

# ROAD SAFETY AUTHORITY

## COMMERCIAL VEHICLE COMPLIANCE AND ENFORCEMENT POLICY

April 2022

### Foreword by Road Safety Authority (RSA) Chief Executive Officer

This policy document describes the RSA's approach to enforcing regulatory requirements under our statutory mandate. Our approach sits within a compliance and enforcement framework, which includes ensuring compliance with regulatory requirements and escalating matters of non-compliance for appropriate action when required. A compliance and enforcement framework is an effective means of managing non-compliant activities that impact adversely on road safety in respect of commercial vehicle operators and drivers. Where rules and regulations are not voluntarily observed, a range of enforcement approaches may be used to achieve compliance. The policy document covers:

- the overall purpose of our compliance and enforcement activities.
- key principles of enforcement.
- the enforcement toolkit available to our enforcement personnel; and
- application of enforcement principles within our enforcement activities.

RSA has a number of enforcement tools that can work both as an effective means to encourage positive behaviour and as a deterrent to non-compliant acts by drivers and/or operators.

### 1. Road Safety Authority (RSA)

1.1 The mission of the RSA is to save lives and prevent injuries by reducing the number and severity of collisions on our roads. The RSA functions include enforcement and promoting compliance with certain road transport laws relating to:

- European rules on driving and resting times for commercial vehicle drivers and tachographs.
- Operator licensing including cabotage.
- Driver Certificate of Professional Competence (Driver CPC); and
- Commercial vehicle roadworthiness.

1.2 This policy document provides information on the RSA's approach in the context of compliance with the above transport laws. We have published this policy document to provide information to the relevant stakeholders and to promote a greater understanding regarding the RSA's approach to such matters.



## 2. Structure of policy document

2.1 The following sections describe:

the overall purpose of our enforcement and compliance activities.  
key principles of enforcement.  
the enforcement toolkit available; and  
application of enforcement principles.

## 3. Overall purpose of enforcement and compliance activities

3.1 Improving compliance through promotion of good behaviour is a guiding principle of RSA inspections and enforcement. In assisting operators, drivers, and consignors to be compliant with the legal requirements, there are a range of compliance responses that can be deployed.

3.2 The RSA aims to achieve a positive road safety outcome amongst commercial vehicle drivers and operators through voluntary compliance with their statutory obligations. More punitive compliance responses to particular findings will be implemented where required. The following table provides an overview of possible approaches.

Compliance response	Possible tools
Guide	Action Plans and Guidance material.
Inform	Website, Guidance material, Seminars, Inspections, Driver CPC courses, Stakeholder engagement, application of Standard Operating Procedures, clarity on responsibilities.
Enable	Inspections, advice in person provided by experts, promoting voluntary compliance and self-monitoring.
Monitor	Inspections, data analysis, complaints follow-up.
Enforce	Direction notices, prohibitions, targeting, surveillance, oral/written warnings, and follow-up inspections, sharing information with other agencies.

It can often be the case that the compliance response may involve a combination of the above tools.

3.3 The RSA continuously monitors its compliance strategy to ensure that it:

- remains aligned to its mission and purpose; and
- is current, relevant and intelligence led.



European law specifies that Member States must achieve a minimum threshold of roadside and premises enforcement inspections relating to tachograph and drivers hours, as well as roadworthiness inspections. All Member States are required to report bi-annually on performance against these thresholds and in respect of the implementation of enforcement activities.

3.4 Inspections are the backbone of most regulatory enforcement activities. In the case of the RSA, inspections are carried out by officers operating under warrant of authority who can be RSA appointed staff or staff from an independent party reporting to the RSA. The RSA collaborates with other agencies in respect of compliance matters and a joint approach is applied, having regard to the individual responsibilities of the parties concerned in respect of the regulation of large commercial vehicle operators and drivers.

## 4. Key principles of RSA enforcement

4.1 The RSA applies the following overarching principles when conducting its enforcement activities.

Principle	Description
<b>Collaborative</b>	RSA will endeavour to maintain collaborative relationships with industry and other agencies working within the prevailing legal framework.
<b>Consistency</b>	Consistent compliance and enforcement will be applied across various inspections, recognising the importance of fair and equal treatment for all. This means that operators and drivers should know what to expect from the RSA. We promote consistency across our enforcement team through training and applying best practice advice and guidance as well as applying the European categorisation of infringements and defects towards findings at inspections.
<b>Constructive</b>	RSA will provide support, advice, and guidance to operators and drivers to assist them comply with the rules we are responsible for enforcing.
<b>Confidentiality/Data protection</b>	RSA will comply with confidentiality and data protection rules in the performance of enforcement activities.
<b>Conform with European obligations</b>	RSA will conform with European obligations contained in the legislation pertaining to the areas listed in Section 1.1 above.
<b>Fairness and impartiality</b>	The RSA will undertake compliance and enforcement activities in a fair, impartial and consistent manner and ensuring that the compliance burden is minimised consistent with good practice and also clearly setting out what is expected by the RSA from operators and drivers. The RSA expects operators and drivers to



	self-manage work-related road safety matters and achieve compliance with the law.
<b>Professional</b>	The RSA will undertake compliance and enforcement activities in a respectful manner. Enforcement personnel will be appropriately trained, properly equipped, efficient and courteous in the performance of their duties.
<b>Proportionate</b>	RSA will apply a proportionate approach having regard to the risks and the scale and seriousness of the offending and compliance history and behaviours of the operator/driver and consider operator and driver responsibility, including consignor liability where relevant. This includes any potential harm arising from any breach.
<b>Responsive</b>	The RSA will remain open to new technologies and systems that improve data quality, new data sources or collaboration with other stakeholders where there is a potential road safety advantage. The RSA will examine information on alleged non-compliance and determine the necessary intervention taking account of legislative requirements and organisational procedures.
<b>Risk based</b>	<p>A risk-based approach towards enforcement will be applied using the RSA Commercial Vehicle Operator Risk Indicator (<b>CVORI</b>) system and other data sources such as complaints to ensure that compliance work is risk based, focusing enforcement resources and regulatory action on those that pose the greatest risk to road safety. While a target led approach is being applied, random inspections will also be conducted on an ongoing basis.</p> <p>The general aim of the RSA risk-based enforcement policy is to ensure that a proportionate share of the scarce resources available for enforcement are rationally allocated, concentrating on the prevention of activities with significant and adverse consequences and also to conform with European regulatory requirements in respect of risk management.</p>
<b>Voluntary compliance</b>	The RSA promotes and encourages voluntary compliance applying the methods referenced above and encouraging best practice.

## 5. Enforcement toolkit and methods

5.1 RSA enforcement personnel have a range of enforcement methods available to secure compliance and an appropriate response to breaches, which can be applied in a public place such as at the roadside or on private property.





- prohibiting or impounding of the vehicle in circumstances that the owner or driver of a vehicle refuses to comply with an instruction or there is obstruction of an officer in the carrying out of an inspection.

5.11 In all cases, the inspection findings will be clearly communicated to the driver at the time of the action.

5.12 RSA roadside enforcement activities are undertaken in conjunction with an Garda Síochána, taking into account evidence-based assessments of the prevalence of commercial vehicles in a particular location, proximity to transport hubs, seasonal factors as well as health and safety considerations.

5.13 Also, as provided for in the [European Union \(Occupation of Road Transport Operator\) Regulations 2018 \(S.I. No. 265 of 2018\)](#) pursuant to [Section 16\(3\) of the Road Transport Act 2011](#), the premises of a road transport operator (haulage and passenger) may be inspected by the RSA at the request of the Department of Transport. RSA Transport Officers assess compliance with the key operator licensing requirements of stable and effective establishment, and/or good repute, and report their findings directly to the Road Transport Operator Licensing (RTOL) unit at the Department.

## 6. Application of enforcement principles

6.1 When determining the appropriate and proportionate responses to non-compliance, several matters are taken into consideration including the following:

- the severity of the road safety risk, as well as duration during which infringements have been detected; and
- the potential consequences of an infringement.

6.2 Transport Officers will consider a prosecution (either at the roadside or during premises inspections) in the following circumstances:

- carrying out hire and reward operations without the requisite operator licence,
- tachograph fraud and/or drivers hours offences,
- absence of Driver CPC,
- repeat offending of regulatory requirements,
- obstruction/refusing to cooperate with an RSA warranted officer,
- failure to comply with official notices; and
- supplying false or misleading information.

6.3 At the roadside, Vehicle Inspectors will recommend a prosecution to an attending member of an Garda Síochána in the following circumstances:

- the Certificate of roadworthiness for the vehicle expired more than a calendar month in advance of the inspection date.
- the vehicle has one or more dangerous defects present.
- the vehicle has one or more dangerously defective tyres.



- the vehicle has major defects in the safety critical defect categories, namely:
  - braking equipment,
  - steering,
  - lighting,
  - axles, wheels, tyres, and suspension, and
  - chassis and chassis attachments.

During premises inspections, Vehicle Inspectors are not reliant on An Garda Síochána for initiating prosecutions for breach of the Vehicle Maintenance and Repair Regulations. Initiating a prosecution arising from a premises inspection would typically be a last resort and would typically only be contemplated for repeated failures to comply with Direction notices and/or obstruction, interference, or assault related offences.

6.4 Where a prosecution is being contemplated by a RSA Transport Officer for a breach listed in Section 6.2 above, she/he will consider the management arrangements and the role played by the operator. In addition, and where applicable, the role of individual directors, managers or secretary may also be considered for proceedings particularly if infringements were committed with their consent or connivance or was attributable to their neglect.

## **7. Liaison with other agencies**

RSA works closely with other relevant agencies to maximise compliance including meeting obligations derived from European law in respect of enforcement exchanges, reporting and collaboration. This high engagement approach includes An Garda Síochána, the Department of Transport, the European Commission, other enforcement agencies in the State and in other jurisdictions. In addition, RSA engages with national and European agencies concerning legal and policy developments in respect of road transport matters coming within the scope of the RSA's remit.

## **8. Complaints to the RSA about non-compliance**

A person can make a complaint regarding any issues in relation to alleged non-compliance in respect of Commercial Vehicle Roadworthiness, Drivers' Hours, Tachographs, absence of Driver CPC, unlicensed Haulage or illegal cabotage. The [RSA website](#) contains details of how to do this. There is also an option for submitting complaints anonymously. Confidential complaints must be accompanied by specific and detailed information concerning the alleged non-compliance to allow the RSA to appropriately consider the complaint.

## **9. Complaints to the RSA about our services**

In accordance with our [Customer Charter](#), the RSA is committed to providing an excellent quality service to all our customers in an efficient, effective, and caring manner. It is our policy to listen to and act upon customer complaints. We endeavour to act ethically and responsibly at all times in our dealings with members of the public and customers. We analyse and seek to correct any reported failings and also to prevent their recurrence.



