L.N. 223 of 2007

TRAFFIC REGULATION ORDINANCE

(CAP. 65)

Motor Vehicles (Carriage of Passengers by Road) (Amendment) Regulations, 2007

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:-

Citation.

1. The title of these regulations shall be the Motor Vehicles (Carriage of Passengers by Road) (Amendment) Regulations, 2007, 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) immediately after the definition "Authority" there shall be inserted the following new definition:

" "break" means any period during which a driver may not carry out any driving or any other work and which is used exclusively for recuperation";

(b) immediately after the definition "cabotage transport operations ", there shall be inserted the following new definition:

" "carriage by road" means any journey made entirely or in part on roads open to the public by a vehicle, whether laden or not, used for the carriage of passengers";

(c) for the definition "daily driving period" there shall substituted the following definition:

" "daily driving time" means the total accumulated driving time between the end of one daily rest period and the

beginning of the following daily rest period or between a daily rest period and a weekly rest period;";

(d) immediately after the definition "daily driving time" there shall be inserted the following new definitions:

"daily rest period" means the daily period during which a driver may freely dispose of his time and covers a "regular daily rest period" and a "reduced daily rest period" as defined under these regulations;

"Directive 2006/22/EC" means Directive 2006/22/EC of the European Parliament and of the Council of 15th March, 2006, on minimum conditions for the implementation of Council Regulation (EEC) No. 3820/85 and (EEC) No. 3821/85 concerning social legislation relating to road transport activities and repealing Council Directive 88/599/EEC;";

(e) in the definition "driver" immediately after the words "is carried in the vehicle" there shall be added the words "as part of his duties";

(f) immediately after the definition "driver" there shall be added the following new definitions:

" "driving period" means the accumulated driving time from when a driver commences driving following a rest period or a break until he takes a rest period or a break. The driving period may be continuous or broken;

"driving time" means the duration of driving activity recorded automatically or semi-automatically by the recording equipment as defined in the Malta Vehicles (Weights, Dimensions and Equipment) Regulations or recorded manually as required by regulation 37 of the said regulations;";

L.N. 162 of 2003.

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

" "motor vehicle" means any self-propelled vehicle travelling on the road, other than a vehicle permanently running on rails, and normally used for the carriage of passengers;

"multi-manning" means the situation where, during each period of driving between any two consecutive daily rest periods, or between a daily rest period and a weekly rest

period, there are at least two drivers in the vehicle to do the driving. For the first hour of multi-manning the presence of another driver or drivers is optional but for the remainder of the period it is compulsory;";

(h) immediately after the definition "operator's licence for the carriage of passengers by road" there shall be inserted the following new definition:

" "other work" means all activities as defined in the definition "working times" except driving, including any work for the same or another employer, within or outside the transport sector;";

(i) immediately after the definition "public highway" there shall be inserted the following new definitions:

" "reduced daily rest period" means any period of rest of at least nine hours but less than eleven hours;

"reduced weekly rest period" means any period of rest of less than 45 hours, which may, subject to the conditions laid down in regulation 24, be reduced to a minimum of 24 consecutive hours;

"regular daily rest period" means any period of rest of at least 11 hours. Alternatively, this regular daily rest period may be taken in two periods, the first of which must be an uninterrupted period of at least three hours and the second an uninterrupted period of at least nine hours;

"regular weekly rest period" means any period of rest of at least 45 hours;";

(j) for the definition "regular services" there shall be substituted the following:

" "regular passenger services" means national and international services which provide for the carriage of passengers at specified intervals along specified routes, passengers being taken on board or disembarking at predetermined stopping points;";

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

" "rest" means any uninterrupted period during which the driver may freely dispose of his time;";

(l) immediately after the definition "week" there shall be added the following new definitions:

" "weekly driving time" means the total accumulated driving time during a week;

"weekly rest period" means the weekly period during which a driver may freely dispose of his time and covers a "regular weekly rest period" and a "reduced weekly rest period as defined under these regulations;"."

Substitutes regulation 17 of the principal regulations.

3. For regulation 17 of the principal regulations there shall be substituted the following:

"17. (1) Regulations 18 to 27 shall only apply to international carriage by road of passengers by vehicles which are constructed or permanently adapted for carrying more than nine persons including the driver, and are intended for that purpose.

(2) The following types of vehicles shall be exempt from the provisions of this Part of the regulations:

(a) vehicles with a maximum authorised speed not exceeding 40 kilometres per hour; and

(b) commercial vehicles, which have a historic status, which are used for the non-commercial carriage of passengers.

(3) For the purpose of this part of the regulations, "transport undertaking" shall mean any natural person, any legal person, any association or group of persons without legal personality, whether profit-making or not, or any official body, whether having its own legal personality or being dependent upon an authority having such personality, which engages in carriage by road, whether for hire or for own account.".

Amends regulation 22 of the principal regulations.

4. Regulation 22 of the principal regulations shall be amended as follows:

(a) for paragraph (a) of sub-regulation (2), there shall be substituted the following:

"(a) The daily driving time, including all driving time on the territory of the European Union or of a third country, shall not exceed nine hours, but it may be extended up to twice in any week to not more than ten hours.".

(b) sub-regulation (3) shall be renumbered sub-regulation (4);

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

"(3) The weekly driving time, including all driving time on the territory of the European Union or of a third country, shall not exceed 56 hours and shall not result in the maximum weekly working time laid down in sub-regulation (1) (a)."; and

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

"(5) A driver shall record as other work any time spent in activities as defined as "working time" in regulation 2 as well as any time spent driving a vehicle used for commercial operations, and shall also record any "period of availability", as defined in regulation 2, since his last daily or weekly rest period. This record shall be entered either manually on a record sheet, a printout or by the use of manual input facilities on recording equipment.".

5. Regulation 23 (2) of the principal regulations shall be amended as follows:

Amends regulation 23 of the principal regulations.

(a) paragraph (a) shall be amended as follows;

"(a) A driver shall take an uninterrupted break of not less than forty-five minutes after a driving period of four-and-a-half-hours, unless he takes a rest period.".

(b) in paragraph (b), for the word "breaks" there shall be substituted the words "a break", for the words "each distributed" there shall be substituted the words "followed by a break of at least thirty minutes, each distributed", and the words "or immediately after this period" shall be deleted; and

(c) paragraphs (c) and (d) shall be deleted.

Substitutes regulation 24 of the principal regulations.

6. For regulation 24 of the principal regulations there shall be substituted the following:

"Daily and weekly rest periods.

24. (1) A driver or any other mobile worker shall have daily and weekly rest periods.

(2) A daily rest period of eleven hours shall be taken within each period of twenty-four hours after the end of the previous daily rest period or weekly rest period:

Provided that the daily rest period may be reduced to at least nine hours no more than three times between any two weekly rest periods.

(3) A daily rest period may be extended to make a regular weekly rest period or a reduced weekly rest period.

(4) Notwithstanding sub-regulation (2), a driver engaged in multi-manning shall, within thirty hours of the end of a daily or weekly rest period, take a new daily rest period of at least nine hours.

(5) (a) In any two consecutive weeks a driver or any other mobile worker shall take at least:

(i) two regular weekly rest periods, or

(ii) one regular weekly rest period and one reduced weekly rest period of at least twenty-four hours:

Provided that the reduction shall be compensated by an equivalent period of rest taken en bloc before the end of the third week following the week in question.

(b) A weekly rest period shall start no later than at the end of six twenty-four-hour periods from the end of the previous weekly rest period.

(6) (a) Any rest taken as compensation for a reduced weekly rest period shall be attached to another rest period of at least nine hours.

(b) Where a driver or any other mobile worker chooses to do this, daily rest periods and reduced weekly rest periods away from base may be taken in a vehicle, as long as the vehicle has suitable sleeping

facilities for each driver or mobile worker and the vehicle is stationary.

(7) A weekly rest period that falls in two weeks may be counted in either week, but not in both.".

7. For regulation 25 of the principal regulations there shall be substituted the following: Substitutes regulation 25 of the principal regulations.

"Interruption of daily rest period and departing from regulations.

25. (1) Notwithstanding regulation 24, a driver or any mobile worker engaged in the carriage of passengers who accompanies a vehicle which is transported by ferry or train, that driver or mobile worker may interrupt the regular daily rest period not more than twice by other activities not exceeding one hour in total and during that regular daily rest period, the driver or mobile worker shall have access to a bunk or couchette.

(2) Any time spent travelling to a location to take charge of a motor vehicle used for the carriage of passengers, or to return from that location, when the vehicle is neither at the driver's or mobile worker's home nor at the employer's operational centre where the driver or other mobile worker is normally based, shall not be counted as a rest or break unless the driver or mobile worker is on a ferry or train and has access to a bunk or couchette.

(3) Any time spent by a driver driving any other motor vehicle which is not a passenger carrying motor vehicle, which is not at the driver's home or at the employer's operational centre where the driver is normally based, shall count as other work.

(4) Provided that road safety is not thereby jeopardised and to enable the vehicle to reach a suitable stopping place, the driver may depart from the provisions of regulations 22 to 24 to the extent necessary to ensure the safety of persons, of the vehicle or its load. The driver shall indicate the reason for such departure manually on the record sheet of the recording equipment or on a printout from the recording equipment or in the duty roster, at the latest on arrival at the suitable stopping place.".

8. For regulation 26 of the principal regulations there shall be substituted the following: Substitutes regulation 26 of the principal regulations.

"Liability of transport undertakings.

26. (1) A transport undertaking shall not give drivers it employs or who are put at its disposal any payment, even in the form of a bonus or wage supplement, related to distances travelled if that payment is of such a kind as to endanger road safety and, or encourages infringement of these regulations.

(2) A transport undertaking shall be liable, unless proved otherwise, for infringements committed by drivers of the undertaking, even if the infringement is committed on the territory of another Member State or of a third country.

(3) Transport undertakings shall ensure that –

(a) all data is downloaded from the vehicle's recording equipment at least every three months and from the driver card at least every 28 days;

(b) all data downloaded from both the vehicle's recording equipment and from the driver card is kept for at least 12 months following recording and, should an inspecting officer request it, such data shall be accessible, either directly or remotely, from the premises of the undertaking.

(4) Undertakings, tour operators, principal contractors, subcontractors and driver employment agencies shall ensure that contractually agreed transport time schedules respect these regulations.".

Amends regulation 27 of the principal regulations.

9. Regulation 27 of the principal regulations shall be amended as follows:

(a) in sub-regulation (1) (a) for the words "notify every mobile worker" there shall be substituted the words "notify every driver or any other mobile worker";

(b) in sub-regulation (1) (b) for the words "by each mobile worker" there shall be substituted the words "by each driver or mobile worker";

(c) in sub-regulation (1) (c) for the words "at the request of a mobile worker" there shall be substituted the words "at the request of a driver or any other mobile worker", and for the words "by that worker" there shall be substituted the words "by that driver or that other mobile worker";

(d) in sub-regulation (1) (d) for the words "organize drivers' work in such a way that drivers" there shall be substituted the words "organize drivers' and other mobile workers' work in such a way that drivers and other mobile workers"; and

(e) in sub-regulation (2) for the words "A mobile worker" there shall be substituted the words "A driver or any other mobile worker".

Amends regulation 29 of the principal regulations.

10. In regulation 29 (1) of the principal regulations, paragraph (b) shall be deleted and paragraph (c) shall be renumbered as paragraph (b).

Substitutes regulation 54 of the principal regulations.

11. For regulation 54 of the principal regulations there shall be substituted the following:

"54. (1) The Authority shall check on the compliance of the international road passenger transport operator through random checks carried out at the quayside, roadside or at the premises of the undertaking in accordance with Directive 2006/22/EC.

(2) Such checks shall be carried out by authorized inspecting officers using –

(a) equipment capable of downloading data from the vehicle unit and driver card of the digital tachograph, reading data, and analyzing data and, or transmitting findings to a central database for analysis,

(b) equipment to check the tachograph sheets.".

Substitutes regulation 55 of the principal regulations.

12. For regulation 55 of the principal regulations there shall be substituted the following:

"55. Quayside or roadside checks shall cover –

(a) daily and weekly driving times, breaks and daily and weekly rest periods, as well as the preceding days' record sheets which have to be carried on board the vehicle and, or the data stored for the same period on the driver card and, or in the memory of the recording equipment and, or on printouts;

(b) any cases where the vehicle's authorized speed of 100 km per hour has been exceeded during the current week, and in any case for the last day of the previous week on which the driver has driven the vehicle;

(c) where appropriate, momentary speeds attained by the vehicle as recorded by the recording equipment in no more than the previous twenty-four hours' use of the vehicle;

(d) the correct functioning of the recording equipment, thus determining the possible misuse of the equipment and, or the driver card, and, or record sheets; and

(e) technical requirements of the regulations regulating weights, dimensions and equipment for motor vehicles.".

Substitutes regulation 56 of the principal regulations.

13. For regulation 56 of the principal regulations there shall be substituted the following:

"56. Checks shall also be carried out at the premises of passenger transport undertakings operating internationally established in Malta and these checks shall, in addition to the provisions of regulation 55, include the following:

(a) weekly rest period and driving times between these rest periods;

(b) observance of the two-weekly limitations of driving times; and

(c) record sheets, vehicle unit and driver card data and printouts.".

Amends regulation 58 of the principal regulations.

14. For sub-regulations (4) and (5) of regulation 58 of the principal regulations there shall be substituted the following:

"(4) Any person who contravenes the provisions of regulations 22 to 27 shall be guilty of an offence and shall, on conviction, be liable to a fine (multa) of twenty-five liri.

(5) Any person who contravenes regulations 29(2) and 48 shall be guilty of an offence and shall be liable on conviction, to a fine (ammenda) not exceeding twenty-five liri.".

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