

What you need to know about:

OPERATOR LICENCE LEGISLATION AND COMPLIANCE



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INTRODUCTION

Strict regulation of UK road transport operations is nothing new. The roots of the current British operator licensing system can be traced back to the 1968 Transport Act.

One of its basic principles is that no goods vehicle (apart from a few specific exemptions, such as privately-run goods vehicles unconnected with any trade or business) above a set weight threshold, 3.5 tonnes gross vehicle weight (gvw) at present, may be used lawfully on public roads without the individual or organisation behind it (not necessarily the vehicle owner) having a current operator licence (O-licence).

From the outset of these regulations, the system has been based on quality rather than quantity. In other words, there is no predetermined limit on the number of O-licences that may be issued by the independent regulator, the Traffic Commissioners. Similarly, there is no limit on the number of licences that Traffic Commissioners may “curtail” (cutting the number of vehicles on the licence); “suspend” (temporarily halting operations); or “revoke” (permanently removing an operator’s licence).

Failure by any operator, no matter how big or small, to satisfy the strict requirements and conditions under which O-licences are granted will almost certainly lead to severe penalties. Hence the crucial need for compliance.

What has been changing markedly in recent times is the approach both of Traffic Commissioners and the Driver and Vehicle Standards Agency (DVSA), the government agency responsible for enforcing O-licence regulations, to the way in which compliance with O-licence regulations is measured and enforced, with two words now at the heart of this fresh approach: “earned recognition”.

This guide outlines exactly what is meant by this, what you need to know about the basics of, and latest developments in, O-licensing, and where you can easily and quickly find more information.

Should you wish to discuss any of these issues in more detail, please don’t hesitate to contact your Fraikin Account Manager, or call 0800 052 4455.

WHO NEEDS AN O-LICENCE ANYWAY?

In essence, an operator's licence is needed by anyone operating vehicles above 3.5 tonnes gvw when they are used to carry goods (anything not permanently attached to the vehicle) on public roads for trade or business purposes. This includes short-term rental vehicles hired for as little as one day.

The O-licence is held by the individual or legal entity (such as a company) "operating" the vehicle. This may or may not be the vehicle owner.

The vehicle "operator", under O-licence rules, can be:

- the driver, if they own it or are leasing, buying it under a hire-purchase agreement, hiring or borrowing it;
- the person whose boss or agent the driver is (whoever employs or controls the driver).

This applies to both "own-account" and "hire or reward" operations.



How does operator licensing in Northern Ireland differ?

The Goods Vehicles (Licensing of Operators) Act (Northern Ireland) 2010 and related legislation introduced significant changes to goods vehicle regulations in Northern Ireland, including:

- Establishing own-account licensing
- Improving existing licensing arrangements
- Improving enforcement
- Introducing a new disciplinary process for all licence holders

Who enforces the new requirements?

Operator licensing functions previously carried out by the Driver and Vehicle Agency (DVA) Northern Ireland have been transferred to the new Transport Regulation Unit (TRU). This body oversees the application process and issues licences.

Enforcement of the regulations remains with DVA and Police Service of Northern Ireland. From July 2012, according to the Freight Transport Association (FTA), about 7,800 own-account operators were brought into scope of operator licensing in Northern Ireland.

What are the various O-licence categories?

The particular type of O-licence required is determined by the use to which a vehicle is put.

Restricted licence

This is for own-account operators only, allowing them to carry their own goods both in Britain and internationally, surprising as that may seem.

Standard licence

This allows goods to be carried for hire or reward in Britain.

Standard international licence

This allows goods to be carried for hire or reward in Britain and internationally (including own-account operations, if required).

It is worth emphasising that all the above O-licence categories apply to Great Britain only, rather than to the whole of the UK.



WHAT IS OCRS?

The Operator Compliance Risk Score system was introduced in 2006 by what then was the Vehicle and Operator Services Agency (VOSA) with the principal aim of targeting non-compliant goods and passenger-carrying vehicles (PCV) more effectively and efficiently.

Early in 2014 VOSA and the Driving Standards Agency (DSA) were merged to form the Driver and Vehicle Standards Agency (DVSA). It has further developed OCRS enthusiastically and was soon outlining plans to use it as the foundation for an “earned recognition” scheme. The essential aim of this, as the name suggests, is to give DVSA access to data (almost entirely online) which makes it even clearer which operators are fully compliant and which are not. The latter are the ones who can expect more DVSA attention.

“We don’t want to waste our time and that of compliant operators,” says Philip Lapczuk, DVSA’s Earned Recognition Project Manager. “There are more effective ways to carry out enforcement.”

DVSA earned recognition is a new way for organisations with trucks, buses and coaches to prove they meet driver and vehicle standards. They’ll regularly share performance information with DVSA. In return, their vehicles are less likely to be stopped for roadside inspections.

OCRS scores can be seen as the building blocks on which this scheme is based. Central to the OCRS system is a handheld electronic device called MCD (Mobile Compliance Device) carried by DVSA vehicle examiners. The device allows examiners to easily access the DVSA database.

When a vehicle registration number or O-licence information is keyed in, the information displayed on the MCD screen includes OCRS scores. The system is also used by DVSA to prioritise investigation and operator visits. Operators are flagged as green, amber, red or grey. As you might expect, those in the green category will receive least attention from DVSA, those in the red category the most. The grey colour coding is for operators on which DVSA has little or no information.



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OCRS scores

Each operator licence has two scores: one for roadworthiness and one for traffic enforcement. It is worth emphasising that the scores apply to separate O-licence numbers. So, an operator with licences in three traffic areas would have three O-licence numbers and two OCRS scores for each – six in all.

| Category | Prohibition or test fail defect | OCRS points | OCRS points with S-marked prohibition |
|-----------|---|-------------|---------------------------------------|
| 1 | Immediate prohibition-brakes, wheels/tyres, steering, suspension or chassis | 200 | 400 |
| 2 | Immediate prohibition - all other defects | 100 | 200 |
| 3 | Delayed prohibition - brakes, wheels/tyres, steering, suspension or chassis | 50 | 100 |
| 4 | Delayed prohibition - all other defects | 25 | 50 |
| Test fail | Brakes, wheels/tyres, steering, suspension or chassis | 50 | n/a |
| Test fail | All other defects | 25 | n/a |

“S”- marked prohibition means the examiner believes there has been a significant failure of the operator’s maintenance system.

Roadworthiness score

This is based on vehicle condition and is generated by inspections by DVSA vehicle examiners, both at annual tests and at vehicle “encounters” (inspections at operator premises and at the roadside).

Traffic enforcement score

This encompasses roadside checks, fixed penalty charges and DVSA prosecutions related to infringements of rules such as those on drivers’ hours, tachographs, carriage of dangerous goods (ADR) and vehicle overloading.

| Band | Penalty | OCRS points |
|------|--------------------|-------------|
| 0 | Verbal warning | 0 |
| 1 | £50 fixed penalty | 25 |
| 2 | £100 fixed penalty | 50 |
| 3 | £200 fixed penalty | 100 |
| 4 | £300 fixed penalty | 200 |
| 5 | Prosecution | 500 |

OCRS baseline scores

Under both the roadworthiness and traffic enforcement headings, what is called a “baseline score” is calculated by dividing the number of points accumulated by the number of events over a three-year period. This gives the average number of points per event.

| Band | Roadworthiness | Traffic enforcement |
|-------|----------------------------|---------------------------|
| Red | Baseline over 25 | Baseline over 30 |
| Amber | Baseline between 10 and 25 | Baseline between 5 and 30 |
| Green | Baseline up to 10 | Baseline up to 5 |
| Grey | No baseline score | No baseline score |

WHAT EXACTLY DOES “EARNED RECOGNITION” MEAN?

Caroline Hicks, Head of Enforcement Transformation at DVSA, was busy spelling this out to operators long before the pilot scheme launched in 2017. Any operator who may have been inclined to dismiss “transformation” in this context as just another of those irritating, trendy, management buzz-words with no substance to them have soon come to realise that there is a real transformation going on here.

The latest information technology, including telematics systems, is at the core of the DVSA earned recognition scheme, but Hicks and her colleagues fully recognise that approval by operators of the principles of the scheme was crucial. Six vehicle operator types have been identified by DVSA. These range from “exemplar operator” (doing everything possible to be fully compliant with all rules and regulations) at one end of the spectrum to “serious/serially non-compliant” at the other end.

The traditional way for DVSA to find non-compliant operators has been roadside checks. But this has been recognised as highly inefficient for all concerned. One supermarket chain puts the cost of a single roadside “encounter” with DVSA at around £4,000 on average, even when the inspection finds nothing wrong.

“We do tens of thousands of roadside encounters every month,” says Hicks. “We put a huge amount of resources

into this. It’s very intrusive and we can’t reach everybody. We need to do something different.” That something is the earned recognition scheme, coupled with what Hicks describes as “remote enforcement”.

She uses the example of an owner-driver truck operation to illustrate the benefits of this from the operator’s point of view. “The driver is often the transport manager and fitter as well,” she says. “If we’re coming out to see you, you may have to forgo a load and hire somebody else in, so your profits go down. With remote enforcement you can provide us with the data we need at your own convenience. We’ll be using your technology for you to demonstrate your compliance to us.”

Under the earned recognition scheme now in operation, designed to suit operators of all sizes, according to DVSA, operators transmit data from their vehicle maintenance and drivers’ hours fleet management systems to the agency every four weeks. This information demonstrates whether the operator is meeting a set of “key performance indicators” (KPIs). DVSA stresses that it does not have direct access to any of this data or to operator IT systems. But the big incentive for an operator agreeing to send the required data to the DVSA is that it will be far less likely for that operator’s vehicles to be stopped at the roadside.



EARNED RECOGNITION

Eligibility

You must have:

- Had an HGV or PSV operator licence for at least two years
- Digital management systems for vehicle maintenance and drivers' hours, which can track the KPIs and automatically report if they're missed
- A track record of good compliance with driver and vehicle standards

Benefits for the operator

If you get a place on the DVSA earned recognition scheme, you'll:

- Be an exemplary operator, and be able to prove this when you bid for contracts
- Be less likely to have your vehicles stopped at the roadside for inspections
- Be less likely to have DVSA enforcement staff visit your premises

- Be able to use the DVSA earned recognition marque on your website and other publicity materials (but not on your vehicles)
- Be recognised as a DVSA-approved operator on a list on www.gov.uk
- Have direct access to a DVSA earned recognition business manager

Applying for earned recognition

- Operators are advised to read the DVSA Earned Recognition Scheme Guide in full, and then complete the DVSA's self-assessment checklist prior to filling in the application form (ER01).
- Completed applications will be processed by DVSA on a quarterly basis in January, April, July, and October. An application must be received by DVSA by the last day of the month before the next quarter's processing starts.

Audits

You need to have an audit of your systems and processes by a DVSA-approved audit provider when you first join, and then every two years. You will most likely need to pay for this, depending on the provider you choose. Providers set their own fees.

IT systems

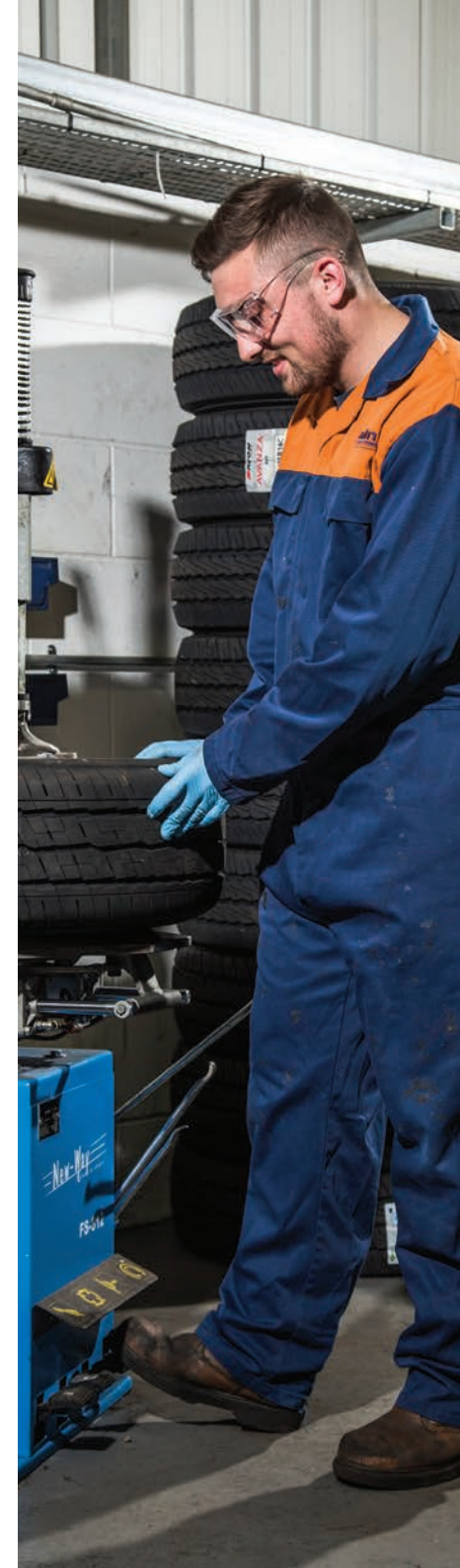
You might need to pay to update your IT systems if they can't measure and report on the KPIs. System suppliers set their own fees.

What about OCRS scores?

Operators who successfully achieve earned recognition status will then no longer be subject to the OCRS system.

When vehicles could still be stopped under earned recognition

DVSA will still stop vehicles in an obviously dangerous condition, however, any vehicles could be stopped for the Department for Transport's national fleet compliance survey. This is because the survey needs a small sample of randomly checked vehicles.



Where can I find more information?

Driver & Vehicle Standards Agency
www.gov.uk/dvsa/earned-recognition

Freight Transport Association
www.fta.co.uk

Road Haulage Association
www.rha.uk.net

Disclaimer: Produced in August 2018, this guide aims to highlight some key trends and technologies around operator licence legislation and compliance. However, it is intended for information purposes only and we do not make any warranty or representation on the completeness, correctness, accurateness, adequacy, usefulness or reliability of such information. Fraikin will not accept any liability based on any information provided in this document.



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