Verżjoni Elettronika

L.N. 54 of 2023

TRAFFIC REGULATION ORDINANCE
(CAP. 65)

AUTHORITY FOR TRANSPORT IN MALTA ACT
(CAP. 499)

Motor Vehicles (Interoperability of Electronic Road Tolls Systems) (Amendment) Regulations, 2023

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 responsible for transport, after consultation with the Authority for Transport in Malta, has made the following regulations:-

Citation and scope.

1. (1) The title of these regulations is the Motor Vehicles (Interoperability of Electronic Road Tolls Systems) (Amendment) Regulations, 2023 and these regulations shall be read and construed as one with the Motor Vehicles (Interoperability of Electronic Road Tolls Systems) Regulations, hereinafter referred to as the "principal regulations".

S.L. 65.29.

(2) The scope of these regulations is to better transpose the provisions of Directive (EU) 2019/520 of the European Parliament and of the Council of 19 March 2019 on the interoperability of electronic road toll systems and facilitating cross-border exchange of information on the failure to pay road fees in the Union, and in particular in relation to Articles 23, 24, 25, 26 and 27 and Annexes I and II.

Substitutes regulation 2 of the principal regulations.

2. Regulation 2 of the principal regulations, shall be substituted by the following new regulation:

"Interpretation.

2. In these regulations, unless the context otherwise requires:

"Authority" means the Authority for Transport in Malta established by virtue of the Authority for Transport in Malta Act;

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"Commission" means the European Commission;

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"Directive" means Directive (EU) 2019/520 of the European Parliament and of the Council of 19 March 2019 on the interoperability of electronic road toll systems and facilitating cross-border exchange of information on the failure to pay road fees in the Union;

"Member State" means a Member State of the European Union and includes also States of the European Economic Area;

"national contact point" means a designated competent authority of a Member State for the cross-border exchange of vehicle registration data;

"road fee" means the fee which must be paid by the road user for circulating on a given road, a road network, a structure, such as a bridge or a tunnel, or a ferry in a Member State which operates a road toll system.".

Substitutes regulation 3 of the principal regulations.

3. Regulation 3 of the principal regulations shall be substituted by the following new regulation:

"National contact point.

3. (1) For the purposes of these regulations, the Authority shall be Malta's national contact point for the cross-border exchange of vehicle registration data.

(2) In order to allow the identification of the vehicle, and the owner or holder of that vehicle, in relation to a failure to pay a road fee has been established, the Authority shall grant access only to other Member States' national contact points to the following national vehicle registration data, with the power to conduct automated searches thereon:

(a) data relating to vehicles; and

(b) data relating to the owners or holders of the vehicle.

(3) The data elements referred to in paragraphs (a) and (b) of sub-regulation (2) which are necessary in order to conduct an automated search shall comply with the First Schedule and all automated searches are to comply with the requirements of the said Schedule.

(4) In the exchange of information with the national contact points of other Member States, the Authority shall be obliged to pay particular attention to the proper protection of personal data.

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(5) The Authority shall take the measures necessary to ensure that the exchange of information is carried out using the European Vehicle and Driving Licence Information System (Eucaris) software application and amended versions of this software, in compliance with the First Schedule and with points 2 and 3 of Chapter 3 of the Annex to Decision 2008/616/JHA.

(6) The Authority shall bear its own costs arising from the administration, use and maintenance of the software applications referred to in sub-regulation (5).".

Adds new regulations 4,5, 6,7 and 8 to the principal regulations.

4. Immediately after regulation 3, as substituted, there shall be added the following new regulations:

"Information letter.

4. (1) In the event that Malta decides to introduce a road toll system, the entity which shall be responsible to operate this system shall decide whether or not to initiate follow-up proceedings in relation to the failure to pay a road fee.

(2) Should the said entity decide to initiate such proceedings, it shall be obliged to send an information letter to the owner, the holder of the vehicle or the otherwise identified person suspected of having failed to pay the road fee by means of registered mail.

(3) The information letter shall include any relevant information, notably on the nature of the failure to pay the road fee, the place, date and time of the failure to pay the road fee, the title of the texts of the national law infringed, the right to appeal and to have access to information, and the sanction and, where appropriate, data concerning the device used for detecting the failure to pay a road fee. For such purpose, the information letter is to be based on the template set out in the Second Schedule.

(4) The information letter shall be sent in the language of the registration document of the vehicle, if available, or in one of the official languages of the Member State of registration.

Follow-up proceedings.

5. (1) The Authority may provide the entity responsible for levying the road feewith the data obtained through the procedure referred to in regulation 3 only if the following conditions are satisfied:#

(a) the data transferred is limited to what is needed by that entity to obtain the road fee due;

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(b) the procedure for obtaining the road fee due complies with the procedure provided for in regulation 3;

(c) the entity concerned is responsible for carrying out this procedure; and

(d) compliance with the payment order issued by the entity receiving the data puts an end to the failure to pay a road fee.

(2) The Authority shall be obliged to ensure that the data provided to the responsible entity is used solely for the purpose of obtaining the road fee due and is immediately deleted once the road fee is paid or, if the failure to pay persists, within a reasonable period after the transfer of the data. The period for the retention of such data shall be set by the Authority.

Reporting obligations.

6. The Authority shall send a comprehensive report to the Commission by 19 April 2023 and every three (3) years thereafter indicating the number and relevant details of automated searches addressed to it by the national contact points of other Member States in whose territory there was a failure to pay a road fee.

Processing of personal data.

Cap 586.
S.L. 586.01.

S.L. 586.08.

7. (1) In the processing of personal data in accordance with these regulations, Regulation (EU) 2016/679, the Data Protection Act, the Processing of Personal Data (Electronic Communications Sector) Regulations and the Data Protection (Processing of Personal Data by Competent Authorities for the Purposes of the Prevention, Investigation, Detection or Prosecution of Criminal Offences or the Execution of Criminal Penalties) Regulations, shall apply.

(2) The Authority shall, in accordance with applicable data protection legislation, take the measures necessary, to ensure that:

(a) the processing of personal data for the purposes of regulation 3 is limited to the types of data listed in the First Schedule;

(b) personal data is accurate, kept up-to date and requests for rectification or erasure, where applicable, are handled without undue delay; and

(c) where applicable, a time limit is established for the storage of personal data.

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(3) The Authority shall take the measures necessary to ensure that personal data processed under these regulations is used only for the purpose of the identification of the vehicle and the owner or holder of the vehicle in relation to which a failure to pay a road fee in another Member State has been established within the scope of regulation 3.

(4) Any person concerned shall have the right to obtain, without undue delay, information from the Authority on which personal data recorded in the Authority's registration was transmitted to a Member State in which there was a failure to pay a road fee, including the date of the request and the competent authority of the Member State in whose territory there was a failure to pay a road fee.".

Applicability.

8. The provisions of the Directive shall be applicable should a toll system be established for any road in Malta.

Substitutes the Schedule to the principal regulations.

5. The Schedule to the principal regulations shall be substituted by the following new Schedule:

"FIRST SCHEDULE
(Regulation 3)

(Annex I to the Directive (EU) 2019/520)

Data elements necessary to conduct the automated search referred to in regulation 3

Item	M/O([1])	Remarks
Data relating to the vehicle	M	
Member State of registration	M	
Registration number	M	(A([2]))
Data relating to the failure to pay a road fee	M	
Member State in whose territory there was a failure to pay a road fee	M	
Reference date of the occurrence	M	
Reference time of the occurrence	M	

([1])

M = mandatory when available in national register, O = optional.

([2])

Harmonised Union code, see Council Directive 1999/37/EC of 29 April 1999 on the registration documents for vehicles (OJ L 138, 1.6.1999, p. 57)

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Data elements provided as a result of the automated search conducted pursuant to regulation 3

Part I. Data relating to vehicles

Item	M/O([1])	Remarks
Registration number	M	
Chassis number or Vehicle identification number (VIN)	M	
Member State of registration	M	
Make	M	(D.1 ([2])) e.g. Ford, Opel, Renault
Commercial type of the vehicle	M	(D.3) Focus, Astra, Megane
EU Category Code	M	(J) e.g. mopeds, motorbikes, cars
Euro emissions class	M	e.g. Euro 4, Euro 6
CO_2 emission class	O	applicable to heavy-duty vehicles
Date of reclassification	O	applicable to heavy-duty vehicles
CO_2 in g/tkm	O	applicable to heavy-duty vehicles
Technically permissible maximum laden mass of the vehicle	M	

([1])

M = mandatory when available in national register, O = optional.

([2])

Harmonised Union code, see Directive 1999/37/EC.

Part II. Data relating to owners or holders of the vehicles

Item	M/O([1])	Remarks
Data relating to holders of the vehicle		(C.1 ([2])) The data refer to the holder of the specific registration certificate.
Registration holders' (company) name	M	(C.1.1) Separate fields shall be used for surname, infixes, titles, etc., and the name in printable format shall be communicated.
First name	M	(C.1.2) Separate fields for first name(s) and initials shall be used, and the name in printable format shall be communicated.

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Address	M	(C.1.3) Separate fields shall be used for street, house number and annex, post code, place of residence, country of residence, etc., and the address in printable format shall be communicated.
Gender	O	Male, female
Date of birth	M	
Legal entity	M	Individual, association, company, firm, etc.
Place of birth	O	
ID Number	O	An identifier that uniquely identifies the person or the company.
Data relating to owners of the vehicle		(C.2) The data refer to the owner of the vehicle.
Owners' (company) name	M	(C.2.1)
First name	M	(C.2.2)
Address	M	(C.2.3)
Gender	O	Male, female
Date of birth	M	
Legal entity	M	Individual, association, company, firm, etc.
Place of birth	O	
ID Number	O	An identifier that uniquely identifies the person or the company. In case of scrap vehicles, stolen vehicles or number plates, or outdated vehicle registration no owner or holder information shall be provided. Instead, the message "Information not disclosed" shall be returned.

([1])

M = mandatory when available in national register, O = optional.

([2])

Harmonised Union code, see Directive 1999/37/EC."

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6. Immediately after the Schedule, as substituted, there shall be added the following new Schedule: Adds new Schedule to the principal regulations.

"SECOND SCHEDULE
(regulation 4)

TEMPLATE FOR THE INFORMATION LETTER
[Cover page]

.....
.....
.....[Name, address and telephone number of sender]

.....
.....
.....[Name and address of addressee]

INFORMATION LETTER

regarding the failure to pay a road fee occurred in …… [name of the Member State in whose territory there was a failure to pay a road fee]

Page 2

On ..... [date] a failure to pay a road fee with the vehicle with registration number.....make.....model.....was detected by.....
[name of the responsible body]

[Option 1] (1)

You are registered as the holder of the registration certificate of the abovementioned vehicle.

[Option 2] (1)

The holder of the registration certificate of the abovementioned vehicle indicated that you were driving that vehicle when the failure to pay a road fee was committed.

The relevant details of the failure to pay a road fee are described on page 3 below.

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The amount of the financial penalty due for the failure to pay a road fee is ..... EUR or national currency. (1)

The amount of the road fee due to pay is ..... EUR or national currency. (1)

Deadline for the payment is.....

You are advised to complete the attached reply form (page 4) and send it to the address shown, if you do not pay this financial penalty (1)or road fee (1).

This letter shall be processed in accordance with the national law of..... ... [name of the Member State in whose territory there was a failure to pay a road fee].

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Relevant details concerning the failure to pay a road fee

(a) Data concerning the vehicle which was used in the failure to pay a road fee:

Registration number:.....

Member State of registration:.....

Make and model .....

(b) Data concerning the failure to pay a road fee:

Place, date and time where the failure to pay a road fee occurred: .....

Nature and legal classification of the failure to pay a road fee:

....

Detailed description of the failure to pay a road fee:

....

Reference to the relevant legal provision(s):

.....

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.....

Description of or reference to the evidence regarding the failure to pay a road fee:

.....
.....

(c) Data concerning the device that was used for detecting the failure to pay a road fee [2]:

Specification of the device:

.....
.....

Identification number of the device:

.....
.....

Expiry date for the last gauging:

.....
.....

(1) Delete if not applicable.

(2) Not applicable if no device has been used.

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Reply form

(please complete using block capitals)

A. Identity of the driver:

— Full name:.....

— Place and date of birth:.....

— Number of driving licence:..... delivered (date): ..... and at (place):.....

— Address:.....

B. List of questions:

1. Is the vehicle, make....., registration number ....., registered in your name?..... yes or no [1]

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If not, the holder of the registration certificate is:.....

(name, first name, address)

2. Do you acknowledge that you failed to pay a road fee? yes or no (1)

3. If you do not acknowledge this, please explain why:

.....
.....
.....

Please send the completed form within 60 days from the date of this information letter to the following authority or entity: .....

at the following address .....

INFORMATION

(Where the information letter is sent by the entity responsible for levying the road fee pursuant to regulation 4):

If the road fee due is not paid within the deadline set out in this information letter, this case will be forwarded to and examined by the competent authority of .....

[name of the Member State in whose territory there was a failure to pay a road fee].

If this case is not pursued, you will be informed within 60 days after receipt of the reply form or the proof of payment. (1)

/

(Where the information letter is sent by the competent authority of the Member State):

This case will be examined by the competent authority of .....

[name of the Member State in whose territory there was a failure to pay a road fee].

If this case is not pursued, you will be informed within 60 days after receipt of the reply form or the proof of payment. (1)

(1) Delete if not applicable

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If this case is pursued, the following procedure applies:

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[to be filled in by the Member State in whose territory there was a failure to pay a road fee – what the further procedure will be, including details of the possibility and procedure of appeal against the decision to pursue the case. These details shall in any event include: name and address of the authority or entity in charge of pursuing the case; deadline for payment; name and address of the body of appeal concerned; deadline for appeal].

This letter as such does not lead to legal consequences.

Data protection disclaimer

[Where Regulation (EU) 2016/679 is applicable:

In accordance with Regulation (EU) 2016/679, you have the right to request access to, and rectification or erasure of, personal data or restriction of processing of your personal data or to object to the processing, as well as the right to data portability. You also have the right to lodge a complaint with [name and address of the relevant supervisory authority].

[Where Directive (EU) 2016/680 is applicable:

In accordance with Directive (EU) 2016/680, you have the right to request from the controller access to and rectification or erasure of personal data and restriction of processing of your personal data. You also have the right to lodge a complaint with [name and address of the relevant supervisory authority].]".

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