



RHA Technical Bulletin No 12

Mobile Phone Use

www.rha.net



It is now a specific offence to use a hand-held mobile phone, or similar device, when driving, or even if a driver is stopped at traffic lights or queuing in stationary traffic. This includes making or receiving calls, text messaging or accessing the Internet. The driver must pull over to a safe location.

THE PENALTY IS UP TO £2,500 FOR DRIVERS OF COMMERCIAL VEHICLES

Section 26 of the Road Safety Act 2006 increased the fixed penalty for drivers using a hand held phone or similar device. This section is being commenced on 27th February 2007, and the penalty will then rise from £30.00 to £60.00 and three penalty points. The same changes are being made to the penalties for not having proper control of a vehicle - a measure which can also be used where a driver has been distracted by using a hands-free mobile phone.

If the police or the driver chooses to take a case to court rather than use a fixed penalty notice, the maximum fine is £2,500 for drivers of vans, trucks, buses and coaches.

DRIVE CARELESSLY OR DANGEROUSLY WHEN USING ANY PHONE AND THE PENALTIES CAN INCLUDE DISQUALIFICATION, A LARGE FINE, AND UP TO TWO YEARS IMPRISONMENT

Mobile phones should be switched off when driving and users should use their voicemail, a message service or call diversion so that messages can be left for pick-up when the driver has safely parked up.

Drivers' may use a mobile phone when driving for help in an emergency. On a motorway it is best to use a roadside emergency telephone, as the emergency services will be able to locate the caller easily.

Employers

Employers should not ask their employees to make or receive calls when they are driving. Employers may also be prosecuted if they require their employees to use a mobile phone when driving.

It is an offence to "cause or permit" a driver to use a hand-held mobile phone while driving. Employers can be held liable as well as the individual driver if they require employees to use a hand-held phone while driving.

The Police may check phone records when investigating fatal and serious crashes to determine if use of the phone contributed to the crash. Employers who require staff to use any mobile phone while driving for work could be prosecuted if an investigation determined that such use of the phone contributed to a crash. Claims in the civil courts could also result.

Member companies are advised to implement a 'Mobile Phones and Driving Policy', such as the sample given on the RHA website (www.rha.net). This can be adopted as written or adapted to suit your own organisation's needs.

What employers should do

Ensure all employers who drive company vehicles understand that the organisation expects everyone who drives for work to drive safely for their own, and others' benefit. Ensure that staff and/or their safety representatives are fully consulted about the organisation's policy on Mobile Phones and Driving and that this is reviewed periodically in joint health and safety committee meetings.

Avoid Using a Mobile Phone

Emphasise that staff should never make or receive calls on a mobile phone, or use any similar device, while driving. Ensure that journey plans include time and places to stop for rest and refreshment, and to check messages and return calls. Review work practices to ensure they do not pressurise drivers' into making or receiving calls when driving.

1: 2-way radios are not covered by this offence but other devices for sending or receiving data (e.g. navigation aids, personal digital assistants (PDAs) or other computer equipment) are covered by the offence if they are held when driving.

2: It is not an offence to use a hand-held phone for calling the emergency services on 999 or 112 in response to a genuine emergency when it is unsafe or impractical to stop driving to make a call.

3: It is an offence to cause or permit the use of a hand-held mobile phone when driving or to cause or permit a driver not to have proper control of a vehicle.