
R/2016/059	VW: Passat Estate with Panoramic Roof	Sunroof may injure occupants when it is closed from outside vehicle
R/2016/060	VW: Touareg (2nd Generation)	Brake pedal may fail and make hard braking impossible
R/2016/062	Volvo Truck: FH4 (4)	During cab tilt cab could fall without any damping
R/2016/063	Audi: Q5	Side airbag gas generator canister may fail
R/2016/064	SEAT: Alhambra	Side airbag gas generator canister may fail
R/2016/065	VW: Sharan & Touran	Side airbag gas generator canister may fail
R/2016/066	Jaguar: XF 5.0L Petrol	Fuel may leak / risk of fire
R/2016/069	Porsche: Cayenne	Braking efficiency may be reduced
R/2016/070	Renault: Kadjar	Side airbag may fail to deploy or they may deploy incorrectly
R/2016/071	Skoda: Superb III	Sunroof may injure occupants when it is closed from outside vehicle
R/2016/072	Skoda: Yeti	Side airbag gas generator canister may fail
R/2016/073	Citroen: C Zero	Engine may not start
R/2016/077	Volvo Bus: B11R	Short-circuit may occur / risk of fire
R/2016/078	Volvo Bus: B11R	Oil may leak
R/2016/082	Aston Martin: DB9, DBS, Vanquish & Virage	Risk of short-circuit in battery cable
R/2016/085	Mercedes-Benz: CLA	Risk of fire
R/2016/088	Mercedes-Benz: CLA	Possible loss of power steering assistance
RM/2016/017	Honda Motorcycles: 2013 Year Model NSS300 & NSS300A	Rear brake may fail
RSPV/2016/003	Swift: Escape 686, Kontiki 649, Hi-Style 496, Lifestyle 686, Distinction 686 and	Rear facing seat frame and/or seat belts may fail

Breakdown Network Ltd

Breakdown Network Ltd offers a no-risk opportunity to be part of a national network that has the potential to deliver vital incremental business for your business.

In addition to legislative issues, new technologies continue to present both challenges and opportunities. We have recently been in discussions with the developers of a new App which aims to provide an easy-to-use service for motorists who are not covered by club membership but find themselves in need of roadside assistance. The scheme will offer a no-risk opportunity to be part of a national network that has the potential to deliver vital incremental business for our members, and our contact with the developers to date has convinced them to work with PAS43-approved operators to ensure the highest standards in terms of quality and safety.

Summary

Consumers have the ability to post a concise yet detailed recovery request, which is instantly distributed to all network members within their self-specified catchment areas. Conversely, recovery agents, that are instantly alerted to the new request, have the opportunity to immediately pass a quote back to the consumer - which may be accepted following a review of ratings, costs, and any other details provided by the agent.

The goals are three-fold. First and foremost, to provide consumers with a simple and effortless way to obtain competitive pay-as-you-go recovery in a one-stop shop - reducing the stress and effort previously endured. Second, to re-invigorate local recovery firms by bringing back all the business that has been eroded away by the large nationwide recovery firms. Finally, when possible, for the platform to be so effective that it reduces the consumer's reliance on

breakdown insurance, to the point that they start to switch away from recovery policies, and back to pay-as-you-go consumption as the mainstream method of recovery.

The network is entirely free to join, and there are no ongoing monthly charges or hidden fees. We simply take a single small commission on each job that is awarded through the network. This means operators will not be charged a penny unless they actually secure a chargeable job. As we leave control of the rates in the hands of the operator, the operator can even nullify the commission by simply raising the callout charge slightly. The rate of commission would be on a sliding scale, for example: first 10 jobs - 10%, jobs 11 to 50 - 8%, jobs 51+ - 5%. Commissions are based solely on the callout charge for the job. Any extra charges (i.e. recovery, fuel, parts etc.) are excluded from the commission charge. To sign up go to <http://breakdownnetwork.com>

Points worth mentioning

1. It's NOT designed to be competitive - operators cannot see each other's bids
2. Operators are free to use the service as they wish - no involvement clause
3. We will only approve operators of a certain standard
4. Payment for services rendered (by operators) is received in the usual manner - we don't escrow
5. We reserve the right to remove anyone from the network, should problems arise
6. New features and improvements are on the way



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Under the radar—the new DVSA guide to driver’s hours and tachograph rules

The new DVSA guide to driver’s hours and tachograph rules goods vehicles (GV262) and passenger vehicles (GV375).

In February 2016 new DVSA Guides appeared, unannounced, on the gov.uk website. Normally, the publication of revised Guides is announced with a good deal of publicity in the industry press. Previous Guides have contained forewords by the incumbent DVSA (formally VOSA) Chief Executive and Senior Traffic Commissioner.

The present Guide contains no such recommendation and have come in somewhat “under the radar”. Enquiries suggest that the DVSA have not consulted the industry about the contents of the new Guide, yet it contains some policy changes which are startling and are likely to prove controversial. In this article, we look at some of those changes.

As before, the Guide says *“that it is for general guidance only... the guidance reflects DVSA’s current enforcement policy”*. At this point, the Guide used to concede that *“it should not be regarded as a complete or authoritative statement of the law”*. The Guide no longer states this - why not, we wonder?

Overview - driving “out of scope” of EC Rules

The guide says

“It is not necessary for a vehicle to be laden for it to be in scope of the EC/AETR rules. Vehicle operations that take place off the public road or vehicles that are never used to carry goods on a public road are out of scope”.

“Additionally, drivers who are employed to drive vehicles which would normally be in scope of EU/AETR rules but who never carry goods or passengers in the course of that employment, are not considered to be in scope of the regulations.

For example, this covers operations such as:

1. *Driving of hire vehicles for the purpose of delivery or collection*
2. *Empty vehicles being driven to or from annual test or a place of repair*
3. *Driving a vehicle for the purpose of moving it between depots.*

4. *Driving a new/demonstrator vehicle for the purpose of collection or delivery*

5. *Vehicles being driven to be scrapped”*

“A “driver” is anyone who drives a vehicle or is carried on the vehicle in order to be available for driving.”

By way of comment it has to be borne in mind that EC legislation has to be interpreted in a purposive way. The 37 paragraph Preamble to the Regulations acknowledged that there had been difficulties in interpreting, applying, enforcing and monitoring certain aspects of the previous Regulation 3820/85 and it sought to clarify and simplify the rules. The Preamble continued to acknowledge the road safety purpose of the rules as well as the aim of improving social conditions for employees.

The new Guide reflects the UK attempt to interpret the rules and does so by setting out a list of circumstances when operations would be regarded as out of scope.

These operations are then defined by reference to:

1. The purpose of the journey
2. The journey being driven by employed drivers who never carry goods or passengers in the course of that employment

This interpretation is in no way supported by either the letter or the spirit of the Regulations.

Firstly, the DVSA interpretation seems to apply to employed drivers and not self-employed drivers.

Secondly, the definitions of “carriage by road” and of “vehicle” and of “driver” in Article 2 of 561/2006 would seem to make in scope, in summary, the driving even for a short period of a vehicle which is normally used for carrying goods, whether the vehicle is laden or not.

Thirdly, the DVSA interpretation anticipates that goods and passenger operators have available to them a cohort of drivers who never drive operationally - i.e. carrying goods or passengers, but on hand to drive just for the limited purposes in the “out of scope” lists stated. This is not realistic. In practice, the DVSA interpretation may prove to be of limited use to operators for this reason.

While some goods and passenger operators will welcome the stated DVSA policy as to what is and what is not in scope, the DVSA interpretation can hardly be said to be supported by the plain language of the Regulation and its related purposes

Multi-manning and daily rest

The Guide correctly states that as long as the multi-manning preconditions (see Article 4 EC 561/2006) are complied with, each driver must have a daily rest of at least 9 consecutive hours. However, they may do so within a 30 hour period that starts at the end of the last daily or weekly rest period, rather than the normal 24 hour period.

So far so good; however, the Guide continues by stating that the 9 hour rest period *“cannot be counted as a regular daily rest as it is of less than 11 hours duration. These rest periods therefore count towards the limit of three reduced rest periods between any two consecutive weekly rest periods.”*

We observe that this is a new interpretation which was not present in the previous 2009 and 2011 edition, both of which gave a guide to the 2006 Regulation.

Article 8(2) permits 9 hours rather than 11 and Article 8(5), which sets out the multi-manning rule, expresses it as being *“by way or derogation from paragraph two”*.

What is different between Article 8(5) and Article 8(2) is the 30 hour end point by which the 9 hours daily rest by the multi-manning driver must have been completed. Article 8(5) does not also say that the 9 hours in 30 is any kind of derogation from Article 8(4) which prescribes three 9 hour daily rests between two weekly rest periods.

On that basis, the DVSA will no doubt justify the new interpretation and they might be right to do so. Further, in the Preamble to the Regulation, paragraph 17 observes that the new Regulations *“prescribe that under no circumstances should a daily rest period be less than an interrupted period of 9 hours.”*

It goes on to say that the purpose for this is that *“these provisions guarantee adequate rest”*.

It will be remembered that the previous multi-manning under 3820/85 allowed 8 hours rest ending 30 hours after duty started. The current DVSA interpretation may be entirely justifiable in law. What is unattractive

is the fact that the interpretation has come in under the radar, apparently without full consultation and certainly without adequate publicity.

It is hardly the approach to be taken in respect of a road safety provision.

Unforeseen events

There is a paragraph dealing with Article 12 561/2006 as interpreted by what the Guide calls *“a judgment by the European Court of Justice dated 09 November 1995”*. This case is in fact Regina v Bird (Alan) [1996] RTR 49.

The case started at Rochdale Magistrates' Court, went on to appeal to Bolton Crown Court where the Crown Court Judge agreed to refer the question of how Article 12 should be interpreted for EJC to decide. When EC 561/2006 came in, Article 12 alone of all these regulations, was the same as the previous Article 12. Accordingly, the ECJ interpretation of Article 12 in Bird back in 1996 remains good law.

However, this has not prevented widespread misunderstandings as to what Article 12 permits. The current DVSA Guide, like the previous one, does provide in this case a helpful and accurate discussion as to what Article 12 does and does not permit. Perhaps what needs to be emphasised is the Guide's observation that *“this concession only allows for drivers to reach a suitable stopping place, not necessarily to complete their planned journey”*.

By way of additional comment, it should be said that as soon as a suitable stopping place is reached following the cause for the delays being overcome, the driver must stop and belatedly take the break or rest which he was due to take. This applies even if the taking of the rest or break means that the planned delivery cannot be made.

Analysis of digital tachographs

At paragraph 4.4 of the Guide there is a section entitled *“Regular Checks”*. The Guide says *“make regular checks of charts and digital data to ensure compliance”*. This guidance echoes the obligations on an operator found at Article 10 of 561/2006 and Article 33(1) of EC 165/2014 for the operator to make *“regular checks”* to ensure the drivers comply with drivers' hours and tachograph regulations.

Under the radar cont'd

However as in previous guides, this advice is not really advice at all - it simply repeats the language of the legislation. The advice sets no standards for these regular checks. It gives no standards for these regular checks. It gives no explanation as to what checks DVSA expect to be done. Particularly, it gives no guidance on the vital missing mileage check/unknown driver reports. In a recent high profile Public Inquiry, the DVSA, the operator and the Traffic Commissioner agreed that reliance on driver card data alone without comparing it with the data from the Vehicle Unit was endemic within the industry.

Plainly "regular checks" are not necessarily checks on 100% of the data, although this may be wise. What is reasonable and sufficient for legal compliance is likely to be infinitely variable depending on the type of operation and the risk of offences in that operation. This risk needs to be assessed by particular reference to the past infringement levels (if any) of the operation generally, and in particular the infringement levels for particular drivers following previous analysis.

It is puzzling as to why the DVSA are not prepared to set standards or parameters for what might amount to "regular checks". Presumably, they are of the view that it is better to give no guidance at all than to try and give prescriptive guidance on a "one size fits all" basis.

There would seem no reason why the DVSA cannot set out factors and criteria which might effect a tachograph analysis regime and how the incidents and type of checking might vary from operation to operation. For instance, to take two extremes in the case of an operator who has a bad tachograph compliance history and is doing high risk work (such as trunking when the drivers are away from base all week), it might be wise to download driver card and vehicle unit weekly and to do 100% analysis. At the other extreme might be a vehicle which is used occasionally on relatively local journeys where the risk of offence is small.

The Guide however fails to give any such prescriptive guidance. As long as it does so, it will be hard for DVSA to claim, either in the criminal Courts or before the Traffic Commissioner, that the operator is failing to achieve set standards because DVSA fights shy of setting what the standards should be.

*Article courtesy of Backhouse Jones Solicitors
www.backhousejones.co.uk*

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NOTICE OF AN ANNUAL GENERAL MEETING OF AVRO LTD
TO BE HELD AT COOMBE ABBEY HOTEL,
BRINKLOW ROAD, BINLEY, COVENTRY CV3 2AB
ON SUNDAY 19th JUNE 2016 AT 10.30am
AVRO MEMBERS ONLY

AGENDA

1. Apologies for Absence
2. Approval of the Minutes of the Last AGM
3. Receive Report on the year
4. Approval of Accounts ending December 2015
5. Election of Directors/Council Members
6. Appoint Auditors
7. Transact any other business which may be lawfully transacted having been previously notified.
8. Open Forum

A copy of the accounts are available on request from the Rugby Office.

Please return to AVRO Head Office. Fax: 01788 567320 E-mail: sara@avrouk.com

Name: _____ Company: _____

I will be attending the AGM on the above date.

I will NOT be attending the AGM on the above date. Please give my apologies.

Signed: _____
