L.N. 349 of 2005

TRAFFIC REGULATION ORDINANCE (CAP. 65)

MALTA TRANSPORT AUTHORITY ACT (CAP. 332)

Motor Vehicles (Carriage of Dangerous Goods by Road) (Amendment) Regulations, 2005

IN exercise of the powers conferred by article 54 of the Traffic Regulation Ordinance and article 32 of the Malta Transport Authority Act, the Minister for Urban Development and Roads has, after consultation with the Malta Transport Authority, made the following regulations:-

Title.

1. The title of these regulations is the Motor Vehicles (Carriage of Dangerous Goods by Road) (Amendment) Regulations, 2005, and shall be read and construed as one with the Motor Vehicles (Carriage of Dangerous Goods by Road) Regulations, 2003, hereinafter referred to as "the principal regulations".

L.N. 211 of 2003.

Amends regulation 2 of the principal regulations.

2. In regulation 2 of the principal regulations, for the definition "ADR" there shall be substituted the following:

" "ADR" means the provisions in effect on the 1st January 2005 concerning the international carriage of dangerous goods by road which –

(a) form Annexes A and B to the European Agreement Concerning the International Carriage of Dangerous Goods by Road (as applicable with effect from 1st January, 2005), and

(b) are contained in Annexes A and B to Council Directive 94/55/EC, as amended, on the approximation of the laws of the Member States with regard to the transport of dangerous goods by road;".

Substitutes the First Schedule to the principal regulations.

3. For the First Schedule to the principal regulations there shall be substituted the following:

"FIRST SCHEDULE

(Regulation 12)

CARRIAGE OF DANGEROUS GOODS CHECKLIST

This certificate of inspection is provided in accordance with Council Directive 95/50/EC and Commission Directive 2004/112/EC on uniform procedures for checks on the transport of dangerous goods by roads and relates solely to the findings of the check carried out by the signatory to this document in relation to the vehicle referred to and at the place, date and time specified. It is provided without prejudice to the findings of any previous or subsequent check which has been or may be carried out in accordance with these Directives or under any relevant statutory provision and any legal proceedings which may have been or which may be commenced in respect of an alleged contravention of any such provision. Nothing in this certificate shall be taken as indicating compliance with any relevant statutory provision or relieving any person of any statutory duty under any such provision.

1. Place of check	2. Date	Time
4. Vehicle nationality mark and registration number	5. Trailer/semi-trailer nationality mark and registration number	
6. Undertaking carrying out transport/address	7. Driver/driver's assistant	
8. Consignor, address, place of loading ([1]) ([2])	9. Consignee, address, place of unloading ([1]) ([2])	

10. Total quantity of dangerous goods per transport unit	11. ADR 1.1. 3.6 quantity limit exceeded Yes □ No □	12. Mode of transport □ in bulk □ package □ tank

Documents on board

13. Transport document	□ inspected	□ infringements established	□ not applicable
14. Instructions in writing	□ inspected	□ infringements established	□ not applicable
15. Bilateral/multilateral agreement/ national authorization	□ inspected	□ infringements established	□ not applicable
16. Vehicle approval certificate	□ inspected	□ infringements established	□ not applicable
17. Driver's training certificate	□ inspected	□ infringements established	□ not applicable

Transport operation

18. Goods authorised for transport	□ inspected	□ infringements established	□ not applicable
19. Vehicles authorized for goods carried	□ inspected	□ infringements established	□ not applicable
20. Provisions related to the mode of transport (bulk, package, tank)	□ inspected	□ infringements established	□ not applicable
21. Mixed loading prohibition	□ inspected	□ infringements established	□ not applicable
22. Loading, securing of the load and handling ([3])	□ inspected	□ infringements established	□ not applicable
23. Leakage of goods or damage to package ([3])	□ inspected	□ infringements established	□ not applicable
24. UN packaging marking/tank marking ([2]) ([3]) (ADR 6)	□ inspected	□ infringements established	□ not applicable
25. Package marking (e.g. UN no.) and labelling ([2]) (ADR 5.2)	□ inspected	□ infringements established	□ not applicable
26. Tank/vehicle placarding (ADR 5.3.1.)	□ inspected	□ infringements established	□ not applicable
27. Vehicle/transport unit marking (orange plate, elev. temp.) (ADR 5.3.2-3)	□ inspected	□ infringements established	□ not applicable

Equipment on board

28. General purpose safety equipment specified in ADR	□ inspected	□ infringements established	□ not applicable
29. Equipment according to the goods carried	□ inspected	□ infringements established	□ not applicable
30. Other equipment specified in the instructions in writing	□ inspected	□ infringements established	□ not applicable
31. Fire extinguisher(s)	□ inspected	□ infringements established	□ not applicable
32. The most serious risk category of established infringements, if any	□ Category I	□ Category II	□ Category III

33. Remarks ……
……..

34. Authority/Officer who carried out the inspection

([1]) To be filled only if relevant for an infringement
([2]) To be stated under 'remarks' for groupage transport operations
([3]) Check of visible violations ".

Substitutes the Second Schedule to the principal regulations.

4. For the Second Schedule to the principal regulations there shall be substituted the following:

"SECOND SCHEDULE

(Regulation 13)

Part I

INFRINGEMENTS

The following non-exhaustive list, classified into three risk categories (Category 1 being the most serious), gives a guideline on what is to be regarded as infringement.

The determination of the appropriate risk category must take account of the particular circumstances and be left to the discretion of the enforcing body/officer at the roadside.

Failures that are not listed under the risk categories shall be classified according to the descriptions of the categories.

In the event there are several infringements per transport unit, only the most serious risk category (as indicated under item 32 in the First Schedule) shall be applied for reporting purposes (Part II of this Schedule)

1. Risk Category I

Where failures to comply with relevant ADR provisions create a high-level risk of death, serious personal injury or significant damage to the environment such failures would normally lead to taking immediate and appropriate corrective measures such as immobilization of the vehicle.

Failures are:

1. The dangerous goods being carried are prohibited for transport
2. Leakage of dangerous substances
3. Carriage by a prohibited mode or an inappropriate means of transport
4. Carriage in bulk in a container which is not structurally serviceable
5. Carriage in a vehicle without an appropriate certificate of approval
6. Vehicle no longer complies with the approval standards and presents an immediate danger (otherwise it goes in risk category II)
7. Non-approved packaging is used
8. Packaging does not conform to the applicable packing instruction
9. The special provisions for mixed packing have not been complied with
10. The rules governing the securing and stowage of the load have not been complied with
11. The rules governing mixed loading of packages have not been complied with
12. The permissible degrees of filling of tanks or packages have not been complied with
13. The provisions limiting the quantities carried in one transport unit have not been complied with
14. Carriage of dangerous goods without any indication of their presence (e.g. documents, marking and labelling on the packages, placarding and marking on the vehicle)
15. Carriage without any placarding and marking on the vehicle
16. Information relevant to the substance being carried enabling determination of a risk category I offence is missing (e.g. UN number, proper shipping name, packing group)
17. Driver does not hold a valid vocational certificate
18. Fire or an unprotected light is being used
19. The ban on smoking is not being observed.

2. Risk Category II

Where failures to comply with relevant ADR provisions create a risk of personal injury or damage to the environment such failures would normally lead to taking appropriate corrective measures such as requiring rectification at the site of control if possible and appropriate, but at the completion of the current transport movement at the latest.

Failues are:

1. The transport unit comprises more than one trailer/semi-trailer
2. Vehicle no longer complies with the approval standards but does not present an immediate danger
3. The vehicle is not carrying operational fire extinguishers as required> a fire extinguisher can still be deemed operational if only the prescribed seal and/or the expiry date are missing< however, this does not apply if the fire extinguisher is visibly no longer operational, e.g. pressure gauge at 0
4. The vehicle does not carry the equipment required in the ADR or in the instruction in writing
5. Test and inspection dates and use periods of packaging , IBCs or large packaging have not been complied with
6. Packages with damaged packaging, IBCs or large packaging or damaged uncleaned empty packaging are being carried
7. Carriage of packaged goods in a container which is not structurally serviceable
8. Tanks/tank containers (including ones that are empty and uncleaned) have not been closed properly
9. Carriage of a combination packaging with an outer packaging which is not closed properly
10. Incorrect labelling, marking or placarding
11. There are no instructions in writing conforming to the ADR, or the instructions in writing are not relevant to the goods carried
12. The vehicle is not properly supervised or parked.

3. Risk Category III

Where failures to comply with relevant provisions result in a low level of risk of personal injury or damage to the environment and where appropriate corrective measures do not need to be taken at the roadside but can be addressed at a later date at the undertaking.

Failures are:

1. The size of placards or labels or the size of letters, figures or symbols on placards or labels does not comply with the regulations
2. Information in the transport documentation other than that in risk category I/(16) is not available
3. The training certificate is not on board the vehicle but there is evidence that the driver holds it.

Part 2

Form for the report to be sent to the European Commission concerning infringements and penalties

Country: …….. Year: ……..

CHECKS ON THE TRANSPORT OF DANGEROUS GOODS BY ROAD

		Place of registration of vehicle ([1])			Total Number
		Country of check	Other EU Member States	Third countries	
Number of transport units on the basis of the contents of the load (and ADR)					
Number of transport units not conforming to ADR					
Number of transport units immobilised					
Number of infringements noted, according to risk category ([2])	Risk category I				
	Risk category II				
	Risk category III				
Number of penalties imposed, according to penalty type	Caution				
	Fine				
	Other				

ESTIMATED TOTAL QUANTITY OF DANGEROUS GOODS TRANSPORTED BY ROAD:	……t	or ……t.km

([1]) For the purposes of this Part the country of registration is that of the motor vehicle.
([2]) In the event that there are several infringements per transport unit, only the most serious risk category (as indicated under item 32 in the First Schedule) shall be applied. ".

Substitutes the Sixth Schedule to the principal regulations.

5. For the Sixth Schedule to the principal regulations there shall be substituted the following:

"SIXTH SCHEDULE

(Regulations 23 and 28)

CERTIFICATE OF APPROVAL FOR VEHICLES CARRYING CERTAIN DANGEROUS GOODS

The certificate of approval shall have the same layout as the model below. Its dimensions shall be 210 mm H 297 mm (format A4). Both front and back shall be used. The colour shall be white, with a pink diagonal stripe. The approval certificate for a vacuum operated waste tank vehicle shall bear the following remark: "vacuum operated waste tank-vehicle".

CERTIFICATE OF APPROVAL FOR VEHICLES CARRYING CERTAIN DANGEROUS GOODS

This certificate testifies that the vehicle specified below fulfils the conditions prescribed by the European Agreement concerning the International Carriage of Dangerous Goods by Road (ADR).

1. Certificate No:	2. Vehicle manufacturer:	3. Vehicle Identification No:	4. Registration number (if any):

5. Name and business of carrier, operator or owner:

6. Description of vehicle: [1]

7. Vehicle designation(s) according to 9.1.1.2 of ADR: [2]
EX/II EX/III FL OX AT

8. Endurance braking system: [3]
□ Not applicable
□ The effectiveness according to 9.2.3.1.2 of ADR is sufficient for a total mass of the transport unit of ____t [4]

9. Description of the fixed tank(s) battery-vehicle (if any):
9.1 Manufacturer of the tank:
9.2 Approval number of the tank/battery-vehicle:
9.3 Tank manufacturer's serial number/Identification of elements of battery-vehicle:
9.4 Year of manufacture:
9.5 Tank code according to 4.3.3.1 or 4.3.4.1 of ADR:
9.6 Special provisions according to 6.8.4 of ADR (if applicable):

10. Dangerous goods authorized for carriage:
The vehicle fulfils the conditions required for the carriage of dangerous goods assigned to the vehicle designation(s) in No. 7.

10.1 In the case of an EX/II or EX/III vehicle [3]
□ goods of Class 1 including compatibility group J
□ goods of Class 1 excluding compatibility group J

10.2 In the case of a tank-vehicle/battery-vehicle [3]
□ only the substances permitted under the tank code and any special provisions specified in No. 9 may be carried [5]
or
□ only the following substances (Class, UN number, and if necessary packing group and proper shipping name) may be carried:

Only substances which are not liable to react dangerously with the materials of the shell, gaskets, equipment and protective linings (if applicable) may be carried.

11. Remarks:

12. Valid until: Stamp of issuing service

Place, Date, Signature

1 According to the definitions for power-driven vehicles and for trailers of categories N and O as defined in Annex 7 of the Consolidated Resolution on the Construction of Vehicles (R.E.3) or in Directive 97/27/EC.
2 Strike out what is not appropriate.
3 Mark the appropriate.
4 Enter appropriate value. A value of 44t will not limit the "registration / in-service maximum permissible mass" indicated in the registration document(s).
5 Substances assigned to the tank code specified in No. 9 or to another tank code permitted under the hierarchy in 4.3.3.1.2 or 4.3.4.1.2, taking account of the special provision(s), if any.

13. Extensions of validity	
Validity extended until	Stamp of issuing service, place, date, signature:

NOTE: This certificate shall be returned to the issuing service when the vehicle is taken out of service: if the vehicle is transferred to another carrier, operator or owner, as specified in No. 5; on expiry of the validity of the certificate; and if there is a material change in one or more essential characteristics of the vehicle. ”.

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