

PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT

First Delegated Legislation Committee

DRAFT COMMUNITY DRIVERS' HOURS
OFFENCES (ENFORCEMENT) REGULATIONS 2017

Monday 27 November 2017

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Friday 1 December 2017

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The Committee consisted of the following Members:

Chair: MARK PRITCHARD

† Cleverly, James (*Braintree*) (Con)
 Clwyd, Ann (*Cynon Valley*) (Lab)
 De Cordova, Marsha (*Battersea*) (Lab)
 † Foxcroft, Vicky (*Lewisham, Deptford*) (Lab)
 † Francois, Mr Mark (*Rayleigh and Wickford*) (Con)
 † Hayes, Mr John (*Minister for Transport Legislation and Maritime*)
 † Heald, Sir Oliver (*North East Hertfordshire*) (Con)
 † Heapey, James (*Wells*) (Con)
 † Holloway, Adam (*Gravesham*) (Con)
 † McDonald, Stuart C. (*Cumbernauld, Kilsyth and Kirkintilloch East*) (SNP)

McGovern, Alison (*Wirral South*) (Lab)
 † O'Brien, Neil (*Harborough*) (Con)
 Rodda, Matt (*Reading East*) (Lab)
 † Stephenson, Andrew (*Pendle*) (Con)
 † Stewart, Bob (*Beckenham*) (Con)
 † Turner, Karl (*Kingston upon Hull East*) (Lab)
 Zeichner, Daniel (*Cambridge*) (Lab)

Jonathan Whiffing, Yohanna Sallberg, *Committee Clerks*

† **attended the Committee**

First Delegated Legislation Committee

Monday 27 November 2017

[MARK PRITCHARD *in the Chair*]

Draft Community Drivers' Hours Offences (Enforcement) Regulations 2017

4.30 pm

The Minister for Transport Legislation and Maritime (Mr John Hayes): I beg to move,

That the Committee has considered the draft Community Drivers' Hours Offences (Enforcement) Regulations 2017.

I shall say just a few words about these important but I think uncontroversial draft regulations. They are being made to enhance the powers of enforcement agencies in respect of the rules on drivers' hours. For the benefit of Members who may not be aware of the drivers' hours rules, I shall make a few introductory remarks.

The rules are central to keeping our roads safe; they set maximum driving times and minimum break and rest times for most commercial drivers of lorries and buses. For example, the rules mean that after four and a half hours a driver must take a 45-minute break, and daily driving time is normally limited to nine hours. The consequence of drivers working when fatigued can of course be catastrophic, so while we can be pleased to note that the number of road accidents involving buses and lorries has been reducing over time, we should never be complacent.

The rules are enforced by the Driver and Vehicle Standards Agency and the police with targeted roadside checks and by visiting operators' premises. Most breaches of the rules are identified swiftly and dealt with efficiently by means of fixed financial penalties. More serious breaches are referred to traffic commissioners or lead to prosecution. The draft regulations will extend the use of fixed penalties to a wider range of infringements of drivers' hours—in essence, that is what they do. The regulations are based on well-established practice, widely acknowledged to be the right thing, and take that a little further.

The tachograph, the device that is used to check compliance with the rules, has an historical memory but “on the record” or so-called historical drivers' hours offences can be sanctioned at present only through court prosecution. To use a shorthand, the draft regulations will establish a mechanism by which those historical offences can be dealt with in the same way that contemporary or current offences are dealt with now.

The problem with the existing arrangements is that they are time-consuming, bureaucratic and costly for the enforcement agencies and for the operator and driver involved. Particular difficulty is created in respect of non-UK drivers, so probably the biggest consequence of this change is for them. Now, when non-UK drivers are issued with a court summons, regrettably they do not always regard it as seriously as they might. Drivers who are issued a court summons but are off to some distant land probably will not take notice of it. At the

moment, the only practical, but rarely used, means of dealing with that is to arrest the drivers and to hold them in police custody. Generally, therefore, they are just given a warning.

The draft regulations will enable the enforcement agency to issue a fixed penalty for infringement of drivers' hours and that will apply to any offence that has taken place in the 28 days preceding the check I described. In essence, the regulations will help to level the playing field for UK and non-UK offenders. They will also bring the UK into line with several other European countries that already issue on-the-spot penalties for historical drivers' hours offences. The enforcement agencies will be saved time and money by their being given the option of taking fewer cases to court.

The new powers will not be used indiscriminately. The DVSA intends to issue fixed penalties when the case might previously have been taken to court, not every time a minor historical offence is identified. There is already a reasonable degree of discretion in this exercise. If someone is repeatedly abusing the system in a minor way, or more seriously, typically the DVSA will take a view, but it exercises a reasonable degree of discretion.

We undertook a formal consultation on the changes, but I will not tire the Committee, or indeed you, Mr Pritchard—who, by the way, it is a delight to serve under—by going through it in exhaustive detail. However, I have the consultation with me and it is available to any Member who wants to look at it more closely and carefully. It received broad support from respondents, including the trade associations. No one really wants this important restriction on what drivers may do, which is of course in their interests, to be abused routinely. Everyone wants the mechanisms to avoid that to be fit for purpose. By filling the gap that I have described, the draft regulations will make the method, means—

Sir Oliver Heald (North East Hertfordshire) (Con): Will the Minister give way?

Mr Hayes: I will give way very briefly, although I was about to come to my exciting conclusion.

Sir Oliver Heald: I am grateful to my right hon. Friend for giving way. One point that the trade bodies made was that they would not want an offence that occurred before a driver joined their operator company to be scored against the operator's score compliance risk, because that could affect the operator's licence. Was it possible to find a solution to that concern?

Mr Hayes: That is the point I just made—I referred to the consultation a few moments ago. The consultation document makes it clear that, although the point made about current and historical offences is true, operators are sufficiently persuaded by the discretion that I described to be confident that the draft regulations will be applied proportionately. They are not designed to catch people out; they are designed to do the right thing. I think that my right hon. and learned Friend knows that the representative bodies have warmly welcomed these changes on the basis of the exercise of that kind of discretion, which is already well established in their experience and in the mind of the Committee, I am sure.

Without further ado, because I know people will want to deal with this matter thoroughly but efficiently, I simply say that I think the draft regulations are entirely reasonable and deserve the support of the whole Committee.

4.37 pm

Karl Turner (Kingston upon Hull East) (Lab): It is always an absolute pleasure to serve under your chairmanship, Mr Pritchard. The Opposition are very supportive of this entirely sensible measure, which makes sense because it will give enforcement officers the same powers for historical and current offences. It will also take pressure off the courts, as it will be possible to deal with historical offences on the spot.

Speaking as a criminal practitioner, the difference is that the measure will give the authorities the right to issue a fixed penalty for an offence committed up to 28 days beforehand. I suppose that is a kind of retrospective prosecution. It may, therefore, give rise to far more checks being made, at least in the initial stages, so over-enthusiastic officers might see it as a way to be over-zealous, if I can put it like that. One way to avoid that might be to make the provision kick in from a blank sheet—perhaps a 28-day period before the legislation came into effect. Has the Minister has considered that?

4.38 pm

Mr Hayes: That is a good and reasonable point, as I would expect from the hon. Gentleman, who is always measured and reasoned in his critique of all that the

Government do, as I learned to my great benefit during the time we spent together recently discussing the Automated and Electric Vehicles Bill—not in your presence, Mr Pritchard, but before one of your fellow members of the Panel of Chairs.

The hon. Gentleman is right that we do not seek what he described as an over-zealous interpretation of the new powers. He is absolutely right to raise that point and I hope that he might be persuaded if I were to write to him to make the point that, although the new powers clearly are welcome, in line with the consultation responses, it is important that the discretion that he implies, and that my right hon. and learned Friend the Member for North East Hertfordshire mentioned a few moments ago, continues to be used in the way the hon. Gentleman suggested. Although I would not delay implementation, I certainly would want to ensure that implementation was sensitive to the change. It is important that everyone gets used to the new changes. They are relatively small and within a system that is very well established, so I do not want to exaggerate their significance. It is right that we should ensure that everyone is on side and I will certainly write accordingly.

Question put and agreed to.

4.39 pm

Committee rose.

