L.N. 133 of 2006

TRAFFIC REGULATION ORDINANCE
(CAP. 65)

Motor Vehicles (Carriage of Passengers by Road) (Amendment) Regulations, 2006

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

Title.

1. The title of these regulations is the Motor Vehicles (Carriage of Passengers by Road) (Amendment) Regulations, 2006, and they shall be read and construed as one with the Motor Vehicles (Carriage of Passengers by Road) Regulations, 2003, hereinafter referred to as "the principal regulations".

L.N. 160 of 2003.

Amends regulation 2 of the principal regulations.

2. Regulation 2 of the principal regulations shall be amended as follows:–

(a) the definition "agreement" shall be deleted;

(b) for the definition "authorised inspecting officer" there shall be substituted the following:

" "authorised inspecting officer" means a Police officer, a local warden or an officer of the Authority;";

(c) for the definition "cabotage" there shall be substituted the following:

" "cabotage transport operations" means the performing of national carriage of passengers by road for hire or reward within Malta by a non-resident carrier who holds a Community authorization; such activity shall not be permanent, frequent, regular or continuous, shall not be carried out systematically, shall be at considerable and infrequent intervals, and the vehicle involved shall leave Malta at least once a month;";

(d) for the definition "carrier" there shall be substituted the following:

" "carrier" means any physical or legal person who is authorized to engage in the carriage of passengers by road for hire or reward or on his own account;";

(e) immediately after the definition "carrier" there shall be added the following new definition:

" "collective agreement" means an agreement entered into between an employer, or one or more organisations of employers, and one or more organisations of employees regarding conditions of employment in accordance with the provisions of any law in force in Malta;";

(f) for the definition "Community authorisation" there shall be substituted the following:

" "Community licence" means a licence issued by the competent authorities of a Member State to a carrier established in that Member State in accordance with Article 3a of Council Regulation (EC) No 11/98 amending Regulation (EEC) No 684/92 on common rules for the international carriage of passengers by coach and bus;";

(g) immediately after the definition "Community licence" there shall be inserted the following new definitions:

" "company" has the same meaning as is assigned to it in article 2 of the Companies Act; Cap. 386.

"cooperative society" means a cooperative society registered or provisionally registered under the Cooperative Societies Act;"; Cap. 442.

(h) immediately after the definition "driver" there shall be inserted the following new definitions:

" "employer" means the person by whom a worker is, or, where the employment has ceased, was employed, and includes a partnership, company, cooperative society, association or other body of persons, whether vested with legal personality or not;

"European Union" has the same meaning as is given to it in the European Union Act and includes Norway, Iceland and Liechtenstein;"; Cap. 460.

(i) for the definition "hire or reward" there shall be substituted the following:

" "hire or reward" means the carriage of passengers other than on own account, that is to say against payment or compensation by the person transported or by the transport organiser, whether such payment or compensation is made directly or indirectly;";

(j) immediately after the definition "hire and reward" there shall be inserted the following new definitions:

" "Member State" means a Member State of the European Union;

"mobile worker" means any worker forming part of the travelling staff, including trainees and apprentices, who is in the service of an undertaking which operates transport services for passengers by road for hire or reward or on its own account;";

(k) for the definition "night time" there shall be substituted the following:

" "night time" means a period of four hours between 01.00 and 05.00;";

(l) in the definition "normal residence", for the words "Agreement States" and "Agreement State" there shall be substitued the words "Member States" and "Member State" respectively;

(m) for the definition "passenger transport operator's licence" there shall be substituted the following:

" "operator's licence for the carriage of passengers by road" means a licence issued by the Authority to national undertakings;";

(n) immediately after the definition "occupation of road passenger transport operator" there shall be inserted the following new definition:

" "partnership" includes an association, not registered under the Companies Act, between two or more persons;";

(o) immediately after the definition "passenger transport vehicles" there shall be inserted the following new definition:

" " periods of availability" means periods other than those relating to break times and rest periods during which the mobile worker is not required to remain at his workstation, but must be available to answer any calls to start or resume driving or to carry out other work, including such periods during which the mobile worker is accompanying a vehicle being transported by ferryboat or by train as well as periods of waiting at frontiers and those due to traffic prohibitions;";

(p) for the definition "self-employed driver" there shall be substituted the following:

" "self-employed driver" means anyone whose main occupation is to transport passengers by road for hire or reward within the meaning of European Union legislation under cover of a Community licence or any other professional authorisation to carry out the aforementioned transport, who is entitled to work for himself and who is not tied to an employer by an employment contract or by any other type of working hierarchical relationship, who is free to organise the relevant working activities, whose income depends directly on the profits made and who has the freedom, individually or through a cooperation between self-employed drivers, to have commercial relations with several customers;"; and

(q) immediately after the definition "week" there shall be inserted the following new definition:

" "working time" means the time from the beginning to the end of work, during which the mobile worker is at his workstation, at the disposal of the employer and exercising his functions or activities, being –

(a) the time devoted to driving, assisting passengers boarding and disembarking from the vehicle, cleaning and technical maintenance, and all other work intended to ensure the safety of the vehicle, its passengers or to fulfil the legal, or regulatory obligations directly linked to the specific transport operations under way, including dealing with administrative formalities with police, customs and immigration officers; and

(b) the time during which the mobile worker cannot dispose freely of his time and is required to be at his workstation, ready to take up normal work, with certain tasks associated with being on duty, in particular during periods awaiting loading or unloading where their foreseeable duration is not known in advance, that is to say either before departure or just before the actual start of the period in question, or under collective agreements or any other agreement entered into between the employer and mobile workers employed by him in compliance with national legislation;

(r) immediately after the new definition "working time" there shall be inserted the following new definition:

" "workstation" means -

(a) the location of the main place of business of the undertaking for which the person performing mobile road transport activities carries out duties, together with its various subsidiary places of business, regardless of whether they are located in the same place as its head office or main place of business,

(b) the vehicle which the person performing mobile road transport activities uses when he carries out duties, or

(c) any other place in which activities connected with transportation are carried out.".

3. For regulation 5 of the principal regulations there shall be substituted the following:

Substitutes regulation 5 of the principal regulations.

"5. (1) No person shall engage in the occupation of road passenger transport operator for hire or reward unless duly authorised under these regulations.

(2) The Authority shall issue an operator's licence for the carriage of passengers by road to any undertaking that proposes to use passenger transport vehicles and satisfies the conditions of these regulations and other requirements which the Authority may establish.

(3) An operator's licence for the carriage of passengers by road shall be issued in the name of a natural person authorised to represent the undertaking.

(4) An operator's licence for the carriage of passengers by road shall be valid for a period, specified therein, of up to five years from the date on which it was granted unless revoked or suspended and shall not be transferable.

(5) The Authority shall issue –

(a) an international operator's licence to any undertaking with an operating centre in Malta which, in the course of its road passenger transport operations, intends carrying passengers outside Malta;

(b) a national operator's licence to any undertaking with an operating centre in Malta which, in the course of its road passenger transport operations, intends carrying passengers only in Malta:

Provided that an international operator's licence for the carriage of passengers by road shall cover both the carriage of passengers by road outside Malta and within Malta.

(6) The restrictions imposed by the preceding sub-regulations shall not apply where –

(a) the carriage is of passengers to or from work in vehicles owned by their employers,

(b) the carriage is of passengers otherwise than for profit in vehicles owned by voluntary organizations,

(c) the carriage is of persons to or from school, or in the course of or in relation to school activities, in vehicles owned by the school.".

Renumbering of regulations 6 to 54 of the principal regulations.

4. Regulations 6 to 54 of the principal regulations shall be renumbered as regulations 9 to 57 respectively.

Adds new regulations 6 to 8 to the principal regulations.

5. Immediately after regulation 5 of the principal regulations, there shall be inserted the following new regulations 6 to 8:

"Application for an operator's licence for the carriage of passengers by road.

6. (1) An application for the grant or renewal of an operator's licence for the carriage of passengers by road shall be made to the Authority and shall be in the form and contain such particulars as the Authority may require together with:

(a) the particulars of any relevant offence of which the applicant may have been convicted of in the five years prior to the date of the making of the application;

(b) a certificate of competence granted to the applicant or to a person designated by the applicant;

(c) a declaration signed by an Auditor or Accountant in the form set out in the First Schedule to these regulations;

(d) particulars of the number and class or description of any motor vehicle available for use in the relevant road passenger transport business or proposed such business. The said vehicles shall be registered with the Authority;

(e) where the vehicles to be covered by the operator's licence are not registered in the name of the applicant, a signed declaration from the registered owner in favour of the operation of the said vehicles under that particular operator's licence;

(f) particulars of the financial resources available as regards any such relevant business.

(2) The Authority may require any particulars given by an applicant in relation to an application mentioned in sub-regulation (1) of this regulation to be contained in a statutory declaration or in a sworn affidavit in such manner as the Authority shall specify.

(3) An application shall be accompanied by the appropriate fee fixed by the Authority.

Refusal of application.

7. (1) Where the Authority refuses an application for admission to the occupation of road passenger transport operator, the Authority shall by notice in writing, within seven days, inform the applicant of its decision and the reasons therefor.

(2) Where the Authority refuses an application, the applicant may, within twenty-one days beginning on the date of such notice appeal before an appeals board to be set up according to the provisions of the Malta Transport Authority Act. Cap. 332.

Road Passenger Transport Register.

8. (1) The Authority shall set up and maintain a register to be known as the Road Passenger Transport Register, which shall be divided into Part I and Part II.

(2) In Part I of the register there shall be registered the name and address of any person to whom a certificate of competence has been granted together with other particulars which the Authority may consider relevant.

(3) In Part II of the register there shall be registered the name and address of the person to whom an operator's licence for the carriage of passengers by road is granted, together with other particulars which the Authority may consider relevant.

(4) The Authority shall permit the register to be inspected by any person.".

Amends regulation 9, as renumbered, of the principal regulations.

6. Regulation 9 of the principal regulations, as renumbered, shall be amended as follows:

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

"(1) An applicant for an operator's licence for the carriage of passengers by road shall, before being granted the licence, satisfy the Authority that he:

(a) is of good repute and conduct,

(b) is of appropriate financial standing, and

(c) satisfies the condition as to professional competence.

(b) in sub-regulation (3) thereof for the words "that can satisfy the requirement in paragraph (b) of sub-regulation (1)" there shall be substituted the words "that is not a natural person";

(c) immediately after sub-regulation (3) thereof, there shall be inserted the following new sub-regulation:

"(4) Where, for the purpose of this regulation, an undertaking designates a natural person to continuously and effectively manage the road passenger transport operation and that person ceases to manage the said operation, the

undertaking shall within 24 days from that occurrence notify the Authority in writing and the Authority shall allow a period not exceeding three months within which the undertaking designates another person, who shall comply with the provisions of paragraphs (a) and (c) of sub-regulation (1) hereof.".

Amends regulation 11, as renumbered, of the principal regulations.

7. In sub-regulation (4) of regulation 11 of the principal regulations, as renumbered, the words "for the purpose of regulation 6" shall be deleted and for the words "establishment in the format indicated in the First Schedule" there shall be substituted the word "institution".

Amends regulation 13, as renumbered, of the principal regulations.

8. Regulation 13 of the principal regulations, as renumbered, shall be amended as follows:

(a) in sub-regulation (1) thereof, immediately after the words "transport undertaking" there shall be added the words "provided such applicants sit a test";

(b) in sub-regulation (2) thereof, for the words from "national and international syllabi" to the words "requirements in Malta." there shall be substituted the words "national and international syllabi and holders of a certificate of professional competence issued by other Member States."; and

(c) in sub-regulation (3) thereof, for the words "regulation 6" there shall be substituted the words "regulation 9".

Amends regulation 14, as renumbered, of the principal regulations.

9. Regulation 14 of the principal regulations, as renumbered, shall be amended as follows:

(a) in sub-regulations (1) and (2) (a) thereof, for the words "regulation 6" there shall be substituted the words "regulation 9";

(b) in sub-regulation (3) thereof, for the words "Authority Act." there shall be substituted the words "Authority Act:

Provided that, except where the licence has been revoked, the licence shall cease to have effect until the suspension is lifted by the Authority:

Provided further that an appeal against the suspension or revocation of a licence shall be entered by the holder of the licence not later than twenty-one days after the decision has been notified to the licence holder:

Provided further that the suspension or revocation, as the case may be, shall not stand until a decision is taken by the appeals board.";

(c) in sub-regulation (4), for the words "Agreement State" there shall be substituted the word "Member State"; and

(d) immediately after sub-regulation (4) thereof, there shall be inserted the following new sub-regulation:

"(5) Where the requirement of financial standing is not fulfilled at the time of checking, the Authority may, where the undertaking's other economic circumstances give grounds for assuming that the requirements of financial standing will again be sustainably fulfilled within the foreseeable future on the basis of a financial plan, give further notice of not more than one year.".

Amends regulation 15, as renumbered, of the principal regulations.

10. In regulation 15 of the principal regulations, as renumbered, for the words "sub-regulation (1) of regulation 6" there shall be substituted the words "sub-regulation (1) (a) and (c) of regulation 9", and for the words "regulation 9" there shall be substituted the words "regulation 12".

Substitutes regulation 17, as renumbered, of the principal regulations.

11. For regulation 17 of the principal regulations, as renumbered, there shall be substituted the following:

"17. Regulations 18 to 27 shall only apply to international carriage of passengers by road.".

Amends regulation 19, as renumbered, of the principal regulations.

12. In sub-regulations (1) and (2) of regulation 19 of the principal regulations, as renumbered, for the words "regulation 15" there shall be substituted the words "regulation 18".

Amends regulation 20, as renumbered, of the principal regulations.

13. In paragraph (b) of regulation 20 of the principal regulations, as renumbered, for the words "Agreement States" and "Agreement State" there shall be substituted the words "Member States" and "Member State" respectively.

Amends regulation 21, as renumbered, of the principal regulations.

14. In sub-regulation (2)(c) of regulation 21 of the principal regulations, as renumbered, for the words "Agreement State" there shall be substituted the words "Member State".

Substitutes regulation 22, as renumbered, of the principal regulations.

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

(a) for the words "Daily driving period" in the sub-title to the regulation there shall be substituted the words "Working time and driving period.";

(b) sub-regulation (1) shall be renumbered sub-regulation (2) and sub-regulation (2) shall be renumbered sub-regulation (3) and immediately before sub-regulation (2) as renumbered there shall be inserted the following new sub-regulation (1):

"(1) (a) The average weekly working time, including overtime, for a mobile worker shall not exceed 48 hours:

Provided that the maximum weekly working time for a mobile worker may be extended to 60 hours only if, over a period of 17 consecutive weeks, an average of 48 hours a week is not exceeded:

Provided further that the said period may be extended in relation to particular mobile workers for objective or technical reasons or reasons concerning the organization of work, by a collective agreement or any other agreement entered into between the employer and mobile workers employed by him in compliance with national legislation, from a period of 17 weeks to a period not exceeding 26 weeks.

(b) Working time for different employees shall be the sum of the working hours. The employer shall ask the mobile worker concerned in writing for an account of time worked for another employer and the mobile worker shall provide such information in writing.

(c) Where night work is performed, the daily working time of a mobile worker shall not exceed ten hours in any period of 24 hours:

Provided that the period of ten hours may be extended in relation to particular mobile workers for objective or technical reasons or for reasons concerning the organisation of work, by a collective agreement or any other agreement entered into between the employer and mobile workers employed by him in compliance with national legislation.

(d) An employer shall ensure that the time limits specified in the preceding paragraphs are complied with in the case of each mobile worker employed by him.

(e) The times of breaks, rests and periods of availability shall not be included in the calculation of working time.

(f) A period of availability shall not be treated as such unless the mobile worker knows before the start of the relevant period about that period of availability and its reasonably foreseeable duration.

(g) The time spent by a mobile worker driving in a team, the time spent sitting next to the driver or on the couchette while the vehicle is in motion shall be a period of availability for that mobile driver."; and

(c) in sub-regulation (2) (b), as renumbered, for the words "regulation 21" there shall be substituted the words "regulation 24".

Substitutes regulation 23, as renumbered, of the principal regulations.

16. For regulation 23 of the principal regulations, as renumbered, there shall be substituted the following:

"23. (1) (a) Without prejudice to the provisions of sub-regulation (2), mobile workers shall work for no more than six consecutive hours without a break.

(b) Where the working time of a mobile worker exceeds six hours but does not exceed nine hours, working time shall be interrupted by a break of at least 30 minutes.

(c) Where the working time of a mobile worker exceeds nine hours, working time shall be interrupted by a break of at least 45 minutes.

(d) Breaks may be subdivided into periods of not less than 15 minutes each.

(2) (a) In the case of drivers, a driver shall observe a break of at least 45 minutes after four-and-a-half hours' driving, unless he begins a rest period.

(b) This break may be replaced by breaks of at least 15 minutes each distributed over the driving period or immediately after this period in such a way as to comply with the provisions of the preceding paragraph.

(c) During these breaks, the driver may not carry out any other work. For the purpose of this section, the waiting

time and time not devoted to driving spent in a vehicle in motion, a ferry, or a train shall not be regarded as 'other work'.

(d) The breaks observed under this sub-regulation may not be regarded as daily rest period.".

Amends regulation 24, as renumbered, of the principal regulations.

17. In sub-regulation (1)(a) of regulation 24 of the principal regulations, as renumbered, for the words "the driver" there shall be substituted the words "mobile workers".

Amends regulation 25, as renumbered, of the principal regulations.

18. In sub-regulation (1) of regulation 25 of the principal regulations, as renumbered, for the words "regulation 21" there shall be substituted the words "regulation 24".

Substitutes regulation 27, as renumbered, of the principal regulations.

19. For regulation 27 of the principal regulations, as renumbered, there shall be substituted the following:

"Information, records and penalties.

27. (1) An employer shall -

(a) notify every mobile worker in his employment of the provisions of regulations 22 to 26 of these regulations and the provisions of any collective or any other agreement applicable to the said worker reached on the basis of these regulations,

(b) keep a record of any time worked by each mobile worker in his employment, including the time worked by that worker for another employer, in the latter case on the basis of details provided by the worker,

(c) provide, at the request of a mobile worker, a copy of the record of hours worked by that worker,

(d) organize drivers' work in such a way that drivers are able to comply with the relevant provisions of these regulations and any other relevant legislation.

(2) A mobile worker shall notify his employer any time worked by the worker for another employer for inclusion in the calculation of the worker's working time.

(3) The records referred to in sub-regulation (1) shall be kept by the employer for a period of two years after the end of the period covered by the said records.

(4) Employers shall make periodic checks to ensure that all legal requirements have been complied with and if breaches are found to have occurred, the employer shall take appropriate steps to prevent their repetition.

(5) Any person who contravenes or fails to comply with the provisions of regulations 22 to 26 shall be guilty of an offence and shall be liable to a minimum fine *(multa)* of twenty five liri (Lm25).".

Amends regulation 28, as renumbered, of the principal regulations.

20. Regulation 28 of the principal regulations, as renumbered, shall be amended as follows:

(a) the words "Passenger Transport Operator's Licence" shall be substituted, wherever they appear, with the words "operator's licence for the carriage of passengers by road".

(b) in sub-regulation (2) for the words "it is to be used." there shall be substituted the words "it is to be used. Such true copy shall be kept at all times in the said vehicle and shall be produced by the driver on demand by an authorized inspecting officer.";

(c) sub-regulation (4) shall be renumbered as sub-regulation (6); and

(d) immediately after sub-regulation (3) there shall be inserted the following new sub-regulations:

"(4) The number of vehicles authorised on the operator's licence may be varied at anytime upon a request in writing to the Authority, and once the Authority is satisfied that the licence holder still satisfies the requirement of financial standing, it shall vary the operator's licence accordingly without however changing the expiry date on that licence.

(5) Holders of an operator's licence for the carriage of passengers by road shall be in possession of an operating centre where vehicles used under the said licence shall be kept while not in use.".

Amends regulation 29, as renumbered, of the principal regulations.

21. Regulation 29 of the principal regulations, as renumbered, shall be amended as follows:

(a) in sub-regulation (1) thereof, for the words "any passenger" there shall be substituted the words "any road passenger";

(b) in sub-regulation (1)(a) for the words "Passenger Transport Operator's Licence" there shall be substituted the words "international operator's licence for the carriage of passengers by road",

(c) in sub-regulation (1)(b) for the words "Agreement States" there shall be substituted "Member States", and for the words "regulation 6" there shall be substituted the words "regulation 9";

(d) in sub-regulation (2) for the words "Agreement States" there shall be substituted the words "other Member States", for the words "regulation 26" there shall be substituted the words "regulation 29" and for the words "Agreement State" there shall be substituted the words "Member State";

(e) in sub-regulation (7) for the words "regulation 26" there shall be substituted the words "regulation 29";

(f) in sub-regulation (8) for the words "regulation 26" there shall be substituted the words "regulation 29" and for the words "reasoned decision." there shall be substituted the following:

"reasoned decision:

Provided that where the Authority refuses to issue or renew a Community Licence, the Authority shall by notice in writing, within seven days, inform the applicant or holder, as the case may be, of its decision and the reasons therefor:

Provided further that where the Authority refuses to issue or renew a Community Licence, the applicant or holder, as the case may be, may, within twenty-one days beginning on the date of such notice appeal before an appeals board to be set up according to the provisions of the Malta Transport Authority Act.".

Amends regulation 30, as renumbered, of the principal regulations.

22. Regulation 30 of the principal regulations, as renumbered, shall be amended as follows:

(a) in sub-regulation (1) (a) thereof, for the words "regulation 26" there shall be substituted the words "regulation 29";

(b) in sub-regulation (2) thereof, for the words "Agreement State" there shall be substituted the words "Member State".

Substitutes regulation 31, as renumbered, of the principal regulations.

23. For regulation 31 of the principal regulations, as renumbered, there shall be substituted the following:

"31. (1) Any decision by the Authority in accordance with regulation 30 of the principal regulations shall be subject to appeal before an appeals board to be set up according to the provisions of the Malta Transport Authority Act.

(2) Where the Authority suspends or withdraws a Community Licence, the Authority shall by notice in writing, within seven days, inform the licence holder of its decision and the reasons therefor and the holder may, within twenty-one days beginning on the date of such notice, appeal before the said appeals board.".

Amends regulation 32, as renumbered, of the principal regulations.

24. In sub-regulations (2) and (5) of regulation 32 of the principal regulations, as renumbered, for the words "Agreement State" there shall be substituted the words "Member State".

Amends regulation 33, as renumbered, of the principal regulations.

25. Regulation 33 of the principal regulations, as renumbered, shall be amended as follows:

(a) in sub-regulation (2) thereof, for the words "regulation 26" there shall be substituted the words "regulation 29", and for the words "Agreement State" there shall be substituted the words "Member State"; and

(b) in sub-regulation (3) thereof, for the words "Agreement State" there shall be substituted the words "Member State".

Amends regulation 35, as renumbered, of the principal regulations.

26. In regulation 35 of the principal regulations, as renumbered, for the words "regulations 31 to 40" there shall be substituted the words "regulations 36 to 39".

Amends regulation 36, as renumbered, of the principal regulations.

27. Regulation 36 of the principal regulations, as renumbered, shall be amended as follows:

(a) in sub-regulation (2) thereof, for the words "Agreement States" there shall be substituted the words "Member States"; and

(b) in sub-regulation (3) (b) thereof, for the words "regulation 26" there shall be substituted the words "regulation 29".

28. Regulation 37 of the principal regulations, as renumbered, shall be amended as follows:

Amends regulation 37, as renumbered, of the principal regulations.

(a) in sub-regulation (1) thereof, immediately after the word "applications" there shall be added the words "to the Authority";

(b) in sub-regulation (2) thereof, for the words "Agreement States" there shall be substituted "Member States"; and

(c) immediately after sub-regulation (2) thereof there shall be added the following new sub-regulations:

"(3) A decision on the application for authorisation for regular services starting from Malta shall be taken by the Authority within four months from the date of submission of the application by the carrier.

(4) Authorisation shall be granted unless:

(a) the applicant is unable to provide the service which is the subject of the application with equipment directly available to him;

(b) in the past the applicant has not complied with national or international legislation on road transport, and in particular the conditions and requirements relating to authorisations for international road passenger services, or has committed serious breaches of legislation in regard to safety, in particular with regard to the rules applicable to vehicles and driving and rest periods for drivers;

(c) in the case of an application for renewal of authorisation, the conditions of authorisation have not been complied with;

(d) it is shown that the service in question would directly compromise the existence of regular services already authorised, except in cases in which the regular services in question are carried out by a single carrier or group of carriers only;

(e) it appears that the operation of services covered by the application is aimed only at the most lucrative of the services existing on the links concerned; and

(f) a Member State decides on the basis of a detailed analysis that the said service would seriously affect the viability of a comparable rail service on the direct sections concerned. Any decision pursuant to this provision, together with the reasons therefor, shall be notified to the carriers affected.

(5) Where the Authority refuses to grant or renew an authorisation for regular services starting from Malta, the Authority shall by notice in writing, within seven days, inform the applicant or holder, as the case may be, of its decision and the reasons therefor and the applicant or holder may, within twenty-one days beginning on the date of such notice, appeal before an appeals board to be set up according to the provisions of the Malta Transport Authority Act.".

Amends regulation 39, as renumbered, of the principal regulations.

29. In sub-regulation (1) of regulation 39 of the principal regulations, as renumbered, for the words "subregulation (3) of regulation 30" there shall be substituted the words "sub-regulation (1) of regulation 33".

Amends regulation 40, as renumbered, of the principal regulations.

30. Regulation 40 of the principal regulations, as renumbered, shall be amended as follows:

(a) in sub-regulation (1) thereof, for the words "in subregulation (4) of regulation 30" there shall be substituted the words "regulation 32"; and

(b) immediately after sub-regulation (2) thereof, there shall be added the following new sub-regulation:

"(3) The Authority shall issue the said journey forms to carriers established in Malta."

Amends regulation 44, as renumbered, of the principal regulations.

31. In regulation 44 of the principal regulations, as amended, for the words "Agreement States" there shall be substituted the words "Member States".

Amends regulation 47, as renumbered, of the principal regulations.

32. In sub-regulation (1) of regulation 47 of the principal regulations, as renumbered, for the words "regulation 42" there shall be substituted the words "regulation 45".

Substitutes title to Part V of the principal regulations.

33. The title of Part V of the principal regulations shall be deleted and the following title shall be substituted therefor:

"INSPECTIONS AND CONTRAVENTIONS".

Amends regulation 56, as renumbered, of the principal regulations.

34. In regulation 56, for the words "regulation 50" there shall be substituted the words "regulation 53".

Adds new regulation 58 to the principal regulations.

35. Immediately after regulation 57 of the principal regulations, as renumbered, there shall be inserted the following new regulations:

"Contraventions and fines.

58. (1) A person who contravenes regulation 5 of these regulations shall be guilty of an offence and shall be liable, on summary conviction thereof, to a fine *(multa)* not exceeding Lm25.

(2) A person who, for the purpose of obtaining, whether for himself or another, the grant or renewal of a road passenger operator's licence, makes a declaration required by these regulations and which he knows to be false, shall be liable to criminal action.

(3) A person who makes use of a vehicle for the carriage of passengers for hire or reward when that vehicle is not covered by an operator's licence, that person shall be guilty of an offence and shall be liable on summary conviction, to a fine *(ammenda)* not exceeding Lm25.

(4) A person who contravenes sub-regulation 29 (2) shall be guilty of an offence and shall be liable on summary conviction, to a fine *(ammenda)* not exceeding Lm25.

(5) A person who contravenes regulation 48 shall be guilty of an offence and shall be liable on summary conviction, to a fine *(ammenda)* not exceeding Lm25.".

Amends the First Schedule to the principal regulations.

36. In the First Schedule to the principal regulations, for the words "(Regulation 8)" there shall be substituted the words "(Regulation 6)" and, in Part 1 and in Part 2 of the said Schedule, for the words "i.e. A person qualified by virtue of the Companies Act or an Accountant recognized by the Minister responsible for transport" there shall be substituted the words "i.e. An Auditor or Accountant as defined by the Accountancy Profession Act."

Amends the Second Schedule to the principal regulations.

37. In the Second Schedule to the principal regulations, for the words "(Regulation 9)" there shall be substituted the words "(Regulation 12)" and in Part 2 of the said Schedule, for the words "REGULATION 9" in the title there shall be substituted the words "REGULATION 12".

Amends the Third Schedule to the principal regulations.

38. In the Third Schedule to the principal regulations, for the words "(Regulation 15)" there shall be substituted the words "(Regulation 18)".

Amends the Fourth Schedule to the principal regulations.

39. The Fourth Schedule to the principal regulations shall be amended as follows:

(a) for the words "(Regulation 26)" there shall be substituted the words "(Regulation 29)" ;

(b) in the Maltese text for the words *"bil-kowċ u x-xarabank"* there shall be substituted the words *"b'vetturi għat-trasport tal-passiġġieri"*; and

(c) immediately after the words "Signature and stamp of the Malta Transport Authority" there shall be inserted the following:

"(Second page of the licence)

General provisions

1. This licence is issued pursuant to Council Regulation (EEC) No 684/92 of 16 March 1992 on common rules for the international carriage of passengers by coach and bus, as amended by Regulation (EC) No 11/98.

2. This licence is issued by the Malta Transport Authority to the carrier for hire or reward who:

– is authorized to undertake carriage by means of regular services, including special regular services or occasional services by coach and bus,

– satisfies the conditions laid down in accordance with Community rules on admission to the occupation of road passenger transport operator in national and international transport operations,

– meets legal requirements on road safety as far as the standards for drivers and vehicles are concerned.

3. This licence permits the international carriage of passengers by coach and bus for hire or reward on all transport links for journeys carried out in the territory of the Community:

– where the place of departure and place of destination are situated in two different Member States, with or without transit through one or more Member States or third countries,

– from a Member State to a third country and vice versa, with or without transit through one or more Member States or third countries,

– between third countries crossing the territory of one or more Member States in transit,

and empty journeys in connection with transport operations under the conditions laid down by Regulation (EEC) No 684/92.

In the case of a transport operation from a Member State to a third country and vice versa, Regulation (EEC) No 684/92, is applicable, for the journey made in the territory of the Member State of picking up or setting down, once the necessary agreement between the Community and the third country in question has been concluded.

4. This licence is personal and non-transferable.

5. This licence may be withdrawn by the Malta Transport Authority in particular where the carrier:

– no longer meets the conditions laid down in Article 3 (1) of Regulation (EEC) No 684/92,

– has supplied inaccurate information regarding the data required for the issue or renewal of the licence,

– has committed a serious breach or repeated minor breaches of road safety regulations, in particular with regard to the rules applicable to vehicles, driving and rest periods for drivers and the provision, without authorisation, of parallel or temporary services as referred to in Article 2 (1.3) of Regulation (EEC) No 684/92. The Malta Transport Authority may, inter alia, withdraw the Community licence or make temporary and/or partial withdrawals of the certified true copies of the Community licence.

These penalties are determined in accordance with the seriousness of the breach committed by the holder of the Community licence and with the total number of certified

true copies that he possesses in respect of his international trade.

6. The original of the licence must be kept by the carrier. A certified true copy of the licence must be carried on the vehicle carrying out an international transport operation.

7. This licence must be presented at the request of any inspecting officer.

8. The holder must, on the territory of each Member State, comply with the laws, regulations and administrative measures in force in that State, particularly with regard to transport and traffic.

9. 'Regular services' means services which provide for the carriage of passengers at specified intervals along specified routes, passengers being taken up and set down at predetermined stopping points. Regular services shall be open to all, subject, where appropriate, to compulsory reservation.

The regular nature of the service shall not be affected by any adjustment to the service operating conditions.

Regular services require authorization.

'Special regular services' means regular services which provide for the carriage of specified categories of passengers, to the exclusion of other passengers, at specified intervals along specified routes, passengers being taken up and set down at predetermined stopping points.

Special regular services shall include:

(a) the carriage of workers between home and work;

(b) carriage to and from the educational institution for school pupils and students;

(c) the carriage of soldiers and their families between their homes and the area of their barracks.

The fact that a special service may be varied according to the needs of users shall not affect its classification as a regular service.

Special regular services do not require authorisation if they are covered by a contract between the organiser and the carrier.

The organisation of parallel or temporary services, serving the same public as existing regular services, requires authorisation.

'Occasional services' means services which do not fall within the definition of regular services, including special regular services, and whose main characteristic is that they carry groups constituted on the initiative of a customer or of the carrier himself. The organisation of parallel or temporary services comparable to existing regular services and serving the same public as the latter shall be subject to authorisation in accordance with the procedure laid down in Section II of Regulation (EEC) No 684/92. These services shall not cease to be occasional services solely because they are provided at certain intervals.

Occasional services do not require authorisation.".

Amends the Fifth Schedule to the principal regulations.

40. In the Fifth Schedule to the principal regulations, for the word "Authorisations" in the title there shall be substituted the word "Authorisation", for the words "(Regulation 33)" there shall be substituted the words "(Regulation 36)", and for the words "with regulation 26 et seq" there shall be substituted the words "with the Motor Vehicles (Carriage of Passengers by Road) Regulations, 2003".

Amends the Sixth Schedule to the principal regulations.

41. In the Sixth Schedule to the principal regulations, for the words "(Regulation 34)" there shall be substituted the words "(Regulation 37)".

Amends the Seventh Schedule to the principal regulations.

42. In the Seventh Schedule to the principal regulations, for the words "(Regulation 38)" there shall be substituted the words "(Regulation 40 and 49)".

Amends the Eighth Schedule to the principal regulations.

43. In the Eighth Schedule to the principal regulations, for the words "(Regulation 39)" there shall be substituted the words "(Regulation 41)", for the words "Agreement States" there shall be substituted the words "Member States", and for the words "within the meaning of regulation 38" there shall be substituted the words "within the meaning of regulation 41".

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