



Neutral Citation Number: [2022] EWHC 2780 (Admin)

Case No: CO/1843/2022

**IN THE HIGH COURT OF JUSTICE**  
**KING'S BENCH DIVISION**  
**ADMINISTRATIVE COURT**  
**SITTING AT BRISTOL CIVIL JUSTICE CENTRE**

Bristol Civil Justice Centre  
2 Redcliffe Street  
Bristol BS1 6GR

Date: 03/11/2022

**Before:**

**MR JUSTICE CHAMBERLAIN**

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**Between:**

**DRIVER & VEHICLE STANDARDS AGENCY**

**Claimant**

**- and -**

**TITAN CONTAINERS LTD**

**Defendant**

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**Toby Sasse** (instructed by **Hine Solicitors**) for the **Claimant**  
**Oliver Jarvis** (instructed by **Backhouse Jones Solicitors**) for the **Defendant**

Hearing dates: 13 October 2022

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**Approved Judgment**

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MR JUSTICE CHAMBERLAIN

## Mr Justice Chamberlain:

### Introduction

- 1 On 18 March 2021, a lorry operated by Titan Containers Ltd (“Titan”) was subject to a check by the Driver and Vehicle Standards Agency (“DVSA”) at a weighbridge at Sampford Peverell in Devon. The lorry had a large Hiab crane attached to its chassis, sited between the tractive unit and the load-bearing trailer. The base of the crane was 1.5m long.
- 2 The DVSA took and continues to take the view that the length of the lorry is to be ascertained by measuring the distance between marks where plumb lines from the foremost point of the tractive unit and rearmost point of the trailer meet the ground. This includes the 1.5m section on which the crane is mounted. Using this method, the DVSA measured the lorry as 17.65m in length. The maximum permitted length for lorries of this kind is 16.5m.
- 3 Titan takes the view that, under the relevant legislation, the 1.5m long part of the lorry’s chassis on which the crane is mounted falls to be deducted from the measurement. If so, the lorry’s length did not exceed that permitted.
- 4 The DVSA laid an information alleging a breach of reg. 7 (item 3A) of the Road Vehicles (Construction & Use) Regulations 1986 (SI 1986/1078: “the Regulations”) and s. 42 of the Road Traffic Act 1988 (“the 1988 Act”). The case came before three justices (M. Hobbs, M. Chambers and J. Glenning) sitting at Plymouth Magistrates’ Court.
- 5 The justices preferred Titan’s construction of the legislation and found it not guilty of the offence. On the application of the DVSA, they stated a case for this court in which they posed the following question:

“On a true construction of [regs 7(1) and 81 of the Regulations] read together with the definition of “overall length” set out in the table under [reg. 3(2)], were we correct to subtract or otherwise exclude the measurement of the length of the base of the crane from the measurement of the overall length of the combined vehicle and semi-trailer?”

- 6 It is common ground that this is a pure question of law. If the DVSA’s construction of the legislation is correct, the lorry exceeded the maximum permitted length and Titan is guilty of the offence charged. If not, the length was less than 16.5m and Titan is not guilty.

### The legislation

- 7 Section 42(b) of the 1988 Act makes it an offence to use on a road a vehicle which does not comply with a “construction and use requirement”, or to cause or permit a vehicle to be so used. Section 41 empowers the making of regulations specifying construction or use requirements, including as to the length of motor vehicles and trailers. The Regulations were made under this provision.
- 8 Regulation 7(1) provides materially as follows:

“...the overall length of a vehicle or combination of vehicles of a class specified in an item in column 2 of the table shall not exceed the maximum

length specified in that item of column 3 of the table, the overall length in the case of a combination of vehicles being calculated in accordance with regulation 81(g) and (h)”.

- 9 There is no dispute that this lorry falls under item 3A (an articulated vehicle, the semi-trailer of which meets the requirements of paragraph (6) and is not a lower loader) and that the maximum permitted length is 16.5m.
- 10 Regulation 81 is headed “Restrictions on use of vehicles carrying wide or long loads or having fixed appliances or apparatus” and provides materially as follows:

“For the purposes of this regulation...

...(c) references to a special appliance or apparatus, in relation to a vehicle, are references to any crane or other special appliance or apparatus fitted to the vehicle which is a permanent or essentially permanent fixture;

(d) “forward projection” and “rearward projection”—

- (i) in relation to a load carried in such a manner that its weight [is borne by] only one vehicle, mean respectively that part of the load which extends beyond the foremost point of the vehicle and that part which extends beyond the rearmost point of the vehicle;
- (ii) in relation to a load carried in such a manner that part of its weight [is borne by] more than one vehicle, mean respectively that part of the load which extends beyond the foremost point of the foremost vehicle by which the load is carried except where the context otherwise requires and that part of the load; and
- (iii) in relation to any special appliance or apparatus, mean respectively that part of the appliance or apparatus which, if it were deemed to be a load carried by the vehicle, would be a part of a load extending beyond the foremost point of the vehicle and that part which would be a part of a load extending beyond the rearmost point of the vehicle,

and references in regulation 82 and Schedule 12 to a forward projection or to a rearward projection in relation to a vehicle shall be construed accordingly;

(e) the length of any forward projection or of any rearward projection shall be measured between transverse planes passing—

- (i) in the case of a forward projection, through the foremost point of the vehicle and that part of the projection furthest from that point; and
- (ii) in the case of a rearward projection, through the rearmost point of the vehicle and that part of the projection furthest from that point.

In this and the foregoing sub-paragraph “vehicle” does not include any special appliance or apparatus or any part thereof which is a forward projection or a rearward projection;

...

(g) references to a combination of vehicles, in relation to a motor vehicle which is drawing one or more trailers, are references to the motor vehicle and the trailer or trailers drawn thereby, including any other motor vehicle which is used for the purpose of assisting in the propulsion of the trailer or the trailers on the road;

(h) the overall length of a combination of vehicles shall be taken as the distance between the foremost point of the drawing vehicle comprised in the combination and the rearmost point of the rearmost vehicle comprised therein, measured when the longitudinal axis of each vehicle comprised in the combination lies in the same vertical plane;

...

(j) without prejudice to sub-paragraph (e) the foremost or, as the case may be, the rearmost point of a vehicle is the foremost or rearmost point from which the overall length of the vehicle is calculated in accordance with the definition of overall length contained in regulation 3(2)...”

- 11 Regulation 3 (headed “Interpretation”) contains definitions. In reg. 3(2), “overall length” is defined materially as follows:

“in relation to a vehicle, the distance between transverse planes passing through the extreme forward and rearward projecting points of the vehicle inclusive of all parts of the vehicle, of any receptacle which is of a permanent character and accordingly strong enough for repeated use, and any fitting on, or attached to, the vehicle except—

(i) for all purposes—

...

(n) any special appliance or apparatus as described in regulation 81(c) which does not itself increase the carrying capacity of the vehicle...”

### **The justices’ construction of the Regulations**

- 12 In a case of exemplary clarity and precision, the justices summarised their reasoning as follows:

“a. Regulation 7 and Table 3A clearly state that the overall length of the class of vehicle in question in this case shall not exceed 16.5 metres, which was not disputed by the parties. We agreed with the Respondent’s view that one should at this stage refer to Section 3(2) of the Regulations which provides definitions of the various expressions used and thus sets out the meaning of overall length.

We considered that the definition very clearly and unambiguously stated that the overall length of the vehicle is measured between the “extreme forward and rearward projecting points of the vehicle” to include “all parts of the vehicle” except for certain items then listed, one of which (n) is “any appliance or apparatus as described in Regulation 81(c) which does not itself increase the carrying capacity of the vehicle”. Moving then logically to Regulation 81(c), this again we considered gave a clear and unambiguous explanation of the expression “special appliance or apparatus”, saying that for the purposes of the regulation “references to a special appliance or apparatus, in relation to a vehicle, are reference to any crane or other special appliance or apparatus fitted to the vehicle which is a permanent or essentially permanent fixture”. We noted that neither party was contending that the crane on the subject vehicle “increased the carrying capacity of the vehicle” nor did they take any issue with the crane being “a permanent or essentially permanent fixture”. We agreed with the parties that the crane on the subject vehicle fell within the description of an “appliance or apparatus” as referred to by Regulation 3(2) and 81(c).

b. Regulation 81(d) specifically deals with the meaning of “forward projection” and “rearward projection” in relation to overlength loads and states that “references in regulation 82 and Schedule 12 to a forward projection or to a rearward projection in relation to a vehicle shall be construed accordingly”. Regulation 82 we noted deals with “projections” of loads and Schedule 12 sets out conditions to be complied with for vehicles carrying loads or having fixed appliances or apparatus which “project”. We found that these all dealt with rules regarding weights, measurements and conditions relating to projections beyond the normal dimensions of the vehicle and therefore we did not find them relevant to the case in question as the crane on the subject vehicle did not “project”. We further considered Regulation 81(e) which we similarly found was concerned only with how to measure the length of any projection. We noted that the Applicant had placed particular emphasis on the words in that section which said that in “this and the foregoing sub-paragraph [ie 81(d)] “vehicle” does not include any special appliance or apparatus or any part thereof which is a forward projection or a rearward projection”. Our interpretation of this section was that it simply makes the point that when measuring projections you do so from the end of the vehicle to the end of the projection, but that in terms of calculating the length of the vehicle you discount all parts of the special appliance (which in turn confirms our interpretation of Regulations 7, 3(2) and 81(c) as outlined in paragraph 8(a) above).

c. Regulations 81 (g) and (h) we found merely tell us the points between which measurements should be taken with “combination vehicles”, so add nothing further to the issue in question. We found that Regulation 81(j) simply refers back to the definition in 3(2) of “overall length” of a vehicle in terms of measuring the foremost or rearmost point of a vehicle and that the words “without prejudice to sub-paragraph (e)” simply mean that the definition of what constitutes overall length of the vehicle and what can be excluded from that measurement is not affected by what is said in Regulation 81(e) which is concerned with how to measure projections/overhangs.

d. We found that the legislation was clear and unambiguous, without the need for us to make any further reference to factors to be considered when interpreting legislation (there being no ambiguity in our view). For the same reasons, we did not find it necessary to refer to the Department of Transport Guidance referred to by the Applicant. In any event, we noted and agreed with the Respondent's submission that any reliance on Guidance to which the Applicant was a major contributor should be limited by that fact."

### **Submissions for the DVSA**

- 13 For the DVSA, Toby Sasse submits as follows.
- 14 The definition of "overall length" in the table in reg. 3(2) is clear and unambiguous. It provides precise points between which the measurement is to be made and is explicit that, between those two points, all parts of the vehicle are included, along with any receptacle of permanent character and any additional fitting except those specifically referenced. The exception relied upon in this case – (i)(n) – identifies precisely that which is excepted from measurement, viz. the specialised appliance or apparatus. It does not refer to any other part of the vehicle, for example the bodywork or chassis upon which the appliance is mounted. If that had been intended, the provision could easily have said so.
- 15 Nowhere does the language of reg. 3(2), or regs 7(1) or 81, suggest that the excluded parts or fittings are to be "subtracted" from the mandated measurement, merely that they should be excluded. Exclusion of specified parts or fittings from the measurement of all other parts between the extreme foremost and rearmost projecting points does not involve or require any subtraction from the inclusive measurement defined.
- 16 It is instructive that all the specified excluded parts are superimposed upon, or additional to, the core vehicle structure, and in every case will or could project from or overhang that core structure.
- 17 Regulation 7(1) is concerned with limiting the maximum length of vehicles used on roads. It is therefore necessarily concerned with the "extreme foremost and rearmost projecting points" of the vehicle, as provided within the definition of the relevant "overall length". In this context a superimposed part/fitting which could never project so as to effect overall length would be of no relevance.
- 18 Regulation 81(d) provides a clear confirmation of this interpretation of reg. 3(2). It is concerned with projecting parts beyond the vehicle, and which are distinct from the vehicle, for the purposes of the additional controls and precautions provided in reg. 82 and Sch. 12. At reg. 81(d)(iii), the provision is directly concerned with the extent of projections of specialised appliances or apparatus (as defined in reg. 81(c)) which, if treated as part of the load, would extend beyond the "vehicle". Regulation 81(e) then provides the precise points of measurement of those projections beyond the vehicle and goes on to state explicitly that "[i]n this and the foregoing sub-paragraph "vehicle" does not include any special appliance or apparatus or any part thereof which is a forward projection or a rearward projection". In other words, consistently with the entire scope of regulation 81, the dimensions and projection of specialised equipment is distinct from, and irrelevant to, the measurement of the overall length of a vehicle.

- 19 By contrast, the interpretation contended for by Titan, and adopted by the justices, finds no authorisation in the language of the definition of “overall length” in reg. 3(2), and produces an absurd result where the actual length of the vehicle body used could lawfully be extended far beyond the intended statutory limits, merely by installing exempted fittings upon it, even where such additions did not in fact extend (by projection) the total length of the vehicle at all.

### **Submissions for Titan**

- 20 The vehicle did not exceed the permitted length because it fell within exception (n) in the definition of “overall length” in reg. 3(2). There appears to be no issue that the crane was a special appliance within 81(c). The word “except” makes it clear that any special appliance is not included in the overall length when making a calculation between extreme forward and rearward projecting points.
- 21 On the DVSA’s construction, exception (n) only applies to the crane itself, not the section of vehicle body upon which it was mounted. But this is flawed, because reg. 81(c) provides that “references to a special appliance or apparatus, in relation to a vehicle, are references to any crane or other special appliance or apparatus fitted to the vehicle which is a permanent or essentially permanent fixture”.
- 22 Regulation 3 clearly envisages only the scenario where the special apparatus is fitted to the vehicle. To count the section on which the appliance is fitted in the overall length, but not the appliance itself, would make a nonsense of sub-para (n).
- 23 There is nothing in the Regulations which supports the suggestion that the part excepted is only that which overhangs the front or back of the vehicle. Reading it as the justices did is entirely logical. It caters for the scenario where unloading equipment is transported to enable lifting and placement of the containers, as is essential, and indeed, common practice within the industry. On the other hand, it would be absurd to read the regulation in a way which allows for the movement of containers, but not for their loading and unloading.
- 24 Reg 81(d) and (e) do not support the DVSA’s construction. These provisions address the specific issues of loads/weight and forward and rearward projections, which are not relevant to Titan. In any event, the opening words of reg. 81(e) (“In this and the foregoing sub-paragraph”) show that the approach in that paragraph does not apply elsewhere.

### **Discussion**

- 25 The Regulations are complicated. I can understand how the justices arrived at the construction they adopted. In my judgment, however, the DVSA’s construction is the correct one.
- 26 First, the starting point is the definition of “overall length” in reg. 3(2), which distinguishes between the vehicle and any fitting on or attached to it. The overall length is the distance between transverse planes passing through the extreme forward and rearward projecting points of the vehicle; and for these purposes one includes “all parts of the vehicle”, any permanent receptacle and any “fitting on, or attached to, the vehicle”, except those listed. All parts of the vehicle are included. On a natural reading, this would include those parts of a vehicle on which a crane is mounted.

- 27 Second, there would be good reason to reject this natural reading if it deprived the exceptions in reg. 3(2) of utility or effect. But it does not. That is because all the fittings excepted could project beyond the perimeters of the vehicle itself. In cases where they do so, the exceptions are necessary. Without them, the fittings would be included in the calculation of overall length. Because of them, excepted fittings which overhang the vehicle are not included in that calculation.
- 28 Third, on the construction favoured by the justices, a lorry in this class with a crane fitted between the tractive unit and the load-bearing trailer (i.e. not overhanging the front or rear of the vehicle) could theoretically be of any length and still comply with the length requirements, as long the part exceeding 16.5m was used for mounting the crane. It seems very unlikely that this was intended. It would undermine the purpose of the length restrictions (ensuring road safety).
- 29 Fourth, on the DVSA's interpretation, reg. 3(2) is consistent with reg. 81(d) and (e). They are concerned with projections beyond the front or back of the vehicle. A special regime of restrictions (set out in reg. 82 and Sch. 12) applies to these. This regime specifies the maximum length of such projections and imposes requirements as to flags, signage etc. Provided this regime is complied with, it makes sense that, where the projection comprises a fitting excepted under reg. 3(2), it should not affect the overall length of the vehicle for the purposes of determining whether the vehicle exceeds the maximum length.

### **Conclusion**

- 30 For these reasons, I would answer "No" to the question posed by the justices. On a proper construction of the Regulations, Titan's lorry was 17.65m long and so exceeded the maximum permitted length for a lorry of its class. The acquittal will be quashed and the case remitted to the justices with a direction to convict.