

HEAVY TALK

December 2008

**WE WISH EVERYONE A HAPPY CHRISTMAS
AND A PROSPEROUS NEW YEAR!**



DRIVER CPC – IT WILL BE HERE SOONER THAN YOU THINK!



Photo courtesy of Mark Lewis, Lewis transport

If you want to drive goods vehicles professionally from September 2009 you will have to comply with the regulations that introduce the Driver Certificate of Professional Competence (CPC). That is in little over nine months from now but there is no need to panic. If you currently hold an LGV licence you will be able to continue to drive on the basis of acquired rights.

However, new drivers entering the industry will have to pass a more stringent four module test post September 2009. No doubt there will be a mad rush by new drivers to pass the current LGV test before the regulations come into force.

The big challenge for the industry will be ensuring that all drivers complete 35 hours of Periodic Training in the five year period commencing September 2009 and completing in 2014. This might not seem an onerous requirement but it will need to be managed carefully to ensure that the training delivers real benefits and at reasonable cost.

RTITB is working with industry to ensure Driver CPC training can be delivered through the RTITB network effectively and has developed the Master Driver CPC Consortium in order to achieve this. The Master Driver programme provides a complete management system, including training materials, that meet every aspect of the Driver CPC syllabus.

Joining the Consortium gives training and transport companies the opportunity to be completely prepared for the introduction of the Driver CPC without having to invest heavily in training development costs.

To find out more about the regulations, how they will affect you and how you can join the RTITB Consortium please contact David Higginbottom, RTITB's Business Development Director on **01952 520208** or email david_higginbottom@rtitb.co.uk.



LIGHTING, MARKING AND SIGNAGE OF ABNORMAL LOADS AND ESCORTS

The stakeholder meeting held on 23rd October was attended by some HTA Committee Members. Notes from the meeting have been emailed to members (If you wish to have a copy sent to you, please contact Katharine on **01829 771774**). The document also includes

a request for any additional views on the risks, equipment and information about near miss incidents. Views on the notes must be sent to Chris Cottell at the Highways Agency by December 12th.

NOTIFICATION OF RESURFACING WORKS

The HA will be carrying out completion works to the new A50 access to the Trantham Lakes Business Park commencing on Monday 24th November until 13th December. The works will affect the A50 from the A500 Queensway roundabout to Herons Cross. Work will be carried out overnight between 8 pm and 6 am and during daytime off peak periods.

A Highways Agency website (www.highways.gov.uk- Road Projects) will be set up for the scheme which will carry updated management bulletins. Any enquiries about the scheme should be made to the HA information Line available 24/7 on **0845 750 4030**.

ABNORMAL LOAD ACCIDENT ON A31 DORSET

Members will recall the fatal accident in Dorset last January involving a Peugeot 206 and an abnormal load, which was being escorted.

The car had hit a metal mudguard on the load vehicles wheel and the driver of the car died at the scene from his injuries. This incident led to Dorset Police putting ban on night time driving of abnormal loads in the area.

The driver of the wide load, who had never been involved in accident before, was fined £745 by magistrates, his licence was endorsed by 3 points and he was also ordered to pay £60 costs and a £15 victim surcharge.

At the recent hearing in October the prosecutor told magistrates that the driver of the wide failed to display the regulatory warning signs on the vehicle so "drivers in the opposite direction were not able to judge the width of the vehicle as they approached it."

After the accident, the driver told the police the reason he had not put up the red and white boards was that they often fell off as the wheels of the loaded vehicle span around.

The Defence counsel stated that "During a very lengthy and very detailed investigation, the only thing found wanting in these very tragic circumstances was a set of red and white marker boards."

He added that the assistant chief constable had told the inquest that the marker boards were not required to be reflective, so probably would have had little effect in darkness.

Tony Lovell comments that it is interesting that the existing style of marker sign is not retro-reflective and even if they had been fitted it is doubtful that they would have prevented this particular accident in view of the speed of the oncoming vehicle.

Comment: The driver of the abnormal load was fortunate in the extreme not to have been charged with causing death by dangerous driving. The new offence of causing death by careless driving which came into force in August this year would almost certainly have been applied under which mandatory disqualification would be the normal starting point. A custodial sentence or community service order would almost certainly have been considered on the facts of this case.

REDUNDANCY - EMPLOYERS FACE UP TO THE NEW ECONOMIC REALITY

The current state of the economy has forced many companies to consider the unenviable task of making cutbacks and enforcing redundancies.

Whilst the redundancy process might initially appear complex it can be simplified by breaking it down into four constituent elements or the "Four C's"...

1. Circumstances

The employer must ensure that a genuine redundancy situation exists. Such a situation will arise where the employer:

- Has ceased or intends to cease carrying on its business;
- Has ceased or intends to cease carrying on its business at the location where the employee works; or
- Has a reduced requirement to carry out work of a particular kind, or to carry out particular work at a particular location.

2. Criteria

Once a genuine redundancy situation exists, the employer will need to establish objective criteria for use when selecting employees for redundancy. Before establishing the criteria themselves, the 'Pool' from which an employee should be selected for redundancy must first be established.

The Pool should be objectively identified and agreed with employees or their representatives. Establishing a pool may not always be necessary however, for instance where all employees are being made redundant, or where a unique role no longer exists.

If the employer already has a redundancy policy in place, then these existing selection criteria should be followed. If not, then the employer will have to draw up new criteria ensuring that these are objective and verifiable.

3. Consultation

Employers must consult with affected employees or their representatives.

- If less than 20 employees may be made redundant within a 90 day period, then the employer must consult with the affected staff in "good time";
- If 20 to 99 employees may be made redundant within 90 days, then the employer must consult with affected employees at least 30 days before the redundancy is to take place;

- If 100 or more employees may be made redundant within a 90-day period, then consultation must commence at least 90 days before the redundancy is due to take effect.

Employers should meet with staff and inform them of the selection criteria. Thereafter the selection should be made, and the following three steps should be adhered to:

Step 1: Write to the employee

The employer should write to any employee selected for redundancy, informing them of the reasons upon which their dismissal is being contemplated and inviting them to a meeting at which they have the right to be accompanied by a work colleague or trade union representative.

Step 2: Meet with the employee and provide a written decision

At the meeting the employer should inform the employee of the reason for their selection for redundancy. The employer should consider suitable alternative employment and any representations made by the employee. After the meeting the employer should write to the employee with the outcome of the meeting and advise them of their right to appeal.

Step 3: Hold an Appeal Meeting – where appropriate

The Appeal should be heard by a more senior member of the management staff if possible. Again the employee has the right to be accompanied and should be provided with written reasons for any decision.

4. Calculation

Any employee possessing at least two years continuous service who is selected for redundancy should be made a redundancy payment calculated against their age, length of service and weekly pay (subject to statutory limits).

The Tribunal takes a dim view of any business that mishandles a redundancy situation and failure to accord with procedures may lead to claims for unfair dismissal being brought against the employer.

Dyne Solicitors Limited is able to provide practical legal advice to any employer contemplating the dismissal of employees by reason of redundancy. Please contact James Mannouch, our Head of Employment, on **01829 773 107** for further guidance.

NEW MEMBERS

The HTA welcomes the following new members:

CHAPPELLS OF STUBBINGTON, SOUTHAMPTON, HANTS

(Contact: Mark Harris)

DERRYHALE TRANSPORT, PORTADOWN, CO, ARMAGH

(Contact: Dwight Cairns)

TRUCKPOL

TruckPol is a nationwide police intelligence service which records information on all aspects of road freight crime. By submitting information to TruckPol you could be helping to solve a serious crime in our industry. Tel: **0247 6516246** www.truckpol.com

HTA NATIONAL ABNORMAL LOAD NOTIFICATION DIRECTORY

For further information go to www.convoi.co.uk and click on 'shop', or email caroline.ward@convoi.co.uk for an order form.

ADVERTISEMENTS:

If anyone wishes to advertise in an issue of Heavy Talk or the next HTA Handbook, please contact Katharine Narici on **01829 771774** or by e-mail (info@hta.uk.net), for details.



Photo courtesy of Mike Ponsorby

TO CHEER YOU UP!

Go on You tube to watch: Credit Crunch Xmas Song by the Lehman Bros.

www.dailymotion.com/video/x75yaa_the-credit-crunch-song_fun - by Antan Debt

NEW PREMISES

The HTA Secretariat has moved premises- please note that we have moved to The White House, High Street, Tattenhall, Chester, CH3 9PX. All other contact details remain the same.

DISCLAIMER:

The Heavy Transport Association (HTA) has taken care to ensure that the information contained in this publication is accurate in all material respects. The HTA shall not be liable for any losses suffered or expenses incurred howsoever or wheresoever arising whether directly or indirectly and whether consequential or otherwise due to any inaccuracy of the information contained. The views expressed in this article in this newsletter are not necessarily the views of the HTA but those of the individual contributors.

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