

L.N. 90 of 2010

**TRAFFIC REGULATION ORDINANCE
(CAP. 65)**

**Motor Vehicles Roadworthiness Test (Amendment)
Regulations, 2010**

IN exercise of the powers conferred by article 54 of the Traffic Regulation Ordinance, the Minister for Infrastructure, Transport and Communications, after consultation with the Authority for Transport in Malta, has made the following regulations:-

- 1.** (1) The title of these regulations is the Motor Vehicles Roadworthiness Test (Amendment) Regulations, 2010 and they shall be read and construed as one with the Motor Vehicles Roadworthiness Test Regulations, 1998 hereinafter referred to as “the principal regulations”. Title and scope.

L.N. 126 of 1998.
- (2) The scope of these regulations is to implement provisions of Commission Directive 2006/123/EC of 12 December 2006 on services in the internal market and the Services (Internal Market) Act transposing Commission Directive 2006/123/EC. Cap. 500.
- 2.** Regulation 2 of the principal regulations shall be amended as follows: Amends regulation
2 of the principal
regulations.
- (a) in the definition “authorisation” for the words “authorised officer” there shall be substituted the words “the Authority” and for the words “authorised officer” wherever they appear in the principal regulations there shall be substituted the words “the Authority”;
- (b) the definition “commercial vehicle” shall be deleted;
- (c) the definition “Directorate” shall be deleted and for the word “directorate” or “Directorate” wherever it appears in the principal regulations there shall be substituted the word “Authority”;
- (d) immediately after the definition “competent authority” there shall be inserted the following new definition:

Cap. 356.

“ “the European Union” has the same meaning as is given to it in the European Union Act and includes Norway, Iceland and Liechtenstein;”;

(e) immediately after the definition “the European Union” there shall be inserted the following new definition:

L.N. 162 of 2003.

“ “goods vehicle” means any N1, N2 or N3 motor vehicle as defined in the Motor Vehicles (Weights, Dimensions and Equipment) Regulations;”;

(f) the definition “licensed tester” shall be deleted;

(g) immediately after the definition “manuals” there shall be inserted the following new definition:

“ “Member State” means a Member State of the European Union;”;

(h) for the definition “operator” there shall be substituted the following:

“ “operator” means an individual, partnership or company authorised by the Authority in accordance with these regulations to operate a vehicle roadworthiness testing station;”;

(i) in the definition “other vehicle” for the words “commercial vehicle” there shall be substituted the words “goods vehicle”;

(j) for the definition “station” there shall be substituted the following:

“ “station” or “testing station” means the premises in which the Authority has authorised the carrying out of vehicle tests for the purpose of these regulations;”;

(k) for the definition “test” there shall be substituted the following:

“ “test” means an examination of a vehicle carried out by an operator duly authorised in accordance with these regulations;”;

(l) immediately after the definition “test” there shall be inserted the following new definition:

“ “tester” means an individual duly qualified to carry out testing on vehicles for the purposes of these regulations and who is registered with the Authority in accordance with regulation 13(1) hereof;”;

(m) immediately after the definition “trailer and other towed vehicle” there shall be inserted the following new definition:

“ “Tribunal” means the Administrative Review Tribunal established under the Administrative Justice Act;”.

Cap. 490.

3. In sub-regulation (1) of regulation 7 of the principal regulations, for the words “of regulation 15 of the Motor Vehicles (Registration and Licensing) Regulations” there shall be substituted the words “of the Registration and Licensing of Motor Vehicles Regulations, 2009”.

Amends regulation 7 of the principal regulations.

4. Immediately after regulation 7 of the principal regulations there shall be inserted the following new regulation:

Adds new regulation 7A to the principal regulations.

“VRT station to be authorised.

7A. No person shall keep or operate a vehicle roadworthiness testing station without an authorisation from the Authority.”.

5. Regulation 8 of the principal regulations shall be amended as follows:

Amends regulation 8 of the principal regulations.

(a) in sub-regulation (1) thereof for the words “Applications for authorisations as operators” there shall be substituted the words “An application for authorisation to keep and operate a vehicle roadworthiness testing station”, and in paragraph (a) thereof, the words “proposing to allow vehicle testing to be carried out on his premises” shall be deleted;

(b) in sub-regulation (2) thereof, the words “, and approved by the authorised officer,” shall be deleted;

(c) for sub-regulation (3) thereof, there shall be substituted the following:

“(3) The application form shall be presented together with the following information and documents:

(a) the area site plan and the internal set-up of the premises in respect of which the application has been submitted, and all authorisations, licences or permits whatsoever as may be required by law in relation thereto;

(b) a banker’s reference or similar evidence of sound financial standing of the applicant;

(c) details and police conduct certificates of applicants, directors, partners or any other person, as the case may be.”;

(d) sub-regulation (4) shall be deleted; and

(e) sub-regulations (5) and (6) thereof shall be renumbered as sub-regulations (4) and (5) respectively.

Adds new regulations to the principal regulations.

6. Immediately after regulation 8 of the principal regulations there shall be added the following new regulations 8A and 8B:

“Applica-
tions to be
acknowledged.

8A. (1) Complete applications for authorisation shall be acknowledged in writing within seven working days from receipt, and the said notice shall specify:

(a) the period within which the application shall be processed in accordance with these regulations;

(b) the available means of redress where the Authority refuses an application for an operator’s authorisation; and

(c) a statement that in the absence of a response within the period referred to in paragraph (a), the authorisation shall be deemed to have been granted.

(2) In the case of an incomplete application, the applicant shall be informed within seven working

days from receipt thereof, about the need to supply any additional documentation or information.

Dual and
subsequent
applications.

8B. (1) Where an operator already established in Malta or in another Member State applies for authorisation for a new establishment in Malta, that operator shall not be required to undergo requirements and controls which are equivalent or essentially comparable as regards their purpose to which the operator is already subject in Malta or in another Member State.

(2) Where an applicant is not already established in Malta or in another Member State and proposes to act as an operator in more than one place in Malta in the same application process (Dual Application) or following the first application (Subsequent Application), the applicant shall:

(a) in the case of a Dual Application, not be required to provide the information which is common to both places more than once but shall provide any information which is specific or particular to such additional places;

(b) in the case of a Subsequent Application, provide only that information which was given in the original application and which is at the date of such subsequent application not valid anymore and provide that information which is specific or particular to such additional places in accordance with paragraph (a):

Provided that the term “applicant” shall not include those applicants who have had their application or applications validly and conclusively refused by the Authority.

(3) Notwithstanding anything contained in this regulation, the applicant shall still complete any application form as may be required by the Authority.”.

7. Regulation 9 of the principal regulations shall be amended as follows:

Amends regulation
9 of the principal
regulations.

(a) for sub-regulation (1) thereof, there shall be substituted the following:

“(1) Where an application has been made in accordance with regulation 8, the Authority shall make such investigations and carry out such inspections as are reasonably required to ensure conformity with the specifications for testing equipment as specified in the Fourth Schedule as well as conformity with the specifications for testing stations as specified in the Fifth Schedule, and the Authority shall inform the applicant by notice in writing, by not later than twenty working days from receipt of all the relevant documents, of the Authority’s decision and, where the application is refused, it shall state the reasons therefor:

Provided that where circumstances necessitate an extension for consideration of an application, such period may be extended once by the Authority for a further period not exceeding ten working days in addition to the above period and the applicant shall be notified of the extension, its duration and the reasons therefor.”;

(b) for sub-regulation (2) thereof there shall be substituted the following:

“(2) Where the Authority has not taken a decision within the prescribed period or extended period referred to in this regulation, the application shall be deemed to have been decided in favour of the applicant.”;

(c) for sub-regulations (3) thereof, there shall be substituted the following:

“(3) Any authorisation granted by the Authority may not be assigned or transferred in any way whatsoever to any other person, and any such assignment or transfer to any other person shall be considered null and void and constitute sufficient grounds for the Authority to cancel that authorisation.”; and

(d) sub-regulation (4) thereof shall be deleted.

8. Regulation 10 of the principal regulations shall be amended as follows:

Amends regulation 10 of the principal regulations.

(a) for sub-regulation (1) thereof, there shall be substituted the following:

“(1) Where the Authority authorises an applicant to act as operator of a vehicle roadworthiness testing station, the authorisation shall be subject to the payment of five hundred and eighty-two euro (582) as an annual fee per testing station and the operator shall comply with the following conditions:

(a) the operator shall assume full responsibility for all the testing procedures carried out in the station;

(b) the operator shall give notice to the Authority of the names of all persons who are from time to time authorised, in pursuance of arrangements made in accordance with regulation 13, to carry out or personally supervise tests at a station; and every such notice shall be given within seven days after the date of any such authorisation; in the case of a company or partnership the notice shall be accompanied by a duly signed authorisation certifying that the person signing the notice is duly empowered to sign on behalf of the company or partnership;

(c) the operator shall put up and keep exhibited inside the station in some conspicuous place so as to be legible to persons submitting vehicles for testing at that station -

(i) the authorisation in which that station is specified, and

(ii) a list of the names of the persons for the time being authorised to carry out or personally supervise tests at that station;

(d) the operator shall make the station and the equipment at that station with which testing is carried out, available for the purpose of a test to

be carried out by officials of the Authority, for the purpose of ensuring conformity with the prescribed requirements;

(e) the operator shall immediately inform the Commissioner of Police of any vehicle, which is brought in for a test, and which, according to information received by the operator from the Authority, is a stolen vehicle or a vehicle used in the commitment of a criminal offence;

(f) the operator shall give prior notice of seven days to the Authority –

(i) of his entering into any partnership with a view to carrying on a business which will comprise the carrying out of tests at that station, in the case where he is the sole individual named in an authorisation; and

(ii) of any change in the constitution of the company, in the case where he is a company,

and such notice shall be treated as an application under the provisions of regulation 9;

(g) the operator shall provide:

(i) either a bank guarantee of twenty-three thousand and five hundred euro (23,500) for each station;

(ii) or a collective bank guarantee of not less than eighty one thousand five hundred euro (81,500) provided severally between all the stations that elect to give such guarantee;

(h) the operator shall have an authorisation from the Authority to permit the testing of vehicles in his station, on one or more of the three classes of vehicles as specified in the Second Schedule;

(i) the operator shall have on the premises a minimum of one qualified tester and an assistant tester for each test lane;

(j) the operator shall not conduct vehicle testing unless the Authority's testing unit is satisfied that facilities and equipment conform with the prescribed requirements;

(k) the operator shall abide at all times with the regulations and standards concerning the vehicle roadworthiness test as stipulated in these regulations, and approved by the Authority;

(l) the operator shall provide proof that his vehicle testers receive the necessary training in the use of their testing equipment by the suppliers or the agents of such equipment;

(m) the operator shall keep on the premises the approved and accredited testing manual or manuals;

(n) the operator shall provide the Authority with a copy of all manuals provided with the testing equipment;

(o) the operator shall allow regular inspections by vehicle testing inspectors according to the standards and requirements laid down under any applicable regulations;

(p) the operator shall not refuse to test any vehicle of whatever age, make or type within the classes for which authorisation is given, except in the following circumstances:-

(i) when the details contained in the registration document do not comply with the correct details of the vehicle;

(ii) when the vehicle cannot be driven or has insufficient fuel or oil to complete the test;

(iii) when the vehicle is presented in such a dirty condition that examination is difficult;

(iv) when an operator considers that an insecure load or other items would prevent a proper test being carried out unless it can be unloaded;

(v) when the vehicle is of such a size or weight that it cannot be properly or safely tested on the approved facilities;

(q) the operator shall, under no circumstance, instruct or otherwise advise a vehicle owner to effect repairs or adjustments as indicated in the test result, at the same premises;

(r) the operator shall permit and do anything necessary in order for any representative of the Authority to be able to inspect the premises, records, equipment, and the operation going on at the station;

(s) the operator shall, under no circumstance, issue a passed test result unless a complete test has been carried out and all the testable items comply with the required conditions and standards established under these regulations, or a re-test is completed and the licensed vehicle tester confirms that the necessary repairs have been carried out;

(t) the operator shall provide for the safekeeping of all documents and forms in his possession, as well as the garage stamp;

(u) the operator shall sign any forms or documents in indelible ink, and write clearly and without alterations;

(v) the operator shall not charge a fee which is in excess of the prescribed amount; and

(w) the operator shall at all times comply with or maintain the conditions or requirements indicated under regulation 8.”;

(b) in sub-regulation (2) thereof for the words “The authorised officer may give notice to an operator that, in the opinion of the authorised officer, any person” there shall be substituted the words “The Authority may, on justified grounds, give notice to an operator that any person”; and

(c) in sub-regulation (3) thereof, for the words “the authorised officer” there shall be substituted the words “the Authority”, and the word “licensed” shall be deleted.

9. Regulation 11 of the principal regulations shall be amended as follows:

Amends regulation 11 of the principal regulations.

(a) in sub-regulation (4) thereof, for the words “on the date so specified in relation to it.” there shall be substituted the words “on the date so specified in relation to it:

Provided that in the case where an operator opts to cease to operate the testing station for a period of time not exceeding one calendar month in any particular calendar year the operator shall seek prior approval by the Authority, and approval shall be granted by the Authority if it is satisfied that reasonable grounds exist for temporary closure:

Provided further that where an operator ceases to operate the testing station without permission from the Authority or beyond the term allowed, the Authority may revoke the operator’s authorisation.”;

(b) for sub-regulation (5) thereof, there shall be substituted the following:

“(5) The Authority may at any time and on reasonable grounds suspend, withdraw or revoke an authorisation to operate a test station by giving an operator a notice in writing containing the reasons for such suspension, withdrawal or revocation:

Provided that unless there exist gross acts of misconduct or negligence or any other serious grounds for immediate suspension, withdrawal or revocation,

the operative date of such notice shall be not less than twenty-eight days from the date of notification.”; and

(c) immediately after sub-regulation (6) thereof, there shall be added the following new sub-regulation:

“(7) Upon the termination or revocation of an authorisation as an operator of a testing station, any person previously qualifying as operator who opts to re-apply for authorization, shall make a fresh application and the Authority shall be furnished afresh with any information and documents which are to be supplied with any new application.”.

Amends the title of Part III of the principal regulations.

10. In the title of Part III of the principal regulations, the word “Licensed” shall be deleted.

Substitutes regulation 13 of the principal regulations.

11. For regulation 13 of the principal regulations there shall be substituted the following:

“Registration and qualifications of testers.

13. (1) Persons qualified as testers shall be registered for such purpose with the Authority and the Authority shall keep a register of such testers.

(2) The registration shall be made by application on the prescribed form to the Authority and shall be accompanied by documents showing that person’s qualifications to act as a vehicle tester, whether issued nationally or in another country, and a registration fee of twenty-five euro (25).

(3) The Authority shall, by not later than twenty-one working days from receipt of the application and of all relevant documents, inform the applicant in writing of its decision on the application, and where an application for registration is refused, it shall state the reasons thereof.

(4) A person may qualify as a tester if such person –

(i) is over nineteen years of age on the date of the application;

(ii) is of good repute:

Provided that for the purpose of this regulation “good repute” shall have the same meaning assigned to it under regulation 8;

(iii) is in possession of a driving licence for the categories of vehicles applicant is qualified to test;

(iv) is in possession of a Technician Certificate in Motor Vehicle Systems (Part 2) or any equivalent certificate;

(v) has at least three years experience repairing the category of vehicles he is qualified to test;

(vi) is in possession of a certificate issued by the Authority following the successful completion of a course organised by a body accredited by the Authority or is in possession of a certificate issued by the competent authority in a Member State.

(5) Persons who, on the entry into force of these regulations, have already been licensed as testers by the Authority shall be considered as being in possession of the necessary qualifications and shall be immediately registered as qualified testers in the register to be kept by the Authority in accordance with sub-regulation (1) hereof.

(6) An operator of a vehicle roadworthiness testing station shall only employ as testers persons whose name appears in the register held by the Authority.”.

12. Regulation 14 of the principal regulations shall be amended as follows:

Amends regulation 14 of the principal regulations.

(a) in the marginal note thereto, the word “licensed” shall be deleted;

(b) sub-regulation (1) thereof, shall be amended as follows:

(i) in paragraphs (a) to (d) thereof, the word “licensed” shall be deleted wherever it appears;

(ii) for the words “licensed tester shall comply with such conditions as are specified in the Seventh Schedule and also with” there shall be substituted the words “tester so employed shall comply with”;

(iii) the proviso to paragraph (a) shall be deleted; and

(iv) immediately after paragraph (d) there shall be inserted the following new paragraphs:

“(e) the tester shall not perform vehicle testing unless the Authority is satisfied that facilities and equipment in the station where he is employed conform to the prescribed requirements;

(f) the tester shall consult and follow the standards established in the approved and accredited testing manuals;” and

(c) for sub-regulation (2) thereof, there shall be substituted the following:

“(2) The Authority may cancel from the register the name of a tester if the tester is in breach of any of the conditions laid down in sub-regulation (1).”.

Amends the title of Part VI of the principal regulations.

13. In the title of Part VI of the principal regulations the words “Contract or” shall be deleted.

Amends regulation 21 of the principal regulations.

14. Regulation 21 of the principal regulations shall be amended as follows:

(a) in the marginal note thereto, the words “contract or” shall be deleted; and

(b) the word “licensed”, wherever it appears, shall be deleted.

Substitutes regulation 22 of the principal regulations.

15. For regulation 22 of the principal regulations there shall be substituted the following:

“22. Any person aggrieved by any decision of the Authority not to grant or renew, or to suspend or to revoke an authorisation, or to impose conditions, limitations or exclusions therein or therefor, or to cancel his name from the register of testers shall have the right to enter within twenty one days from the notification of such decision an appeal before the Tribunal.”.

16. In regulation 23 of the principal regulations, the word “licensed”, wherever it appears, shall be deleted. Amends regulation 23 of the principal regulations.

17. For sub-regulation (2) of regulation 24 of the principal regulations there shall be substituted the following: Amends regulation 24 of the principal regulations.

“(2) Where the total number of penalty points endorsed on the entry of a tester equals or exceeds 150, the name of the tester shall be removed from the register of testers for a period of one year, and the Authority shall inform in writing the tester of such removal.”.

18. Regulation 25 of the principal regulations shall be amended as follows: Amends regulation 25 of the principal regulations.

(a) the word “licensed”, wherever it appears, shall be deleted; and

(b) for the words “or tester’s licence” there shall be substituted the words “or, in the case of the tester, to the removal of the tester’s name from the testers’ register for a period of not less than ten years”.

19. The Third Schedule to the principal regulations shall be amended as follows: Amends the Third Schedule to the principal regulations.

(a) for the words “[Regulations 8 and 13]” there shall be substituted the words “[Regulation 8]”;

(b) for the words “Licensing and Testing Directorate”, wherever they appear, there shall be substituted the words “Authority for Transport in Malta; and

(c) the model of the Application for a Licence to Act as Licensed Tester therein shall be deleted.

Deletes the Sixth and
Seventh Schedules
to the principal
regulations.

20. The Sixth and the Seventh Schedules to the principal
regulations shall be deleted.

