

FBHVC: Legislation & other news

UK LEGISLATION *by David Hurley* **Emissions related congestion charge**

After much soul-searching, we took the view that we had to point out the 'type approval' error in the draft of the regulations for the proposed emissions related congestion charge for central London [see first item, last issue] that would have taken pre-type approval cars out of the scope of the higher charge. It was certain that if we did not mention it, it would not be long before the mistake became apparent. We sought to turn the situation to advantage by stating that it was right that historic vehicles should be treated at the standard rate, and urged

Transport for London to make this clear within the regulations by specifically excluding vehicles over 25 years old

from the higher charge band.

Paint

The long-awaited consultation on draft regulations for a licensing scheme to allow the continued supply of traditional paints that don't comply with current Volatile Organic Compound solvent limits was published early in October. DEFRA has taken the view that cost is already limiting the supply of non-compliant products (mainly cellulose) very effectively, so they have chosen to keep the proposed licensing system as simple as possible, defining qualifying vehicles as being those over 30 years old. Two kinds of licence are proposed – an individual licence, where a person wished to obtain supplies to paint a specific vehicle and trade licences where a trader

obtains a general licence to obtain supplies for the purpose of re-painting vehicles that may be passing through his business.

It is proposed that local authorities (which already have responsibility for monitoring vehicle refinishing businesses) should issue the licences. Our concerns with the proposals lie with the complication of the proposed system for obtaining a licence and for keeping records, and with the associated costs that might differ radically from local authority to local authority. Our response to the consultation (due in by 12 December) will major on these points.

Interestingly, during the course of a conversation with the chairman of the vehicle refinishing committee of the British Coatings Federation (himself the owner of cars from the 1920s and 1930s)

a new avenue of approach has opened up which might obviate the need for a licensing system for vehicle refinishing products altogether. If it could be agreed that traditional paints for refinishing historic vehicles should be classified under the regulations as 'special finishes' (they are not at present), no licences would be required as the VOC limit for the special finishes category is high enough to accommodate cellulose paint.

Smoking notices

To avoid doubt, the message under this heading that appeared in the last newsletter applies to passenger cars that are used for hire or reward just as it does to historic commercial vehicles that may occasionally carry members of the public.

VOSA TOPICS

The Vehicle and Operator Services Agency looks after the vehicle testing regime, amongst other matters, and the team with whom we deal have always been most understanding of the needs of older vehicles. We have had their help with four recent queries.

Narrow Track Vehicles

Following a report that an Austin 7 had been refused a test on the grounds that it was too narrow to fit safely over a tester's pit, VOSA confirmed that testers may refuse to test such cars. Again, VOSA is aware of the problem and issued the following message to testing stations in Special Notice 2-2003, issued to testers in April 2003:

Certain vehicles have been found to have a track width that may be too narrow for the vehicle to be safely tested on a pit or hoist. Until further notice, where your equipment does not allow a safe underside inspection of these vehicles, this part of the inspection can be carried out on an area of hard standing within the testing facility. The tester should use any appropriate inspection method that covers all the testable items set out in the Inspection Manual, including raising the wheels clear of the ground. If a roller brake test cannot be carried out, due to the track width or transmission type, then a decelerometer test must be conducted.

Where it is not possible to access the headlamp aim facility, the VTS must refuse to test the vehicle.

It is important to remember that this procedure only applies to vehicles with a track width so narrow that it would make it unsafe to use your pit / hoist. If a tester has any concerns whatsoever with regard to Health and Safety, they should refuse to

test the vehicle.

This means testers may indeed refuse a car with narrow track, but they can hardly claim that they have to. The secretary would be pleased to hear of any instances where a test of an historic car has been refused, especially if the tester has claimed he may not undertake the test because he is not allowed to use a jack and stands.

Number plate inspection at MoT

The Association of Rootes Car Clubs alerted us to a rumour that the inspection of number plates at MoT would be extended next year to include a check that the plates of all post-1972 vehicles carry the BSAU 145d standard marking. We were not aware of any amendment to Statutory Instrument 2001/561, the regulations governing the display of number plates, which require this standard only for vehicles first used after 1 September 2001. (Plates for vehicles made from 1 January 1973 to 31 August 2001 need to comply with the earlier BSAU 145a, or equivalent.) The obvious concern was that plates marked with the earlier standard, or without any marking, would have to be replaced in order to pass the MoT.

Happily, that is not the case. But as usual with such rumours, there is an element of truth behind it. VOSA has confirmed that since 1 October 2007, the MoT inspection procedure for number plates has required a check on the BSAU 145d mark (or equivalent), but only for vehicles first used after 1 September 2001. Plates on vehicles first used before this date should be inspected only for the usual legibility and format. FBHVC would like to hear of any cases where earlier vehicles are failed on the BS mark (or lack of it).

V765 Procedures

In general this scheme for the recovery of lost numbers continues to function well and the move to a dedicated team has been to the advantage both of DVLA and applicants in improving turnaround. The continuity has enabled the team to notice some trends, one of which is the increasing frequency of, "no" to the question of whether an inspection of the applicant vehicle has been conducted.

When the last significant revision of procedures was undertaken a few years ago, FBHVC strongly recommended that a physical inspection should be made of each vehicle unless there were very compelling circumstances why this was not necessary. It was also recommended that the rationale for not conducting the inspection should be briefly explained. At the time,

FBHVC received very strong opposition to this procedure from a minority of authorised officers who considered that it was unreasonable. When it was explained that the request was intended to reduce the chances of fraud or use of 'clones' and did not specify that the inspection had to be conducted personally by the counter-signatory most opposition evaporated. DVLA agreed that the inspection report need not be submitted with the V765 application but could be retained by the relevant counter-signatory.

I suppose that with the passing of time and the inevitable changes in authorised club officials that these requirements may have become distorted. Certainly I have been informed by a number of contacts that inspections are no longer required. Not so! For the avoidance of doubt I will repeat that good practice requires: 1) an applicant vehicle to have been inspected; 2) this need not be undertaken by the counter-signatory but may be done by someone experienced in the marque/vehicle concerned and trusted by him/her; 3) the inspection report should be retained by the counter-signatory; 4) if an inspection has not been conducted then an explanation is required why this was not considered necessary.

The V765 team will review the reasons put forward for omitting an inspection and may decide, considering all the facts and information presented, to ask further questions or even to request an inspection by a Local Office official. This is not a change in procedure but rather a re-emphasis of what was agreed some years ago as an important anti-fraud measure intended to uphold the integrity of the V765 Scheme. I am confident that all counter-signatories will co-operate in obtaining a pre-submission inspection.

Specific Cases

A considerable number of new and ongoing cases were discussed relating to individual V765 applications that had been deferred or refused for a variety of reasons, or that had involved Local Office vehicle inspections. Some had been as a result of MoT identity mis-matches and many had emanated from owners who had not been informed about (or had ignored) our frequent entreaties to check documentation to the vehicle before submitting it to its first computerised MoT. In many instances the document discrepancies dated back decades, sometimes to initial registration. I repeat the advice to check documentation to your vehicle on each occasion that a new document is issued.

Other appeals had clearly

stemmed from inadequate presentation of the case, particularly when reliance was being placed upon 'non-official' sources such as service records, private or published sources (books or magazines) or even personal documentation. My experience has always been that DVLA staff are willing to give the benefit of doubt but they are invariably not old vehicle enthusiasts and cannot be expected to sort out the nuggets of relevant information from a pile of documents. Applicants must show a coherent link and written explanation to evidence why circumstantial information is relevant to their case. In many instances this may require explanation of long-distant economic or social factors to link the elements together. Not every case will be agreed using this approach and it would be unreasonable to expect success based solely upon a passionate appeal which lacks concrete information.

Many of these appeals were for vehicles that had not been inspected prior to the V765 submission. Had these occurred some would have been found to be ineligible for recovery of the original mark, others would have shown the need for additional investigations. The foregoing indicates why we consider a vehicle inspection by a marque-experienced individual to be crucial to the V765 Scheme procedures.

Electronic Vehicle Licensing (EVL)

In previous Newsletters there has been comment regarding difficulties experienced by those trying to use EVL for older vehicles. The system uses date of manufacture as one of the security tests, but this date was not required when our vehicles were first registered. DVLA would like to extend use of EVL to all vehicle keepers and intends to amend systems accordingly, but this will not happen overnight and it may be some time before budget and resources are allocated. Until this occurs, if acceptable dating information (manufacturer or club sourced) is presented this will be added to the database, but manufacturers or clubs supplying the necessary confirmation may make a charge for doing so.

TOWING ON 'A' FRAMES

A comment in a club journal to the effect that a member had had a brush with the law as a result of being in the habit of towing his rally car to and from events on an A-frame has prompted this note, which relates only to towing by cars and light commercial vehicles. Different rules apply for agricultural vehicles, motor tractors and road locomotives.

Regulations 19 and 22 of the

Road Vehicles (Construction and Use) Regulations of 1986 (as amended) make special provisions for the recovery of vehicles that have broken down during the course of a journey – they may be recovered using appropriate equipment, including A-frames. The Road Traffic Act imposes a speed limit of 20 mph on ordinary roads and 40 mph on motorways for vehicles being recovered in this way, and that applies to broken down vehicles being towed by rope, solid bar, dolly or A-frame.

Other than such breakdown recovery situations, the C & U regulations treat vehicles connected by a rigid coupling as towing vehicle and trailer. The use of an A-frame thus means the towed car becomes a trailer in the eyes of the law, and must therefore comply with the normal requirements of a trailer.

The same C & U regulations require trailers over 750kg gross mass to have brakes that are either operated directly from the towing vehicle or that operate on the overrun. Unbraked trailers may not exceed 50% of the gross mass of the towing vehicle. A device that applies the brakes on the trailer if for any reason it should become detached is required on trailers above 1500kg gross, but below that limit secondary couplings (such as chains) may be used.

A-frames can really thus only be used legally for towing cars if (a) that car is being recovered after a breakdown (b) the gross weight of towed car and A frame is below 750 kg or (c) there is some fail safe mechanism to apply the brakes of the towed car. The lights on the rear of the towed vehicle have also to comply with C & U regs for trailers, including warning reflective triangles and towing vehicle registration plate.

ALL PARTY PARLIAMENTARY HISTORIC VEHICLE GROUP

A liaison meeting with APPHVG took place in mid-November and was attended by Andrew Burt, Chris Hunt Cooke, David Hurley and Geoff Smith from FBHVC and by MPs Greg Knight, Kelvin Hopkins, Lord Steele, Lord Cope and Stephen O'Brien. Stephen Ladyman and James Duddridge have also expressed an interest in joining this group. The following topics were amongst those discussed:

Improving contacts with MEPs; concerns about rumours that there may be a change in legislation to allow enforcement against VED evaders on private land [see DVLA report, last issue]; the replacement number plate anomaly [see DVLA report, last issue]; the dropping

of the Inspired project from the Big Lottery competition; and the on-going problem of the unfairness caused by the fixed date for the VED concession.

SCAM WARNING

Barry Harvey of the Vauxhall Owners Club 1903-57 has written to give warning of a scam involving directory listings. A company based in Austria had offered a free entry in an Exhibitors' Directory of Fairs and Exhibitions. After the initial period, the club was offered the opportunity to renew this entry, which they had assumed to be free as previously, but they received a substantial invoice. Barry has researched the company concerned and found that it had something of a reputation. In February this year, we understand it was forced at a court hearing into an undertaking to cease the mailing of misleading contracts and to cancel demands for money against companies who dispute such contracts.

The secretary would be pleased to hear of any other club that has been caught in this, or any other similar, scam.

DRIVE IT DAY

Remember – next year's Drive It Day will be on Sunday, 20 April. Picking up on the theme of our post-AGM conference, we're keen to dedicate DID 2008 to the next generation- or generations, for it is never too early – of historic vehicle enthusiasts and we're working on some ideas that, if we're successful, might make a world of difference to that endeavour: more next time – we hope. In the meantime, think what your club might do to get youngsters involved!

Remember, the aim is simply to be seen so that the public is reminded that historic exist and that there are lots of people preserving them for posterity. So people don't need to do anything special if they don't want to - all they need do is just use an old vehicle instead of a modern one for whatever it is they do that day.

DID not only aims to show how big and varied the historic vehicle movement is, it also aims to show how infrequently they are actually used. The number of old vehicles on the road on that one day in the year will highlight just how rare it is to see anything over 25 years old the rest of the time and thus demonstrate that historic vehicles make up only a tiny fraction of normal traffic.

Do let us know of your club's plans for the day so we can publicise them on the website. For 2008, we would like to get an idea of the numbers of vehicles that come out for events, and will be asking organisers to keep a count.

EU LEGISLATION

(Extracts from FIVA's regular update provided by its lobbying service, EPPA)

FIVA gets positive confirmation on impact of ban incandescent domestic lightbulbs

Further to the information FIVA provided to the European Lamp Companies Federation (ELCF), the ELCF's Working Group for the preparation for an EU Regulation intended to ban from sale all traditional incandescent domestic lightbulbs concluded that lamps used in automotive purposes will not be in the scope of the proposed domestic phase out strategy and will not be in the scope of the European Commission Study on domestic lighting.

European Commission published green paper on urban transport

On 25 September, the European Commission's DG TREN presented its

Green Paper on Urban Mobility entitled 'Towards a New Culture for Urban Mobility'. This is the second stage in the Commission's developments of policy designed to address problems linked to urban transport such as congestion, road safety, security, pollution and climate change.

In this new consultation, FIVA will share with the Commission the information it has gathered of the divergent approaches to traffic restriction already being taken in urban areas and explain how these impact on historic vehicle use. In the cases where historic vehicle use is unfairly restricted, FIVA will explain why the measure is disproportionate to its aim, and explain how the regulator may meet its objectives without unnecessarily impacting on historic vehicle use. FIVA will also continue to argue for the EU to promote a common approach to be taken across the EU to address the problem of urban congestion and pollution in order to avoid this patchwork of different low-emission zones.



The FBHVC exists to uphold the freedom to use old vehicles on the road, by representing the interests of owners of such vehicles to politicians, government officials, and legislators both in UK and in Europe.

Copies of the FBHVC Newsletter can be obtained from the Secretary – see *Secretary's Notes*, or can be downloaded from their website: www.fbhvc.co.uk.