

B 1186

L.N.123 of 2018

**TRAFFIC REGULATION ORDINANCE
(CAP. 65)**

**AUTHORITY FOR TRANSPORT IN MALTA ACT
(CAP. 499)**

Motor Vehicles (Amendment) Regulations, 2018

IN EXERCISE of the powers conferred by article 54 of the Traffic Regulation Ordinance and by article 43 of the Authority for Transport in Malta Act, the Minister for Transport, Infrastructure and Capital Projects, after consultation with the Authority for Transport in Malta, has made the following regulations:-

Citation.

S.L. 65.11.

Amends
regulation 2 of
the principal
regulations.

1. The title of these regulations is the Motor Vehicles (Amendment) Regulations, 2018 and they shall be read and construed as one with the Motor Vehicles Regulations, hereinafter referred to as "the principal regulations".

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

Immediately after the definition " "trailer" " there shall be added the following new definition:

(d) " "Tribunal" means the Administrative Review Tribunal established by article 5 of the Administrative Justice Act;"

Amends
regulation 62 of
the principal
regulations.

3. Regulation 62 of the principal regulations shall be amended as follows:

(a) in sub-regulation (3) thereof, immediately after the word "therein." there shall be added the following new sentence:

"The number of vehicles listed in the register may be varied from time to time upon a request in writing to the Authority to this effect."; and

(b) in sub-regulation (12) thereof, immediately after the words "self-drive cars" there shall be added the words ", low-powered vehicles for hire".

4. Immediately after regulation 62 of the principal regulations, there shall be added the following new regulations:

Adds new regulations 62A, 62B, 62C, 62D, 62E and 62F to the principal regulations.

"Applicant for a public service garage licence to be of good repute and conduct.

62A.(1) An applicant for a public service garage licence shall, before being granted the licence, satisfy the Authority that he is of good repute and conduct.

(2) Every applicant for a public service garage licence not being a natural person must indicate a designated person.

(3) (a) where the applicant for a public service garage licence is a limited liability company, the requirements of sub-regulation (1) must be satisfied by all the directors of the company and the designated person;

(b) where the applicant for a public service garage licence is a partnership *en commandite* or a partnership *en nom collectif* as defined in the Companies Act, the requirements of sub-regulation (1) must be satisfied by all the partners and the designated person;

(c) where the applicant for a public service garage licence is a legal person other than those identified in paragraphs (a) and (b), the requirements of sub-regulation (1) must be satisfied by all persons having the legal and, or judicial representation of such legal person and the designated person.

(4) Where a designated person, ceases to continuously and effectively manage the public service garage, the holder of the public service garage licence shall within twenty-one days from that occurrence notify the Authority in writing and the Authority shall allow a period not exceeding three months within which the public service garage licence holder shall either transfer the licence or designate another designated person, who shall comply with the provisions of sub-regulation (1).

Cap. 386.

B 1188

Application for a
public service
garage licence.

62B. (1) An application for the grant of a public service garage licence shall be made to the Authority and shall be in the form and contain such particulars as the Authority may require and shall be submitted together with a certificate issued by the Police detailing any criminal offences and, or contraventions for which the applicant and, or the persons mentioned in regulation 62A may have been sentenced together with the punishment thereof:

Provided that where the applicant and/or the persons mentioned in regulation 62A are not normally resident in Malta an extract from their judicial record or, failing that, an equivalent document issued by a competent judicial or administrative authority of the country of origin or the country from which such persons come shall suffice:

Provided further that where the country of origin or the country from where such persons come does not issue such document, the said document may be replaced by a declaration on oath or by a solemn declaration made by the person concerned in front of a competent judicial or administrative authority or, where appropriate, a notary in that person's country of origin or the country from where such persons come. Such authority or notary shall issue a certificate attesting the authenticity of the declaration on oath or solemn declaration.

(2) The document prescribed in sub-regulation (1) shall not be accepted if produced later than three months after date of issue.

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

(4) An application for the grant of a public service garage licence shall be accompanied by the fee stipulated in the Third Schedule.

Decision on the
granting of a
licence.

62C. (1) An application for the issue of a public service garage licence shall be processed and decided upon by the Authority.

(2) In the case that the public service garage licence is granted, the Authority shall provide the licence holder with a certified true copy of the licence which is to be kept at all times at the operating centre of the said public service garage.

(3) The decision of the Authority shall be sent by registered post to the applicant at the address specified in the application.

(4) Where the Authority intends to refuse an application, it shall give the applicant concerned notice in writing setting out the reasons for its intention to do so. Every notice of refusal shall state that the applicant has a right to make representations in writing, within ten days, to the Authority giving reasons why the application should not be refused and the Authority shall consider any representations so made before arriving at a final decision. The Authority shall notify in writing its final decision to the applicant concerned.

(5) When an application is refused by the Authority, the applicant may appeal to the Tribunal against such decision within a period of thirty days from its notification.

Good repute and conduct.

62D.(1) A person shall not be deemed to satisfy the condition of good repute and conduct:

(a) if he has been found guilty of committing any crime contemplated in -:

Cap. 9.

(i) Title I of Part II of Book First of the Criminal Code or articles 198, 199, 203, 203A, 204, 204A, 204B, 204C, 205, 211, 212, 217 (in the event that the arms proper used for the commission of the offence is a fire-arm), 220, 238(a), 248B, 248C, 248D of the Criminal Code;

Cap. 9.

(ii) articles 2, 3, 5, 7, 8, 9 and 10 of the White Slave Traffic (Suppression) Ordinance;

Cap. 63.

(iii) articles 4, 5, 6(a), 7, 8(b)(c), 15, 15A, 16, 18 and 22 of the Dangerous Drugs Ordinance; and

Cap. 101.

(iv) articles 37, 38, 44, 50 and 61 of the Malta Armed Forces Act;

Cap. 220.

B 1190

(b) for such period of time during which he is serving a sentence of imprisonment of at least one month;

(c) for such period of time immediately following time spent serving a sentence of imprisonment for a term or terms of at least one month imposed on such person for a crime or crimes connected with violence committed on a person, which period shall be:

(i) of three months for sentences of imprisonment for a term of at least six months and not more than two years;

(ii) equal to one-fourth of the term of imprisonment for which such person was sentenced for sentences for terms of imprisonment of more than two years;

(d) if he has been found guilty of committing any corresponding offence under any law of a country or territory outside Malta:

Provided that where the applicant was less than eighteen years of age at the time of the commission of the offence the period referred to in paragraph (c) shall not be longer than two years.

(2) For the purposes of determining whether a person is of good repute and conduct in terms of sub-regulation (1), the term "sentence" shall not include:

Cap. 446. (a) a probation order issued in terms of article 7 of the Probation Act or the corresponding articles of the Probation of Offenders Act (repealed) and which has been complied with by the probationer or an absolute or conditional discharge issued under article 22 of the Probation Act or the corresponding articles of the Probation of Offenders Act (repealed) which has been complied with; or

Cap. 446.

(b) a sentence for the commission of an offence for which the offender has been pardoned by the President of Malta in terms of article 93(1) of the Constitution of Malta; provided that this paragraph shall only apply from the date on which the President of Malta has granted such pardon; or

(c) a sentence which is at the moment of application under appeal.

(3) The holder of a public service garage licence shall inform the Authority in writing of any conviction against him or of any person mentioned in regulation 62A of any offence contemplated in paragraph (a) of sub-regulation 1 within twenty-one days from that conviction or, when an appeal is entered, within twenty days from when such appeal is decided.

(4) A person who contravenes sub-regulation (3) shall be guilty of an offence.

Suspension or
revocation of a
licence.

62E. (1) A public service garage licence shall be revoked where the holder no longer satisfies the conditions laid down in regulation 62A(1):

Provided that where the licence holder is not considered to be of good repute and conduct solely because any of the persons listed in regulation 62A(3) do not comply with the provisions of regulation 62A(1), the public service garage licence shall be suspended until the licence holder substitutes such person with another person who fulfils the requirements of these regulations:

Provided further that where the licence holder fails to fulfil the above mentioned requirement within a period of three months from the date of the sentence or sentences in terms of which the person is not considered to be compliant with the requirements of regulation 62A(1), the licence shall be withdrawn *ipso jure*.

(2) A suspension or revocation in terms of this regulation shall be effected by the Authority of its own motion or by order of a court of criminal jurisdiction:

B 1192

Provided that where the Authority intends to suspend or revoke a public service garage licence of its own motion, it shall give the licence holder concerned notice in writing setting out the reasons for its intention to do so. Every notice given shall state that the licence holder concerned may, within ten days from service thereof, make representations in writing to the Authority giving reasons why the public service garage licence should not be suspended or revoked and the Authority shall consider any representations so made before arriving at a final decision. The Authority shall notify in writing its final decision to the licence holder concerned. The licence holder concerned shall have the right to appeal to the Tribunal against the decision of the Authority to suspend or revoke the public service garage licence within thirty days from notification of the Authority's decision:

Provided further that the suspension of the licence shall have immediate effect notwithstanding any appeal therefrom, unless otherwise ordered by the Tribunal or by a court of criminal jurisdiction:

Provided further that a decision of the Authority to revoke a public service garage licence shall not become operative until the expiration of the period within which an appeal may be made under this regulation and, if an appeal is made within such period, the decision shall become operative on the date of the decision of the Tribunal dismissing the appeal or the date on which the appeal is abandoned.

Death or physical
or legal incapacity.

62F. In the event of the death or physical or legal incapacity of the natural person in whose name the public service garage licence is granted, or of the designated person, the Authority may permit the carrying on of the public service garage operation on a temporary basis for a maximum period of nine months."

Substitutes
regulation 130A
of the principal
regulations.

5. Regulation 130A of the principal regulations shall be substituted by the following:

"Conditions for
obtaining a driver's
tag.

130A.(1) No person shall drive a motor vehicle for hire unless that person is in possession of a driver's tag issued to him by the Authority in terms of this regulation.

(2) The said tag shall only be issued by the Authority to that driver who:

(a) is in possession of the appropriate driving licence;

(b) is of good repute and conduct;

(c) attends regularly a course of instruction approved by the Authority and successfully undergoes an examination at the end of the said course.

6. Immediately after regulation 130A of the principal regulations, there shall be added the following new regulations:

Adds new regulations to the principal regulations.

"Good repute and conduct.

130B. Regulation 62D shall apply for the purpose of determining whether an applicant for a driver's tag is of good repute and conduct.

Application for the granting or renewal of a driver's tag.

130C.(1) An application for the granting or renewal of a driver's tag shall be submitted to the Authority in the form stipulated by the same Authority and shall contain such particulars as the Authority may require and shall be submitted together with:

(a) a certificate issued by the Police detailing any criminal offences for which the applicant may have been sentenced together with the punishment thereof; and

(b) the relevant application fee as prescribed in the Third Schedule.

(2) An application for a driver's tag shall be processed and decided upon by the Authority.

Decision on the granting or renewal of a driver's tag.

130D.(1) The decision of the Authority shall be sent by registered post to the applicant at the address specified in the application.

(2) Where the Authority intends to refuse an application, it shall give the applicant concerned notice in writing setting out the reasons for its intention to do so. Every notice of refusal shall state that the applicant has a right to make representations in writing, within ten days, to the Authority giving reasons why the application should not be refused and the Authority shall consider any representations so made before arriving at a final decision. The Authority shall notify in writing its final decision to the applicant concerned.

(3) When an application is refused by the Authority, the applicant may appeal to the Tribunal against such decision within thirty days from its notification.

B 1194

Validity of driver's tag.

130E.(1) A driver's tag granted or renewed in accordance with regulation 130A shall be valid for a period of five years from the date on which it is issued or any other shorter period, specified thereon by the Authority, unless previously revoked, suspended or surrendered and shall not be transferable.

(2) The holder of a driver's tag shall be obliged to satisfy the requirements of sub-regulation (2) of regulation 130A throughout the validity period of the same tag and shall inform the Authority in writing of any conviction against him of any offence contemplated in paragraph (a) of sub-regulation (1) of regulation 62D within twenty-one days from that conviction or, when an appeal is entered, within twenty days from when such appeal is decided.

(3) A person who contravenes sub-regulation (2) shall be guilty of an offence.

Driver to wear tag.

130F. The driver of a motor vehicle for hire shall while carrying passengers wear the driver's tag in a conspicuous place on the chest in a manner that can easily be seen.

Lost or damaged driver's tag.

130G.(1) A driver who loses his tag shall immediately, and without delay, inform the Authority of such fact, and if the Authority is satisfied that such tag was lost, the Authority shall issue a replacement tag on the payment of a fee, if applicable, as prescribed in the Third Schedule.

(2) In the event that the driver's tag becomes discoloured, disfigured or torn, the driver shall immediately return such tag to the Authority and the Authority shall issue a replacement tag free of charge:

Provided that the holder of the driver's tag shall be bound to make payment to the Authority of the fee prescribed in the Third Schedule for the fourth and any subsequent replacement of a driver's tag made within the tag's validity period.

(3) A driver shall return the tag immediately to the Authority upon its revocation or suspension or expiration, and the Authority shall give due receipt for the tag so returned.

Suspension or revocation of driver's tag.

130H.(1) A driver's tag may be suspended or revoked on the following grounds:

(a) where the holder has supplied incorrect information to the Authority; or

(b) where the holder has committed serious infringements of these regulations.

(2) The Authority shall revoke a driver's tag where the holder no longer satisfies the good repute and conduct requirement.

(3) A suspension or revocation in terms of this regulation shall be affected by the Authority of its own motion or by order of a court of criminal jurisdiction:

Provided that where the Authority intends to suspend or revoke a driver's tag of its own motion, it shall give the tag holder concerned a notice in writing setting out the reasons for its intention to do so. Every notice given shall state that the tag holder concerned may, within ten days from service thereof, make representations in writing to the Authority giving reasons why the tag should not be suspended or revoked and the Authority shall consider any representations so made before arriving at a final decision. The Authority shall notify in writing its final decision to the tag holder concerned. The tag holder concerned shall have the right to appeal to the Tribunal against the decision of the Authority to suspend or revoke the driver's tag within thirty days from notification of the Authority's decision:

Provided further that a decision of the Authority to suspend or revoke a driver's tag shall not become operative until the expiration of the period within which an appeal may be made under this regulation and, if an appeal is made within such period, the decision shall become operative on the date of the decision of the Tribunal dismissing the appeal or the date on which the appeal is abandoned."

7. Immediately after the Second Schedule, there shall be added the following new Schedule:

Adds new Third Schedule to the principal regulations.

B 1196

**"THIRD SCHEDULE
FEES
(Regulations 62B, 130C and 130G)**

Part 1

Application fee for public service garage licence	€20
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Part 2

Application for the granting and renewal of driver's tag	€12
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Replacement of lost driver's tag	€12
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