

Safety, Health and Environment
Regulatory – Motor Crime Team’s
Transport & Logistics

July 2020 Update

Introduction

As the transport and logistics industry takes its first steps towards returning to normal following the coronavirus pandemic, in our July motor crime update we look at the key developments over the last month and the current challenges faced, including:

- Life sentences for dangerous drivers;
- Reintroduction of mandatory MOT testing;
- Ban on 10 year old tyres;
- Review of heavy vehicles testing;
- E-scooter trials;
- Theory tests and motorcycle training and tests restarting; and
- Review of roads policing

Getting away with murder? Dangerous drivers face life sentences

“We are not talking about a moment’s inattention that has disastrous consequences. We are talking about deliberate recklessness without any thought for anyone else’s life.”¹

Theresa May is seeking to ensure those who drive dangerously face life imprisonment through the introduction of the Death by Dangerous Driving (Sentencing) Bill.²

The Bill would amend the existing Road Traffic Offenders Act 1988 to increase the maximum sentence for causing death by dangerous driving from 14 years to life imprisonment. Offenders who caused death by careless driving while under the influence of drink or drugs would also face a life sentence. Judges would still retain discretion as to what length of sentence is appropriate, but the measure in the Bill would give them greater scope and enable them to issue more severe sentences than currently possible.

The issue was previously reviewed and consulted upon by Mrs May’s government. It led to a commitment in 2017 that drivers who caused death by speeding, racing, or

using a mobile phone would face the prospect of a life sentence. However, the commitment was not acted upon.

Commenting on the delay in implementation, Joshua Harris, director of campaigns for Brake, previously said:

“It is completely unacceptable that these new tougher sentences have not yet been implemented. The Government needs to focus its attention on the issues which matter most to road safety - delivering justice for road crash victims and keeping dangerous drivers off our roads.”³

Mrs May recently pushed for a resolution, telling the Commons in January:

“One of the areas of sentencing policy that has already been reviewed and consulted on is the whole question of death by dangerous driving, particularly when drugs are involved, such as in the tragic case of my constituent Bryony Hollands. The previous government committed to legislate on this issue to lengthen sentences in certain circumstances. This is not in the Queen’s Speech. Is this Government committed to legislate and, if so, when?”

Justice Secretary Robert Buckland responded that the commitment remained “absolutely crystal clear”.

Mrs May has now introduced her Bill using the 10-minute rule motion procedure, saying:

“The Bill responds to a genuine concern that the severity of the offence is not always reflected in current sentencing, because of the limitations on the sentence that currently exist. It does not try to introduce an eye-for-an-eye type of justice system. What it does is ensure justice for victims and their families.”⁴

The Bill will have a second reading on 16 October and a further update will follow.

¹ Helen Jones, former MP for St Helens

² <https://www.expressandstar.com/news/uk-news/2020/07/08/theresa-may-in-fresh-bid-to-introduce-life-sentences-for-killer-drivers/>

³ <https://www.brake.org.uk/media-centre/1868-one-year-on-and-still-no-sign-of-tougher-sentences-for-killer-drivers>

⁴ [https://hansard.parliament.uk/commons/2020-07-21/debates/BOE7C3B1-02E1-4918-B1C9-89809027CFA7/DeathByDangerousDriving\(Sentencing\)](https://hansard.parliament.uk/commons/2020-07-21/debates/BOE7C3B1-02E1-4918-B1C9-89809027CFA7/DeathByDangerousDriving(Sentencing))

Feeling rusty? Mandatory MOT testing to be reintroduced

“As people return to our roads, it is vital that motorists are able to keep their vehicles safe.”⁵

Mandatory MOT testing is to be reintroduced from 1 August 2020 as COVID-19 restrictions are slowly lifted.⁶

Due to the coronavirus outbreak, drivers were granted a 6-month exemption from MOT testing in March to help slow the spread of the virus. However, as restrictions are eased, all drivers whose car, motorcycle or van is due for an MOT test from 1 August will be required to get a test certificate to continue driving their vehicle.

- MOTs due before 1st August are still exempt

Under current Government guidance, the six-month exemption will still apply to MOTs due between 30th March and 31st July 2020. However, drivers are legally obliged to make sure their vehicles are roadworthy and encouraged to book their MOT in as soon as possible.

- MOT exemptions expire after six months

MOTs due to expire on any date between 30th March and 31st July 2020 have been extended by six months. For example, if the MOT was due to expire on 1st June 2020, it will be extended until 1st December 2020 at the latest. However, drivers can voluntarily get an MOT even if legally exempt and indeed are being encouraged to do so.⁷

MOT tests are important for road safety and ensure that vehicle parts, including tyres, seatbelts, brakes, lights and exhausts, are in proper working order.

Roads Minister Baroness Vere added:

“Garages across the country are open and I urge drivers who are due for their MOT to book a test as soon they can.”

Only some garages remained open to conduct essential services during the coronavirus outbreak, but now over 90% are open across the country. Testing capacity has already reached 70% of normal levels and is steadily increasing.

Safety campaigners had previously urged drivers to perform basic safety checks ahead of getting behind the wheel, whilst MOTs were on hold.⁸ Drivers are now being advised to still take their vehicle to be checked if they notice something is wrong in the same way that they usually would.

Commenting, Joshua Harris, director of campaigns for Brake, said:

“With the coronavirus MOT exemption delaying tests, checking the safety of your vehicle has never been more important. We urge all drivers to perform regular ‘walk-round’ checks of their vehicle, once a week and before any long journeys – it is a couple of minutes which could be the difference between life and death. If you have any suspicion at all that something is not right with your car, do not drive it and consult a professional.”

Treading carefully- Tyres over 10 years old to be banned

“Taking this step will give drivers across the country confidence their lorries, buses and coaches are truly fit for use – a safety boost for road users everywhere.”⁹

Tyres aged 10 years and older will be banned from lorries, buses and coaches on roads in England, Scotland and Wales in a boost to road safety.¹⁰

The ban follows an extensive investigation, including research commissioned by the Department for Transport (DfT), which indicates ageing tyres suffer corrosion which could cause them to fail. The move will make it illegal to fit tyres aged 10 years or older to the front wheels of lorries, buses and coaches, and all wheels of minibuses.

⁵ Roads Minister Baroness Vere

⁶ <https://www.gov.uk/government/news/mandatory-mot-testing-to-be-reintroduced-from-1-august>

⁷ <https://www.autotrader.co.uk/content/news/mandatory-mot-tests-resume-august-2020>

⁸ <http://www.brake.org.uk/media-centre/2017-vehicle-maintenance-danger-revealed-as-drivers-flock-back-to-the-roads>

⁹ Roads Minister Baroness Vere

¹⁰ <https://www.gov.uk/government/news/government-bans-old-coach-bus-and-lorry-tyres-from-roads-in-new-measures-to-improve-road-safety>

The secondary legislation will be laid in the autumn and will also apply to re-treaded tyres – with the date of re-treading to be marked – making the age of the tyre clearly visible. Drivers, owners and operators are responsible for the safety of their vehicles. This will also now include ensuring vehicle tyres meet the new requirements. The government will also be asking the Driver and Vehicle Standards Agency (DVSA) to continue checking tyre age as part of their routine roadside enforcement activities and adding an additional assessment to the MOT test.

Roads Minister Baroness Vere said:

“In the same way that you wouldn’t drive a car with faulty brakes, ensuring your tyres are fit for purpose is crucial in making every journey safer.”

“This change is in no small way the result of years of campaigning, particularly from Frances Molloy, to whom I thank and pay tribute.”

Frances Molloy’s son Michael died in a coach crash in 2012 when the vehicle had a 19-year-old tyre fitted to the front axle. Since the accident, Mrs Molloy has campaigned to see the law changed.

Ms Molloy, who set up the Tyred campaign group following her son's death, said it was "a disappointment" that tyres in twin configuration at the rear of vehicles would not be banned, as the research found one tyre in a pair presents a lower risk of loss of directional control or stability, but added she was viewing the news as "a victory".¹¹

Review of heavy vehicle testing

“Given the vital role of heavy vehicle operators, it is key that the system works well, not only as we recover services as a result of exceptional changes during the pandemic but also in the longer term to ensure the smooth flow of goods. It is also important to recognise that heavy vehicle maintenance and roadworthiness testing play a crucial role in ensuring road safety.”¹²

As a result of relentless lobbying by the Road Haulage Association (RHA), the Government has announced a review into the current heavy vehicle testing provision over the coming months.

The review, which is expected to conclude by the end of the year, will focus on understanding whether current roadworthiness testing is fit for purpose and provide evidence as to whether it supports or hinders the effective operation of the haulage and logistics industries.

The review is anticipated to cover the following key issues:

- Resilience and responsiveness in the testing system
- Expected lead times for test bookings, and local variations
- Understanding and reconciling customer, testing facility provider and DVSA information, along with evidence and feedback about the current testing system
- Establishing a single, clear evidence base with which to assess levels of testing performance

RHA chief executive Richard Burnett said:

“We have been leading the way to achieve sustainable HGV testing. DVSA’s testing system is no longer fit for purpose. It was not sustainable before the pandemic and won’t be sustainable as we go forward. It is essential that we have a system that is efficient and is done – by qualified, independent, authorised staff.”

When the review is complete, and if needed, consideration will be given to options for the future of testing to achieve the best outcomes for road safety and industry.

¹¹ <https://www.bbc.co.uk/news/uk-england-merseyside-53417763>

¹² Baroness Vere of Norbiton- <https://www.rha.uk.net/getmedia/affb9193-a663-40e3-bd07-c1c34426c29d/Baroness-Vere-confirms-there-will-be-a-review-into-HGV-Testing.pdf.aspx>

Scooting off? Trials of electric scooters start

*"Shortly the whole of the UK will be able to benefit from having a greener and more convenient alternative to cars. Decreasing car trips will reduce congestion and air pollution and make our towns and cities more liveable."*¹³

Electric scooters will be allowed on the roads for the first time as the government approves trials¹⁴ in an effort to reduce pressure on public transport during the pandemic.

The default position had been that e-scooters were not permitted on roads, cycle lanes or pavements. Indeed, riders faced a £300 fixed-penalty notice and six points on their driving licence (if they have one).

However, with commuters being told to avoid public transport, it seems that rules are to be relaxed and the popularity of e-scooters may be about to take off.

Local authorities and devolved administrations in England, Scotland and Wales can allow or run e-scooter sharing schemes in their areas as part of 12-month trials. Some 50 local authorities have expressed an interest to the government in having e-scooter trials.

E-scooters have been found to fall within the definition of "motor vehicle" under Section 185(1) of the Road Traffic Act 1988 (RTA), as "a mechanically propelled vehicle intended or adapted for use on roads".¹⁵

The e-scooter will continue to fall within the statutory definition of a "motor vehicle", as a new sub-category providing that it:

- is fitted with no motor other than an electric motor with a maximum continuous power rating of 500W and is not fitted with pedals that are capable of propelling the vehicle;
- is designed to carry no more than one person;
- has a maximum speed not exceeding 15.5 mph;

- has 2 wheels, 1 front and 1 rear, aligned along the direction of travel;
- has a mass including the battery, but excluding the rider, not exceeding 55kg;
- has means of directional control via the use of handlebars that are mechanically linked to the steered wheel; and has
- Has means of controlling the speed via hand controls and a power control that defaults to the 'off' position.¹⁶

To mark the launch of the first trial, the Government has published a set of guidelines for the public,¹⁷ confirming that riders can be prosecuted for careless and dangerous driving offences, as well as under drink and drug driving laws.¹⁸ The vehicles are banned on pavements and limited in speed. There is a recommendation, but not a requirement, that riders wear helmets. Riders under the schemes will need a full or provisional car, motorcycle or moped licence to use the vehicles, and they must be aged 16 or over.

Privately owned e-scooters remain illegal on roads. The DfT said in a statement that the regulations only cover rental schemes "to avoid a flood of poor-quality scooters onto the streets".

However, there have been concerns about the safety of e-scooters for their users and some commentators have criticised the move.

In July 2019, television presenter Emily Hartridge became the first electric scooter fatality in the UK, as the result of a collision with a lorry on a roundabout in Battersea. There have also been several deaths in France, including a 30-year-old man who was struck by a motorbike while riding an e-scooter in the fast lane of a motorway.

The Parliamentary Advisory Council for Transport Safety said:

¹³ Patrick Studener, its European head of Bird, US company

¹⁴ <https://www.thetimes.co.uk/article/riders-poised-to-start-legal-trial-of-15mph-electric-scooters-on-roads-wd05z66gw>

¹⁵ DPP v Saddington [2000] 10 WLUK 691.

¹⁶ <https://www.6pumpcourt.co.uk/2020/07/environmental-law-news-update-142/>

¹⁷ <https://www.gov.uk/guidance/e-scooter-trials-guidance-for-users>

¹⁸ <https://roadsafetygb.org.uk/news/rules-for-e-scooters-set-out-as-uks-first-trial-begins/>

“Once e-scooters hire trials go ahead, it will be taken as a green light for individuals to purchase and use their own e-scooters on public roads and elsewhere. This Riders poised to start legal trial of 15mph electric scooters on roads already takes place to some extent. Many e-scooters owners will not realise - or will simply choose to ignore – any legal distinction. The police will be placed in an impossible situation and be unable to enforce the law.

“E-scooter hire schemes have tended to attract some unsuitable or unsafe users ... Experience has shown that escooters may attract users who have consumed alcohol or drugs. This has been a problem with clubbers in Berlin.”

Practice makes perfect- Theory tests and motorcycle training and tests to restart in Scotland

“It has been vital that lessons and tests only resume when safe to do so and in line with the government’s advice.”¹⁹

We previously reported on the announcement that learners could resume driving lessons and motorcycle training in England on 4 July.²⁰

The DVSA has now announced that theory tests and motorcycle training will restart in Scotland on Wednesday 22 July, and motorcycle tests and tractor tests will restart on Monday 3 August.²¹

Theory tests will take place with social distancing measures in place to help stop the spread of coronavirus.

Scotland’s route map through and out of the coronavirus crisis confirms that driving lessons and tests for other types of vehicles will not start before 31 July 2020. The DVSA and Welsh Government announced that driving and motorcycle lessons would restart on 27 July in Wales. Theory lessons will restart on 3 August and driving tests on 17 August.²²

Gareth Llewellyn, DVSA Chief Executive, said:

“It has been vital that lessons and tests only resume when safe to do so and in line with the Welsh Government’s advice. We know this has been a tough time for the whole country including learners and driving instructors.... Tests for critical workers have continued during the lockdown and I would like to thank all those instructors and examiners who have continued to work to help deliver tests for those who have done so much to help us during this terrible pandemic.”²³

¹⁹ Gareth Llewellyn, DVSA Chief Executive

²⁰ <https://www.clydeco.com/en/insights/2020/07/covid-19-uk-safety,-health-and-environment-regulat>

²¹ <https://www.gov.uk/government/news/theory-tests-and-motorcycle-training-and-tests-to-restart-in-scotland>

²² <https://www.gov.uk/government/news/driving-lessons-theory-tests-and-driving-tests-to-restart-in-wales>

²³ <https://gov.wales/driving-lessons-restart-wales-27-july>

A failure to police the roads? Call for evidence announced

“A review of roads policing is long overdue. The number of roads police officers has declined considerably, particularly over the past decade...Roads policing is vital, not only to save lives but also to disrupt other criminality.”²⁴

We previously reported on the perceived decline in policing of the roads and the DfT's proposed review into this.²⁵

The DfT has now issued a call for evidence to inform the Roads Policing Review that it is undertaking jointly with the Home Office and the National Police Chiefs' Council. The call, introduced by roads minister Baroness Vere of Norbiton, states that prior to 2010 the UK had year on year reductions in the numbers of people killed and seriously injured on the roads. Since then the numbers of casualties have plateaued and further reductions have not been achieved.²⁶ Indeed, recent statistics suggest that between 2013 and 2019, spending on roads policing fell 34% in real terms, compared with about 6.1% across all police functions.²⁷

The call for evidence, which closes on 5 October, sets out some of the current challenges facing our road network and the people and businesses using it. It seeks evidence of the impact of enforcement on road user behaviour, what that enforcement should look like and whether the current legislative framework is fit for purpose.²⁸

The inspector of constabulary, Matt Parr, said:

“Our inspection suggests that roads policing, despite the number of road deaths plateauing and likely to increase, is seen as less of a priority than it should be. “We found that almost half of local crime plans didn't include reference to roads policing. This, along with an unclear national strategy, is doing little to help reduce the number of deaths and life-changing accidents which occur on our roads.”²⁹

David Davies, Executive Director of PACTS, added:

“We are very pleased to see this call for evidence and the extensive technical work that is being undertaken in parallel through the joint review. The Department for Transport has responsibility for road safety but the Home Office calls the shots on policing. This split in accountability and delivery has too often held back road safety. Considering that vehicles have become safer and investment in roads has continued, there is widespread suspicion that cuts in enforcement by the police have been a major factor in the UK's slide in international road safety ranking.”

Our experienced Motor Crime Team is here to assist with all motor, fleet and logistics queries. In addition, if you would like to discuss any aspect of this article further, please get in touch with a member of our team at MotorCrimeTeam@clydeco.com or call us directly on 0161 240 8514.



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²⁴ [David Davies, Executive Director of PACTS](#)

²⁵ <https://www.clydeco.com/en/insights/2020/07/covid-19-uk-safety,-health-and-environment-regulat>

²⁶ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/899574/roads-policing-review-call-for-evidence.pdf

²⁷ <https://amp-theguardian.com.cdn.ampproject.org/c/s/amp.theguardian.com/world/2020/jul/15/deterioration-policing-causing-rise-road-deaths-england-wales>

²⁸ <http://www.pacts.org.uk/2020/07/roads-policing-review-call-for-evidence-by-department-for-transport-home-office-and-police-chiefs/>

²⁹ <https://amp-theguardian.com.cdn.ampproject.org/c/s/amp.theguardian.com/world/2020/jul/15/deterioration-policing-causing-rise-road-deaths-england-wales>

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