L.N. 43 of 2008

TRAFFIC REGULATION ORDINANCE (CAP. 65)

MALTA TRANSPORT AUTHORITY ACT (CAP. 332)

Motor Vehicle Roadworthiness Test (Amendment) Regulations, 2008

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, in consultation with the Malta Transport Authority, has made the following regulations:-

Title.

1. The title of these regulations is the Motor Vehicle Roadworthiness Test (Amendment) Regulations, 2008 and they shall be read and construed as one with the Motor Vehicle Roadworthiness Test Regulations, 1998, hereinafter referred to as "the principal regulations".

L.N. 126 of 1998.

Substitutes regulation 5 of the principal regulations.

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

"Exemptions and vehicles used by the Armed Forces of Malta.

5. (1) The Minister may in writing, in his discretion, exempt any class or type of vehicle from all or any of the provisions of these regulations.

(2) Vehicles belonging to the Armed Forces of Malta shall be tested annually by a licensed tester at a station established and operated by the said Armed Forces under the conditions provided for in the Sixth Schedule to these regulations:

Provided that the Armed Forces of Malta shall be exempted from signing the contract and from providing the guarantee provided for in the said Schedule.".

Amends regulation 8 of the principal regulations.

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

(a) in sub-regulation (1) for the words "Applications for authorisations as operators may be made by" there shall be substituted the words "Applications for authorisations as operators may be made to the Authority by"; and

(b) immediately after sub-regulation (4) there shall be added the following new sub-regulations (5) and (6):

"(5) An applicant for an operator's authorization shall satisfy the Authority that he -

(a) is of good repute, and

(b) is of an appropriate financial standing.

(6) For the purpose of this regulation –

(a) a person is not considered to be of good repute if he has been convicted, during the previous five years, of a crime liable to a term of imprisonment of three months or more or a fine of at least four hundred sixty euros; and

(b) a person is not considered as having an appropriate financial standing if he does not provide proof showing total assets less total liabilities of €23,000.".

Amends regulation 9 of the principal regulations.

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

(a) in sub-regulation (2), immediately after the words "fee per testing station" there shall be added the words "and such authorization shall not be transferable"; and

(b) immediately after sub-regulation (2) there shall be added the following new sub-regulations (3) and (4):

"(3) Where the Authority refuses an application for an operator's authorization, the Authority shall, by notice in writing within seven days, inform the applicant of its decision and the reasons therefor.

(4) 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 in accordance with the provisions of the Malta Transport Authority Act.".

Amends regulation 12 of the principal regulations.

5. In paragraph (c) of sub-regulation (1) of regulation 12 of the principal regulations for the words "regulation 22" there shall be substituted the words "regulation 25".

Amends regulation 13 of the principal regulations.

6. For sub-regulation (1) of regulation 13 of the principal regulations there shall be substituted the following:

"(1) Applications for licences as licensed testers may be made to the Authority by:

(a) an individual who:

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

(ii) is of good repute;

(iii) is in possession of a driving licence for the categories of vehicles applicant would be testing;

(iv) is in possession of a City and Guilds Level 2 certificate in motor vehicle engineering or an equivalent certificate; and

(v) has at least three years experience repairing the category of vehicles applicant would be testing;".

Amends regulation 19 of the principal regulations.

7. Regulation 19 of the principal regulations shall be amended as follows:

(a) in the provisos to paragraph (b) of sub-regulation (1), for the words "within twelve working days", wherever they appear, there shall be substituted the words "within 16 days"; and

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

"(5) No licence as specified in regulation 15 of the Motor Vehicles (Registration and Licensing) Regulations, 2004, shall be issued by the Malta Transport Authority unless the owner of the vehicle concerned produces to the Authority the passed test result in relation to the vehicle together with the relative receipt in respect to the Directorate's administration charge as specified in the Ninth Schedule.".

8. Regulations 22 to 30 of the principal regulations shall be renumbered as regulations 26 to 34 respectively.

Renumbers regulations 22 to 30 of the principal regulations.

9. For Part VI of the principal regulations there shall be substituted the following:

Substitutes Part VI of the principal regulations.

"PART VI

Breach of contract or licence conditions and major offences

21. (1) An operator who fails to comply with the conditions set out for operators under these regulations and a licensed tester who fails to comply with the conditions set out for licensed testers shall be in breach of the said conditions and shall be liable to the penalty points and administrative fines laid down in the Twelfth Schedule.

Breach of contract or licence conditions and penalty points.

(2) Where an operator fails to comply with the conditions set out for operators under these regulations and where a licensed tester fails to comply with the conditions set out for licensed testers under these regulations, the authorised officer shall give to the operator or to the licensed tester, as the case may be, a notice which shall specify the breach of the conditions, the appropriate number of penalty points to be endorsed on the operator's or tester's entry, and the administrative fine being imposed in the case of breaches committed by an operator.

(3) Where the number of penalty points on an operator's entry reaches a minimum of 250 points on five consecutive breaches, that number of penalty points shall automatically be increased by another 1,000 points and the operator shall be charged the administrative fine for each additional penalty point up to a maximum amount not exceeding €11,600.

(4) The administrative fine shall be €11 for each penalty point endorsed on the operator's entry.

(5) The administrative fine shall be paid within 90 days following the lapse of 21 days after the notification of the breach where no appeal is entered by the operator or 90 days from the date of the final decision given by the appeals board where an appeal had been entered by the operator.

(6) Where it is clearly established that an appeal entered by an operator is frivolous and, or vexatious, the said operator shall be liable to an administrative fine of €230.

(7) Failure to settle, within the prescribed period, the fines referred to in sub-regulations (3) and (4) shall cause the suspension of the operator's authorization and an additional daily administrative fine of €11 until the fine is paid.

Right of appeal.

22. (1) Where an operator, or a licensed tester, is served by a notice of a breach of conditions, by registered mail, that operator or licensed tester shall have the right to enter, within 30 days from receipt by the operator or licensed tester, of the said notice, an appeal before an appeals board to be set up in accordance with the provisions of the Malta Transport Authority Act.

(2) Where an operator, or a tester enters an appeal before the appeals board, such operator shall appear before the board in person on the day and time fixed for the hearing, to make submissions thereto and to produce such evidence as the board may allow.

(3) The decision of the board shall be final and binding except with respect to points of law, equity and, or breaches of principle of natural justice decided by the board from which an appeal shall lie to the Court of Appeal (Inferior Jurisdiction).

(4) The said Board of Appeal shall also determine any appeals for breaches of conditions committed by an operator or by a tester on the 1st September, 2006 or thereafter.

Period of endorsement of penalty points.

23. (1) Where, in a period of three consecutive years, an operator or a licensed tester does not commit any breach of conditions, the authorized officer shall, on the first day immediately following the last day of that three-year period, remove 50 per cent of any penalty points appearing on the entry of that operator or of that licensed tester rounded up to the nearest percentage point and notify the operator or licensed tester of the number of penalty points so removed.

(2) Where, after a period of three consecutive years during which an operator or a tester does commit any breach of conditions and, as mentioned in sub-regulation (1), would be entitled to the removal of 50 per cent of any penalty points appearing on his entry, that operator or tester, as the case may be, does not commit any breach of conditions in the next three consecutive years immediately following the first three consecutive years, the authorized officer shall, on the first day immediately following the last day of the second three-year period, remove all the penalty points appearing on the entry of that operator or of that licensed tester and notify the operator or licensed tester of the number of penalty points so removed.

Revocation by means of penalty points.

24. (1) Where the total number of penalty points endorsed on the entry of an operator equals or exceeds 2,000, the operator's authorisation shall be revoked, and the authorized officer shall inform in writing the operator of such revocation.

(2) Where the total number of penalty points endorsed on the entry of a licensed tester equals or exceeds 150, the tester's licence shall be revoked, and the authorized officer shall inform in writing the tester of such revocation.

Major offences.

25. Where an operator or a licensed tester –

(a) makes an improper use of VRT certificate blanks;

(b) issues a pass certificate without actually test the vehicle:

(c) backdate a VRT certificate;

(d) receives any payment other than that for the services rendered in accordance with fees stipulated in these regulations;

(e) destroy official documentary paper;

(f) falsify any data recorded during the testing of a vehicle,

that operator or tester, as the case may be, shall be guilty of an offence and shall, on conviction, be liable to the fines imposed by the Court and to the revocation of the operator's authorization or tester's licence.".

Amends regulation 26, as renumbered, of the principal regulations.

10. In sub-regulation (3) of regulation 26, as renumbered, of the principal regulations, for the words "regulation 24" there shall be substituted the words "regulation 28".

Amends the First Schedule to the principal regulations.

11. The First Schedule to the principal regulations shall be amended as follows:

(a) in paragraph D, for the words "Commercial vehicles at 86 kph" there shall be substituted the words "Commercial vehicles at 90 kph", and for the words "Commercial vehicles used nationally for the carriage of dangerous goods at a maximum of 86 kph" there shall be substituted the words "Commercial vehicles used for the carriage of dangerous goods at 90 kph"; and

(b) immediately after paragraph E there shall be added the following new paragraph:

"F. Examination of the light transmission of all motor vehicle windows to ensure compliance with levels prescribed in the Motor Vehicles Regulations, 1994.".

L.N. 128 of 1994.

Amends the Second Schedule to the principal regulations.

12. The Second Schedule to the principal regulations shall be amended as follows:

(a) for the words "(Regulation 4)" there shall be substituted the words "(Regulations 4 and 30)"; and

(b) in item B under category Class II, immediately under the words "Other light passenger vehicles" there shall be added the words "and Quad bikes".

Amends the Fourth Schedule to the principal regulations.

13. In the Fourth Schedule to the principal regulations, for the words "(Regulations 9, 19 and 24)" there shall be substituted the words "(Regulations 9 and 19)".

Amends the Fifth Schedule to the principal regulations.

14. In the Fifth Schedule to the principal regulations, for the words "(Regulations 9 and 24)" there shall be substituted the words "(Regulations 9 and 28)".

Amends the Sixth Schedule to the principal regulations.

15. The Sixth Schedule to the principal regulations shall be amended as follows:

(a) for the words "(Regulations 10 and 21)" there shall be substituted the words "(Regulations 10, 21 and 28)"; and

(b) for the words from "(ii) a collective bank guarantee" to the words "relating to the station:" there shall be substituted the words "(ii) a collective bank guarantee of not less than €81,500 provided severally between all the stations that elect to give this guarantee.

Any operator:".

Amends the Seventh Schedule to the principal regulations.

16. In the Seventh Schedule to the principal regulations, for the words "(Regulation 14)" there shall be substituted the words "(Regulations 14 and 21)".

17. The Eighth Schedule to the principal regulations shall be amended as follows: Amends the Eighth Schedule to the principal regulations.

(a) under category Class II B, immediately after the words "Other light passenger (g.v.w. under 3,500 kgs) 8.70 D" there shall be added the words "Quad bikes 8.70 D", and

(b) immediately after the words "*Fees inclusive of VAT" there shall be added the following:

"Frequency of test

A. Not subject to test.

B. One year after the date on which the vehicle was first registered, and annually thereafter.

C. Two years after the date on which the vehicle was first registered and thereafter biennially.

D. Four years after the date on which the vehicle was first registered, and thereafter biennially.

E. On first registration in Malta, and thereafter according to the above categories.

F. On first registration in Malta, the vehicle has to be accompanied by either a local VRT passed test certificate or an equivalent certificate (based on the requirements of EU Council Directive 96/96/EC and its subsequent amendments) issued by the competent authority of any State within the European Economic Area. These vehicles are required to be tested annually thereafter.".

18. In the English text of the Ninth Schedule to the principal regulations, for the words "Midibuses, minibuses and vans (g.v.w. under 3,500 kgs) 0.35" there shall be substituted the words "Midibuses, minibuses and vans (g.v.w. under 3,500 kgs) 0.30". Amends the English text of the Ninth Schedule to the principal regulations.

19. In the Tenth Schedule to the principal regulations, for the words "(Regulations 27 and 29)" there shall be substituted the words "(Regulations 31 and 33)". Amends the Tenth Schedule to the principal regulations.

Amends the Eleventh Schedule to the principal regulations.

20. In the Eleventh Schedule to the principal regulations, for the words "(Regulation 28)" there shall be substituted the words "(Regulation 32)".

Adds new Twelfth Schedule to the principal regulations.

21. Immediately after the Eleventh Schedule to the principal regulations there shall be added the following new Twelfth Schedule:

"TWELFTH SCHEDULE

(Regulation 21)

Penalty Points System used to determine the number of penalty points to be endorsed for breaches of the operator's conditions of contract

Item	Offence	Points
1	Operating without an assistant	5
2	No MOT inspection manual in test lane	5
3	Not carrying out all preliminary checks	5
4	Not updating the online system within stipulated times and/or not adhering to other administrative procedures	5
5	Not checking chassis number properly (or VIN)	20
6	Not checking engine number correctly	20
7	Failure to carry out the correct test procedure as stipulated in the VRT manual and its amendments or to imput correct vehicle data as stipulated in the VRT manual prior to carrying out an official test on that particular vehicle	20
8	Overlooking a fault in position lights	10
9	Overlooking a fault in signalling lights	10
10	Overlooking a fault in driving lights	10
11	Overlooking a fault in tell-tale lights	10
12	Overlooking a fault in service brakes	100
13	Overlooking a fault in parking brakes	20
14	Overlooking a fault in steering	50
15	Overlooking a fault in tyres	50
16	Overlooking a fault in suspension	50
17	Overlooking a fault in windscreen	20
18	Overlooking a fault in wipers	15
19	Overlooking a fault in exhaust system	25
20	Overlooking a fault in noise	30
21	Overlooking a fault in emission from spark ignition engines	50
22	Overlooking a fault in compression ignition engine exhaust smoke	50
23	Overlooking a missing or tampered with diesel pump seal	50
24	Conviction of a serious offence not necessarily connected with vehicle mandatory testing but which could affect the proper conduct of VRT test.	1,000
25	Tests carried out by unlicensed testers	1,000
26	Additional penalty points to operators who have five offences totaling at least 250 points	1,000
27	Conducting and providing services other than a service which forms part of a VRT test within the designated area approved by ADT	20
28	VRT station not clean or unsafe for the tester and the public	30
29	Testing with faulty or without VRT equipment, or with an expired calibration certificate	50

Penalty Points System used to determine the number of penalty points to be endorsed for breaches of the tester's conditions

Item	Offence	Points
1	Not carrying out all preliminary checks	5
2	Not checking chassis number properly (or VIN)	20
3	Not checking engine number correctly	20
4	Failure to carry out the correct test procedure as stipulated in the VRT manual and its amendments or carrying out of test procedures incorrectly (that is, not imputing data of vehicles before test on that particular vehicle is carried out)	20
5	Overlooking a fault in position lights	10
6	Overlooking a fault in signalling lights	10
7	Overlooking a fault in driving lights	10
8	Overlooking a fault in tell-tale lights	10
9	Overlooking a fault in service brakes	100
10	Overlooking a fault in parking brakes	20
11	Overlooking a fault in steering	50
12	Overlooking a fault in tyres	50
13	Overlooking a fault in suspension	50
14	Overlooking a fault in windscreen	20
15	Overlooking a fault in wipers	15
16	Overlooking a fault in exhaust system	25
17	Overlooking a fault in noise	30
18	Overlooking a fault in emission from spark ignition engines	50
19	Overlooking a fault in compression ignition engine exhaust smoke	50
20	Overlooking a fault in diesel pump seal	50
21	Four repeat offences of the same type done by the same tester	5
22	Conducting and providing services not related to VRT	20
23	Conducting a test on a vehicle the class of which is not specified in the tester's licence	50
24	Preconditioning a vehicle owner to effect repairs or adjustments as indicated in the test result at the same premises	100
25	Carrying out a roadworthiness test on a motor vehicle on which the operator or the licensed tester has, immediately prior to the test, carried out repairs on testable items	100
26	Conviction of a serious offence not necessarily connected with vehicle mandatory testing but which could affect the proper conduct of VRT test.	150

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