VERŻJONI ELETTRONIKA

L.N. 29 of 2010

AUTHORITY FOR TRANSPORT IN MALTA ACT (CAP. 499)

New Roads and Road Works Regulations, 2010

IN exercise of the powers conferred by article 43 of the Authority for Transport in Malta Act, the Minister for Infrastructure, Transport and Communications, in consultation with the Authority for Transport in Malta has made the following regulations:-

Title and commencement.

1. (1) These regulations may be cited as the New Roads and Road Works Regulations, 2010.

(2) These rules shall be deemed to have come into force on the 1st January, 2010.

PART I

PRELIMINARY PROVISIONS

Interpretation.

2. In these regulations, unless the context otherwise requires, the following expressions have the following meanings:

"the Authority" means the Authority for Transport in Malta established under the Authority for Transport in Malta Act;

"application" means an application for any road works permit;

"applicant" means the person commissioning the road works;

"communications service provider" means an operator who provides an electronic communications service using, for such purpose, facilities placed in or under or on a public road;

"completion period" means the specified period in which all works covered by the permit shall be completed;

"contractor" means an undertaking which has the professional and technical means to carry out any road works

and which shall annually provide the Authority with a bank guarantee for the amount of €15,000;

"emergency works" means works which are required to be executed following failure of underground utility or communications services or works the carrying out of which is urgently required in order to prevent or put an end to, or reduce the risk of loss, injury or damage to persons or property;

"improvement" includes the widening, re-aligning and re-shaping of roads;

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

"inhabited area" means any area in which there is an aggregation of residential buildings inhabited or capable of being inhabited by more than one hundred persons;

"Local Council" means a local government council established in terms of the Local Councils Act; Cap. 363.

"local plan" has the same meaning as is given to it in the Development Planning Act; Cap. 365.

"local road" means a public road other than an arterial road or a distributor road;

"maintenance" in relation to public roads includes improvement and management;

"major works" means any road works which are neither minor works nor emergency works;

"Malta Environment and Planning Authority" means the Malta Environment and Planning Authority as established under the Development Planning Act;

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

"the Minister" means the Minister responsible for roads;

"minor works" shall include works consisting of –

(a) the connection of a consumer to a service provided by, or intended to be provided by, a utility service provider or a communications service provider;

(b) using an access hole for the purpose of ducting, accessing, repairing, or maintaining infrastructure under a road without effecting the traffic flow;

(c) the installation, repair or maintenance of traffic control items and inhabited road furniture not requiring excavations;

(d) routine road maintenance;

"new road" includes the extension of an existing road;

"occupier" means any person who is lawfully in possession of or exercising control over any land;

"owner", in relation to land or other immovable property, means any person who owns the land or any person representing the owner in the administration of the land concerned, or acting on behalf of the owner or assuming the character of owner, according to circumstances;

"permit" means a road works permit required from the Authority under the provisions of these regulations;

"person" means any natural or legal person;

"project owner" means a person appointed by an applicant for major road works permit, who shall be completely responsible for the application and whose position within the applicant entity would allow him to take decisions on his own in a reasonably short time and give direction to his team;

"private road" means any road other than a public road;

"public road" means any road which the Authority or a Local Council have a duty to maintain;

"residential building" means a structure used for the dwelling of a person or persons and includes any house, mezzanine, garage, room, store or other building;

"road" has the same meaning as is given to it in the Authority for Transport in Malta Act;

"road works" means any intervention on existing roads, including major road maintenance, the breaking up or opening of a road, trenching works, the construction or reconstruction of footways or carriageways, alterations in carriageways and footways, traffic calming measures, the construction or removal of road humps, and any intervention that alters or seeks to re-instate the surface of an existing road;

"routine road maintenance" means actions performed on a regular basis in order to keep a road, inhabited road, or bridge safe and fit for travel, actions performed to prevent deterioration where possible, and actions performed to return the appearance of the road surface and roadside to good condition; it includes, but is not limited to, patching pot holes, surface patching, crack sealing and filling, cleaning of inhabited roads, drains and culverts; installing traffic signs and signals; replacing damaged signs and road markings, controlling roadside brush and vegetation; cleaning roadside; repairing sidewalks;

"tenement" means any building or land separated from a road by a wall;

"traffic management schemes" means schemes for the management of traffic in various events with a combination of network planning and engineering measures to enhance road safety, with the aim to alleviate the adverse effects of motorized traffic including traffic signal controlled junctions, parking regulation, traffic calming, pedestrian and cycle route improvements and road signing also for road works and temporary situations;

"trenching" means the construction of an excavation made below the surface of the road for the purpose of accessing, installing, repairing and maintaining of utilities under a road;

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"underground utilities" means any electric, communications, water, sewer or drainage service or means of transmission that is installed beneath the surface of a road;

"undertaking" means any entity, including any person, engaged in economic activity, regardless of its legal status and the way in which it is financed;

"utility service provider" means an authority or an enterprise, the primary business of which is to provide electricity or gas or water or sewage to the public. The utility provider may be Government or publicly or privately owned.

PART II

CONSTRUCTION AND MAINTENANCE OF ROADS

Road construction and maintenance.

3. (1) The Authority shall provide, either by itself or through an undertaking, and where appropriate in consultation with the Malta Environment and Planning Authority, for the construction, reconstruction, widening, renewal, upkeep, improvement, management, maintenance and classification of roads:

Provided that where the road is neither an arterial road nor a distributor road, the upkeep, improvement and maintenance thereof shall be provided for by the appropriate Local Council in accordance with article 33 of the Local Councils Act.

(2) The Authority shall endeavour to ensure the highest quality standards and safety in any road construction, reconstruction, maintenance or any other road works and that such works are carried solely by contractors as defined under these regulations.

(3) The Authority shall keep a list, available on request, of all public roads as classified by it and may, at any time, delete from or add roads to that list.

Information on new arterial or distributor road.

4. Whenever it appears expedient to lay out a new arterial or distributor road or to widen or to deviate an existing arterial or distributor road, the Authority shall cause a notice, accompanied by a plan showing the proposed new road or the portion of road intended to be widened or deviated, and the lands through which it is to pass, to be published in the Gazette and in any newspaper.

5. Any land required in connection with the construction, widening or deviating of any road shall be acquired in accordance with the Land Acquisition (Public Purposes) Ordinance.

Acquisition of land for road purposes.

Cap. 88.

6. The Authority may prepare and publish a Code of Practice to guide itself, Local Councils, utility providers and communications service providers in the best principles of good practice in particular to minimize disruption and inconvenience during road works.

Code of Practice.

7. (1) Any person designing or building any road or carrying out maintenance or other work thereon shall comply with the following Design and Construction Standards for Road Works:

Compliance with standards.

(i) Volume 1- Specifications for Road Works;

(ii) Volume 2 – Notes for Guidance on the Specification for Road Works;

(iii) Volume 3 – Road Construction Details;

(iv) Volume 4 – Method of Measurement for Road Works and Notes for Guidance of Measurement of Road Works;

(v) Volume 5 - Design Manual for Roads and Bridges;

(vi) Volume 6 - Guidelines for the Standard Presentation of Design Documents for Road Construction.

(vii) Volume 7 – Directives for the Standardization of Pavements for Traffic Areas.

(2) The said Design and Construction Standards for Road Works shall be accessible to the public at the offices of the Authority, during normal office hours.

(3) Without prejudice to any action that may be exercisable against any person who designs or builds any road in contravention of this regulation, nothing in this regulation shall be construed as granting a right to any person against the Authority or against the Government or other public authority or against any person acting in his or her official capacity as an officer or an employee of Government or of any such aforesaid authority in respect of failure of any road to conform to the performance

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associated with the Design and Construction Standards for Road Works stipulated in this regulation.

Action in respect of injury or damage.

8. (1) In an action against the Authority or a Local Council in respect of injury or damage resulting from its failure to maintain a road it shall be a defence to prove that –

(a) the Authority or Local Council had taken such care as in all the circumstances was reasonably required to secure that the part of the road to which the action relates was not dangerous for traffic; or

(b) that the injury or damage resulted –

(i) from works carried out on or under that part of the road to which the action relates; and

(ii) from an event which occurred before the completion of the re-instatement or making good of that part of the road in accordance with any relevant requirement.

(2) For the purposes of a defence under paragraph (1)(a) the court shall in particular have regard to the following matters –

(a) the character of the road, and the traffic which was reasonably expected to use it;

(b) the standard of maintenance appropriate for a road of that character and used by such traffic;

(c) the state of repair in which a reasonable person would have expected to find the road;

(d) whether the Authority or Local Council knew, or could reasonably have been expected to know, that the condition of the part of the road to which the action relates was likely to cause danger to users of the road;

(e) where the Authority or Local Council could not reasonably have been expected to repair that part of the road before the cause of action arose, what warning notices of its condition had been displayed:

Provided that for the purposes of such a defence, it shall not be relevant to prove that the Authority or Local Council, as the case may be, had arranged for an authorized contractor to carry out or supervise the maintenance of the part of the road to which the action relates, unless it is also proved that the Authority or Local Council had given that contractor proper instructions with regard to the maintenance of the road and that it had carried out the instructions.

PART III

ROADS IN INHABITED AREAS

Width of new roads in inhabited areas.

9. (1) Every new road in any inhabited area or any road made with a view that it may form part of an inhabited area which may hereafter be built up shall be at least eight metres wide:

Provided that the Malta Environment and Planning Authority, in consultation with the Authority, may require any such road to be of a stated width exceeding eight metres but not exceeding eighteen metres.

(2) Where an existing road in an inhabited area is extended, the minimum width of the road may, with the permission of the Malta Environment and Planning Authority, in consultation with the Authority, be reduced to six metres.

Course, direction and position of new roads in inhabited areas.

10. No new road in an inhabited area, nor any road made with a view that it may form part of an inhabited area which may hereafter be built up, shall be made without the sanction from the Malta Environment and Planning Authority, in consultation with the Authority, as to its course, direction and position, and as to the manner in which the adjoining residential buildings are to be sewered and supplied with water and the surface water is to flow off.

Permission required for the opening of a new road in an inhabited area.

11. A new road in an inhabited area or an area which may hereafter be built up may only be opened with the permission of the Malta Environment and Planning Authority, in consultation with the Authority, and the Malta Environment and Planning Authority may refuse permission for the opening of a new such road:

Provided that where such permission is refused, the party aggrieved shall have the right to appeal from such a decision under the provisions of the Development Planning Act.

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Erection of buildings along new roads.

12. No building abutting on a new road in an inhabited area shall be erected before the road has been levelled to the proper line fixed by the Malta Environment and Planning Authority, in consultation with the Authority. The length of the road to be so levelled shall extend from any existing inhabited road already opened to the public to the extreme end of the frontage of the building to be erected.

Contribution payable by persons commencing the construction of buildings having access to a public road.

13. (1) (a) Subject to the provisions of regulations 9, 10, 11 and 12, no person may commence the construction of any building having access to, or having any window or other opening on to, any public road, before paying to the Malta Environment and Planning Authority, in respect of the formation of the said road, a contribution equal to the cost, as at the time of payment of the contribution, of the formation of such road (such cost to include the value, as at the time of payment of the contribution, of the land required for the formation of the road) or before paying to the Malta Environment and Planning Authority at least twenty-five per cent of such contribution and at the same time undertaking in writing to pay the balance within a period of not more than twelve months by equal monthly installments, commencing one month from the date of such payment and undertaking:

Provided that where the land on either side or on both sides of the road belongs to different owners the total contribution shall be apportioned among such owners in proportion to the frontage of the land belonging to each owner on to such road, in such manner that the whole cost of the road shall be distributed in proportion to such frontage among the various owners.

(b) Where any monthly installment referred to in paragraph (a) is not paid within ten days from the date when the payment of such installment falls due, the whole amount of the outstanding contribution shall become and be immediately due and owing to the Malta Environment and Planning Authority and the person who made the undertaking referred to in the said paragraph shall be deemed to have commenced the construction of the building in contravention of this regulation.

(2) A contribution in respect of the cost of the widening of any road, at whatever time carried out, may be claimed by the Malta Environment and Planning Authority as in the case of a new road and such contribution shall only be levied from the owner or owners who has or have derived a benefit from such widening and shall be apportioned in proportion to the benefit so derived.

(3) Where any road to which this sub-regulation applies exceeds eighteen metres in width, the cost of the formation or widening of the road in excess of such width shall not be taken into account in fixing the contribution payable to the Malta Environment and Planning Authority.

(4) Any contribution payable under the provisions of this regulation and any apportionment thereof among the owners shall, in default of agreement, be fixed by the Malta Environment and Planning Authority:

Provided that any party interested may impugn the assessment of the Malta Environment and Planning Authority by an application before the competent civil court.

(5) The rates of contributions leviable in respect of any class or type of building and the manner of their collection shall be those established under regulations made in terms of article 42 of the Development Planning Act.

(6) The said contributions shall be collected and levied by the Malta Environment and Planning Authority on account of the Government.

Rates for levelling, etc., of roads.

14. (1) The rates to be charged by the Authority for the levelling, metalling and asphalting of surface otherwise of roads in an inhabited area or an area which may hereafter be built up shall be those as prescribed by regulations under the Authority for Transport in Malta Act.

(2) Where any person fails to form any road in an inhabited area or an area which may hereafter be built up in accordance with the provisions of these regulations, the Authority may itself proceed to form such a road after giving notice of its intention so to do by means of a notice in the Gazette, giving such person fifteen days within which to comply. Such formation shall be at the expense of the person who would otherwise have been obliged to form such inhabited road, and the Authority shall have the right to recover any expense so made from such person.

PART IV

PRIVATE ROADS

Authority may carry out works in private roads.

15. The Authority may, at any time, carry out or cause or allow to be carried out in and under any private road any work

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whatsoever which it considers necessary or useful on grounds of public utility.

Levelling, etc., of private road by owner.

16. Every new private road shall be properly levelled, metalled and put in a proper state as regards its drainage, by the person by whom such road shall have been opened, in accordance with the directions and to the satisfaction of the Authority. Every such road shall, moreover, be provided by the said person with footways with kerb and gutter made of hard stone or other suitable material to the satisfaction of the Authority.

Upkeep of private roads.

17. Every private road shall be kept in a proper state of repair to the satisfaction of the Authority, by the person by whom such road shall have been opened.

Persons deemed to have opened road and to be owners thereof.

18. The owners of any property immediately abutting on any private road or the persons holding such property on emphyteutical lease shall, for the purpose of this Part of the regulations, be deemed to be the persons who opened such road and the owners thereof:

Provided that any person who is bound to carry out any work in any such road shall be entitled to bring against third parties any civil action, admissible according to law, for the recovery of any expenses incurred in the execution of the work:

Provided further that no such civil action shall delay the execution of the work by the person who is bound thereto.

Asphalting, etc., of private roads.

19. (1) Without prejudice to any other action available according to law, the Authority shall be enabled to carry out or, as the case may be, to continue the carrying out of all or any of the works specified in regulations 16 and 17 after having given the owner notice by registered letter of its decision so to do; any such works shall be carried out at the expense of the person who has opened the road.

(2) Every private road, including the footway thereof, shall, on notice by registered letter given by the Authority, be asphalted or surfaced otherwise as indicated by the Authority, by the said Authority, at the owner's expense.

(3) Each of the notices mentioned in the last two preceding sub-regulations shall specify the amount payable by the

owner as his share of the expense in connection with the proposed works.

(4) The Authority shall give notice by registered letter of the date of completion of the works referred to in sub-regulations (1) and (2) to the owners, who shall effect payment, unless they have already done so, of the amount due by them without interest, within a month of the receipt of the notice of completion of the works.

(5) Every notice sent by registered post in terms of this regulation shall be deemed to have reached the addressee in the normal course of postal delivery.

(6) Private roads shall, when such roads are included in a scheme or in a local plan -

(a) on their asphalting or other surfacing; and

(b) upon the publication in the Gazette of an Order by the President to that effect,

become government property and the owners shall thereafter be relieved of any further obligation of maintaining the roads.

(7) Notwithstanding any other provision of law to the contrary, the site of every road or part of a road transferred to the Government in accordance with sub-regulation (6) shall, on the Order of the President, be freed absolutely from every privilege and hypothec theretofore affecting it, without prejudice to the entire credit secured by that privilege or hypothec continuing to be a charge on the residue of the property of which that site formed part and on all other affected properties, if any, of the debtor. Any such liberation shall not be subject to any requirement of reference or other entry in the Public Registry.

(8) (a) If the owner of the road shall fail to pay any amount due by him under and within the period specified in sub-regulation (4), he shall thereupon become liable to the payment over and above the amount so due of interest at eight per centum thereon as from the date of completion of the works to the date of payment, and the expense incurred by the Authority together with that interest thereon shall constitute a privileged claim in favour of the Authority on that owner's property immediately abutting on the inhabited road, and such claim shall be paid in preference to all

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other claims, whether privileged or hypothecary on such property, notwithstanding any other provision of law to the contrary.

(b) Such right of priority may not be enforced unless the claim is registered in the Public Registry within two months from the completion of the works aforesaid. In default of evidence to the contrary the date of the completion of the works shall be deemed to be that indicated in the note for the registration of the privilege.

Expense incurred by Authority to be apportioned among owners.

20. For the purpose of the registration and recovery of any claim under regulation 19, the expense incurred by the Authority shall be apportioned by the Authority among the owners in proportion to the frontage of their respective land or buildings along the inhabited road:

Provided that any owner may impugn the assessment made by the Authority by an application before the competent civil court in contestation with the said Authority.

PART V

ROAD NAMES

Power in connection with painting of names of roads, etc.

21. The Authority, and to the extent of any responsibility of a Local Council in terms of the Local Councils Act, a Local Council, in consultation with the Malta Environment and Planning Authority, may cause the name by which any road is to be called, as well as the name of the town, suburb or village in which the road is situated, and any other notice or mark which may be considered useful for directing routes or giving warnings about dangerous corners, or for any other public purpose, to be painted or affixed and maintained in a legible state on the walls of any building other than a building destined for divine worship.

Name given to a private road.

22. Where a Local Council shall cause the name by which a private road is to be called, that road shall remain to be a private road.

Naming of roads.

23. (1) No person shall paint, mark, write or affix in any road open to the public any name as that by which such road is to be called, or any name of any town, suburb or village, or any notice or mark similar to that painted or made in accordance with the provisions of regulation 21 without the approval of the Authority, or of the Local Council responsible for the locality in which such

road is situated, as the case may be, although such road is a private road.

(2) The name of any road shall be preserved until the Minister responsible for the Police directs the alteration thereof.

(3) Any order of the Minister responsible for the Police for the alteration of the name of any road or for giving or approving a name to a new road shall be published in the Gazette.

Destruction, obliteration or defacement of name of road, suburb or village.

24. (1) It is forbidden to destroy, obliterate or deface the name of any road, town, suburb or village or add any word or mark thereto, or damage any slab bearing any such name.

(2) Where a person contravenes the provisions of sub-regulation (1), such person shall be guilty of a contravention and shall, on conviction, be liable to a fine (ammenda) of one hundred euro (€100).

PART VI

ROAD WORKS

Permit required.

25. (1) Without prejudice to the obligations relating to road works under any other regulations in force, no works shall be executed in, or excavations made under a public road without a permit from the Authority as described hereinafter.

(2) The application for a permit shall be made to the Authority by the person commissioning the works on the prescribed form and shall be accompanied by any information and documents required by the Authority, and by the appropriate fees as prescribed in the First Schedule to these regulations.

(3) The permit shall be valid for the period indicated in it and all work shall be fully completed within the completion period specified in the permit.

(4) The Authority may renew any permit the validity of which has expired upon the submission by the holder thereof of an application for renewal.

(5) Road works may only be executed by a contractor and Local Councils, utility services providers, communications

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service providers and contractors involved shall at all stages follow the Code of Practice.

Types of permits.

26. (1) There shall be three types of road works permits as follows:

(a) Major Road Works Permit – RWP 1

(b) Emergency Road Works Permit – RWP2

(c) Minor Road Works, Maintenance and Repairs Permit – RWP3.

(2) A Major Road Works Permit shall cover major works which involve any type of road works.

(3) An Emergency Road Works Permit shall cover any emergency road works and it shall be valid for a period not exceeding three days.

(4) A Minor Road Works Permit shall cover minor works.

Processing of applications for road works permits.

27. (1) An application for the granting or renewal of any of the permits prescribed by these regulations shall not be processed by the Authority where the application –

(a) is not submitted on the prescribed form,

(b) is not accompanied by the prescribed fee, or

(c) is not accompanied by the information and, or documents requested by the Authority, including –

(i) a copy of an insurance certificate covering such works,

(ii) a proper site plan (an A4 extract from the 1988 1.2500 scale survey sheet), endorsed by a qualified civil engineer showing clearly the location of the proposed works,

(iii) a written agreement to back fill and restore the surface of the road to specifications set by the

Authority and in accordance with the conditions specified in the permit, and

(iv) any other requirements as may be stipulated by the Authority.

(2) Where an application is made for an emergency road works permit, the permit shall be issued once an Authority engineer confirms the emergency of such works and issues the relative permit conditions:

Provided that the permit holder shall pay those fees for the services rendered by the Authority official or the penalties as prescribed in the First Schedule to these regulations.

Conditions.

28. (1) Where the Authority issues a permit under these regulations, it may attach such conditions to the permit as seem to it appropriate having regard to all the circumstances of the case.

(2) Without prejudice to the generality of sub-regulation (1), the types of conditions which the Authority may attach to a permit under the said sub-regulation include conditions relating but not limited to —

(a) days on which works may not be carried out;

(b) times of day during which works may not be carried out;

(c) the prohibition or restriction of traffic;

(d) traffic management arrangements to be made in connection with the works as prescribed in the Second Schedule;

(e) the manner in which the specified works are to be carried out;

(f) consultation and publicity in relation to the specified works, including the display of information at the location of those works;

(g) full compliance with the guidelines and policies published from time to time by the Authority; and

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(h) performance and, or defects liability conditions.

(3) Where a contractor executes works in contravention of any condition attached to the permit or in contravention to any other direction which the Authority may give, the Authority, if it considers it desirable to do so, may revoke or suspend the permit as the case may be, and the contractor shall be liable to an administrative fine of €50 for each contravention, which fine shall be withdrawn from the bank guarantee:

Provided that where the breach is in contravention of any of the traffic management conditions, the administrative fine shall be in accordance with any of those provided in the Second Schedule hereto.

Refusal to grant an authorisation or a permit.

29. (1) Where the Authority refuses to issue a permit, it shall by notice in writing, within seven days, inform the applicant of its decision and the reasons therefore.

(2) Where the issue of such a permit is refused, the applicant may, within twenty-one days starting on the date of such notice, appeal before the Administrative Review Tribunal provided for under the Administrative Justice Act.

Cap. 490.

The Authority may contract some major works.

30. (1) The Authority shall have the power to contract major road works where such works are to be commissioned by a utility services provider which is Government owned.

(2) Where such works are contracted by the Authority, this shall be done on behalf and at the expense of the utility service provider concerned.

Protection of traffic and commuters.

31. (1) The Authority shall, prior to the granting of a permit for road works, approve a suitable and safe traffic management plan prepared by the project owner and, or the applicant in respect of those works and ensures the putting into effect and maintenance of the said plan, which plan shall include but not limited to lighted barricades, warning lights, or warnings devices, and signage as needed in order to prevent damage or injury to persons, vehicles and property and to minimize the inconvenience and danger to the public by the said road works.

(2) The said traffic management plan and the required measures shall be carried out at the expense of the applicant.

(3) The contractor shall maintain the traffic management plan throughout all the works execution period. Failure to do so shall make the contractor liable to an administrative fine as provided for in the Second Schedule hereto, which fine shall be withdrawn from the bank guarantee, without prejudice to any further action that may be taken by the Authority, including the withdrawal of the bank guarantee and suspension of authorization for future road works.

Liability for damage.

32. A contractor executing road works shall compensate third parties in respect of any damages or loss suffered by third parties as a result of the execution of those road works:

Provided that the said liability does not extend to damage or loss which is attributable to negligence or misconduct on the part of the person suffering the damage or loss.

Resurfacing of roads following works.

33. Where trenching works are executed in a road, the contractor shall be required to reinstate the road in accordance with the conditions stipulated in the permit.

Certification of road works.

34. (1) A contractor which undertakes road works shall, upon completion of such works, submit a works compliance report to the Authority within fifteen days from completion.

(2) Major and emergency road works shall, upon completion, be tested by an independent and accredited laboratory recognised by the Authority.

(3) In addition to the test carried out as provided for in sub-regolament (2), and on the basis of the same tests where applicable, major and emergency road works shall be certified by a warranted architect and civil engineer (*Perit*) in terms of compliance with standards and specifications set by the Authority in respect of all aspects including but not exclusively, material used, workmanship, and any performance requirements stipulated in applicable standards. Only upon such positive certification shall the Authority issue a certificate confirming that those works had been carried out to its satisfaction.

(4) Reinstatement works shall be subject to a two-year guarantee, unless otherwise stated.

(5) Where the Authority is not satisfied with the restoration and resurfacing of the road, the contractor shall redo

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the said works to the satisfaction of the Authority, and where the contractor fails to comply, the Authority shall carry out the works itself at the expense of the contractor concerned.

(6) The Authority may exclude from road works, for pre-established period of times of no less than six consecutive months, contractors who consistently fail from such compliance.

Charges for prolonged works.

35. Contractors shall be required to pay a charge of between €50 and €500 for each day, or part thereof, where the duration of road works carried out by that contractor exceeds the prescribed completion period without a justifiable reason. The said charges shall be those prescribed in the Second Schedule thereof.

Prohibition of unauthorised works.

36. (1) It is an offence for a person to execute, or cause or suffer to be executed, any unauthorised road works.

(2) In the case of an offence under sub-regulation (1) hereof the Authority shall, by the issue of a stop notice, direct that person to stop the works immediately and to take such steps as appear to it necessary to reinstate, within a period not exceeding 24 hours, the road, failing which the Authority shall carry out the works itself at the expense of the person concerned.

(3) Any delays in the reinstatement of the works beyond the time limit imposed under sub-regulation (2) hereof shall bear an administrative penalty of €500 per day to be charged to the person who had executed the unauthorised works and to the person on whose behalf or at whose request the works have been carried out.

(4) The Authority shall not entertain any other application by the same person or persons to undertake any other works until such time the road is reinstated by the person or persons concerned or, where the reinstatement works are carried out by the Authority, until such time as all expenses and penalties have been settled.

(5) The Authority shall not enter into negotiations with the person or persons concerned until such time as that person or persons comply with the direction given under sub-regulation (2) hereof.

PART VII

OTHER PROVISIONS

Closing of roads during repairs.

37. The Authority may give orders and take the requisite steps for closing any road and stopping the thoroughfare thereof during the construction, alteration, repair or demolition of such road, or of a conduit, sewer or other public work in such road.

Works causing obstruction or danger in roads.

38. It shall not be lawful, without a permit from the Authority and, or a licence from the appropriate Local Council, to construct any work or make any thing in any road, which may cause obstruction or create danger or inconvenience to the public, or, in spite of an intimation by the Police or by a local warden, to leave any building or work which is ruinous or dangerous to persons or to the property of others.

Fences to be set up during repairs.

39. Any person intending to take down, construct, alter, or repair any building in such a manner as will necessitate the deposit of building materials in the road, or may be a source of injury, danger, or inconvenience, shall, before beginning the same, cause sufficient fences to be put up in order to separate the building where the works are to be carried out from the road with a convenient space for the thoroughfare, and shall keep such fences and such space in good condition during such time as the public safety or convenience requires; and shall, in all cases in which it is necessary in order to prevent accidents, cause the same to be sufficiently lighted during the night.

Light at night-time to be placed on or near materials in road.

40. A sufficient light shall also be placed, during the night, on or near the materials lying in the road, by the person who shall have laid there such materials on the occasion of any building, repair or excavation.

Prohibition to leave materials or other obstruction in road longer than necessary.

41. It shall not be lawful to leave in any road building materials or other obstructions longer than necessary; and in any such case, the proof that the necessary time has not been exceeded shall lie on the person so causing such materials or other obstructions to be laid.

Openings in surface or footway leading to cellars, etc., to be covered.

42. (1) Any opening in the surface or footway of any road, leading to a vault, cellar, or other place underground, shall be covered by a door or other proper covering, and such door or covering shall be kept in repair by the owner.

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(2) Nevertheless, where such vault, cellar, or place underground is intended for habitation, it shall suffice to make on the edge of the opening a sufficient fence for the safety of the public, where this is practicable without causing considerable obstruction in the road.

Rebuilding of walls fallen on the road.

43. The occupier of any tenement shall rebuild, without delay, any wall of such tenement which shall have fallen on the road, or which, being a party-wall between a tenement and a road, shall require, in the opinion of the Authority, to be rebuilt.

Penalties.

44. (1) A person committing an offence under regulations 35(1) and 38 is liable, upon conviction, to a fine (*ammenda*) of €1,000.

(2) If on completion of the work for which a permit has been issued the contractor does not carry out the re-instatement within forty-eight hours of completion, or within such longer period as may be allowed in the permit, or the re-instatement is not properly carried out, the Authority may carry out the re-instatement at the expense of the grantee. Such reinstatement expense shall be withdrawn from the bank guarantee.

(3) Where reinstatement is affected or remedied by the Authority, the contractor is still responsible for such reinstatement.

(4) The person on whose behalf or at whose request the works have been carried out shall be liable in solidum with the contractor which carried out the works to carry out the reinstatement works.

(5) Throughout the carrying out of works, the Authority may give further instructions to the contractor pertaining to any of the conditions in the permit through an addendum to the permit. Failure to immediately comply with the Authority's instructions shall make the contractor liable to an administrative penalty of €50 per day, without prejudice to any further action that may be taken by the Authority, including the withdrawal of the bank guarantee and suspension of authorization for future road works.

(6) Where a person contravenes any other provision under these regulations he shall be liable, on conviction, to a fine (*ammenda*) of not less than €20 but not exceeding €250.

Repeals L.N. 364 of 2003.

45. The Road Works (Design and Construction) Standards Regulations, 2003, are hereby repealed.

FIRST SCHEDULE

(Regulation 27)

The charges payable to the Authority for the grant of a permit shall be as follows:

Permit	**Processing Fees**	
RWP1 Major Road Works Permit		€120
RWP2 Emergency Road Works Permit	For each RWP 2 permit issued …… For services rendered by the Authority official called on site, per hour or part thereof ……... Penalty where Authority official is called on false emergencies …….	€12 €60 €120
RWP3 Minor Road Works, Maintenance and Repairs Permit	Works in residential roads permit ……..…….. Works in arterial/distributor roads permit ……..…… Works on behalf of the Authority ……	€2.50 €24 Nil

SECOND SCHEDULE

(Regulations 28, 35)

TRAFFIC MANAGEMENT CLASSIFICATION DURING ROAD WORKS				
No.	**Item**	**Minimum Requirements**	**Standard Requirements**	**Fine for breach**
1	**TM A - Works on ALL roads not affecting traffic in any way**			
1.1	Works carried out on footpath	1. Provide temporary pedestrian access (Safe route for pedestrians) 2. Approval by Authority for Transport in Malta for any obstruction to pedestrian crossing and pedestrian areas	1. Temporary Traffic Management Arrangements in line with: Safety at Inhabited Road Works and Road Works - A Code of Practice 2. Traffic Signs Manual Chapter 8 Volume 1Traffic Safety Measures and Signs for Road Works and Temporary Situations 3. Construction machinery not obstructing carriageway 4. Programme of Works	€50
1.2	Works carried out within the parking bay area, not affecting traffic			
2	**TM B - Works on traffic carriageway on ALL roads partially obstructing traffic, however, existing traffic flows retained**			
2.1	Works on traffic carriageway	1. Provide temporary pedestrian access (Safe route for pedestrians) Temporary Traffic Management Arrangements in line with Code 2. Approval by Authority for Transport in Malta for any obstruction to pedestrian crossing and pedestrian areas	1. Traffic Management Plan of works area 2. Enforcement required 3. Programme of Works 4. Construction machinery not obstructing carriageway	€100
2.2	Works on centre-strips, side verges, roundabouts and any other road junctions etc.			
3	**TM C - Works on ALL roads affecting traffic, including partial and full obstruction, where traffic diversions are required**			
3.1	Works on carriageway fully obstructing traffic flow on arterial, distributor, link roads and other roads (as required)	1. Provide temporary pedestrian access (Safe route for pedestrians) Temporary Traffic Management Arrangements in line with Code 2. Approval by Authority for Transport in Malta for any obstruction to pedestrian crossing and pedestrian areas	1. Traffic Management Plan of works area 2. Traffic Management Plan of area-wide 3. Enforcement required 4. Programme of Works 5. Construction machinery not obstructing carriageway	€300
4	**TM D - Development Projects (Industrial, Residential, Commercial) which have an impact on existing adjacent roads**			
4.1	Works on development projects which have an impact on the characteristics of the existing adjacent roads.	1. Provide temporary pedestrian access (Safe route for pedestrians) Temporary Traffic Management Arrangements in line with Code 2. Approval by Authority for Transport in Malta for any obstruction to pedestrian crossing and pedestrian areas	1. Impact on change in traffic volumes, traffic patterns, vehicle mix, road environment 2. Traffic Management Plan of development works area 3. Programme of Works 4. Construction machinery not obstructing carriageway	€500

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