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L.N. 301 of 2022

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

Passenger Transport Services (Amendment) Regulations, 2022

IN EXERCISE of the powers conferred 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.

S.L.499. 56.

1. (1) The title of these regulations is the Passenger Transport Services (Amendment) Regulations, 2022 and these regulations shall be read and construed as one with the Passenger Transport Services Regulations, hereinafter referred to as "the principal regulations".

(2) The scope of these regulations is to transpose Article 2 of Directive (EU) 2020/1057 of the European Parliament and of the Council of 15 July 2020, laying down specific rules with respect to Directive 96/71/EC and Directive 2014/67/EU for posting drivers in the road transport sector and amending Directive 2006/22/EC as regards enforcement requirements and Regulation (EU) No 1024/2012.

Amends
regulation 2 of
the principal
regulations.

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

(a) immediately after the definition "designated person" thereof, there shall be added the following new definition:

" "Directive 2002/15/EC" means Directive 2002/15/EC of the European Parliament and of the Council of 11 March 2002 on the organisation of the working time of persons performing mobile road transport activities;"

(b) the definition "Directive 2006/22/EC" thereof shall be substituted by the following new definition:

" "Directive 2006/22/EC" means Directive 2006/22/EC of the European Parliament and of the Council of 15 March 2006 on minimum conditions for the implementation of Regulations (EC) No 561/2006 and (EU) No 165/2014 and Directive 2002/15/EC as regards social legislation relating to road transport activities, and

repealing Council Directive 88/599/EEC;;

(c) immediately after the definition "regular weekly rest period" thereof, there shall be added the following new definition:

" "Regulation (EC) No 561/2006" means Regulation (EC) No 561/2006 of the European Parliament and of the Council of 15 March 2006 on the harmonisation of certain social legislation relating to road transport and amending Council Regulations (EEC) No 3821/85 and (EC) No 2135/98 and repealing Council Regulation (EEC) No 3820/85;; and

(d) immediately after the definition "Regulation (EC) No 595/2009" thereof, there shall be added the following new definitions:

" "Regulation (EC) No 1071/2009" means Regulation (EC) No 1071/2009 of the European Parliament and of the Council of 21 October 2009 establishing common rules concerning the conditions to be complied with to pursue the occupation of road transport operator and repealing Council Directive 96/26/EC;

"Regulation (EU) No 1024/2012" means Regulation (EU) No 1024/2012 of the European Parliament and of the Council of 25 October 2012 on administrative cooperation through the Internal Market Information System and repealing Commission Decision 2008/49/EC ("the IMI Regulation");

"Regulation (EU) No 165/2014" means Regulation (EU) No 165/2014 of the European Parliament and of the Council of 4 February 2014 on tachographs in road transport, repealing Council Regulation (EEC) No 3821/85 on recording equipment in road transport and amending Regulation (EC) No 561/2006 of the European Parliament and of the Council on the harmonisation of certain social legislation relating to road transport;".

3. Regulation 102 of the principal regulations shall be amended as follows:

Amends
regulation 102
of the principal
regulations.

(a) in sub-regulation (1) thereof, the words "provided for in the Thirteenth Schedule." shall be substituted by the words "provided for in the Thirteenth Schedule:" and immediately after there shall be added the following new proviso:

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"Provided that the Authority shall organise checks in such a way that at least three percent (3%) of days worked by drivers of vehicles falling within the scope of Regulations (EC) No 561/2006 and (EU) No 165/2014 are inspected.";

(b) in paragraph (c) of sub-regulation (2) thereof, the words "their recording equipment." shall be substituted by the words "their recording equipment:" and immediately after there shall be added the following new proviso:

"Provided that quayside and roadside checks in compliance with Part XIV shall be limited to aspects that can be checked efficiently through the tachograph and related recording equipment, and comprehensive checks on compliance with these regulations shall be carried out only at the premises of the undertaking."; and

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

"(2a) The Authority shall target its checks at the transport undertaking, if one or more of the drivers carrying out international road passenger transport services for the same transport undertaking and are found to be continuously or seriously infringing Regulation (EC) No 561/2006 or (EU) No 165/2014."; and

(d) immediately after sub-regulation (4) thereof, there shall be added the following new sub-regulations:

"(5) The Authority shall submit information to the Commission in accordance with Article 17 of Regulation (EC) No 561/2006 and Article 13 of Directive 2002/15/EC, which shall include the number of drivers checked at the quayside or roadside, the number of checks at the premises of undertakings, the number of working days when inspections were held and the number and type of infringements reported, and shall indicate whether passengers or goods were transported.

(6) In order to facilitate targeted roadside and quayside checks, the data contained in the risk rating system shall be accessible to the competent enforcement authorities in Malta which are concerned at the time of control.

(7) The Authority shall make the information contained in the risk rating system referred to in sub-regulation (3), directly accessible to the competent enforcement authorities of other Member States in accordance with Article 16(2) of Regulation (EC) No 1071/2009, through interoperable national electronic registers as referred to in Article 16 of that Regulation."

4. Regulation 103 of the principal regulations shall be amended as follows:

Amends
regulation 103
of the principal
regulations.

(a) paragraph (b) thereof, shall be substituted by the following new paragraph:

"(b) the records of the current day of the check and the records of the twenty-eight (28) days prior, for any cases where the passenger transport vehicle's authorised speed is exceeded, being any period of more than one (1) minute during which the vehicle's speed exceeds one hundred and five (105) kilometres per hour for category M3 motor vehicles;"

(b) paragraph (d) thereof, shall be substituted by the following new paragraph:

"(d) the correct functioning of the recording equipment, thus determining the possible misuse of the equipment and, or the driver card, and, or record sheets, and, where appropriate, verification that the posting was notified in accordance with regulation 6 of the Posting of Workers in Malta Regulations;"

S.L. 452.82.

(c) in paragraph (f) thereof, the words "passenger transport vehicles." shall be substituted by the words "passenger transport vehicles;" and immediately after there shall be added the following new paragraph:

"(g) extended maximum weekly working times of sixty (60) hours and other weekly working times as set out in regulations 73 and 74, only where technology enables effective checks to be carried out:

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"Provided that notwithstanding the foregoing paragraphs (a) to (g), during a roadside or quayside check, the driver shall be allowed to contact the operating centre, the transport manager or any other person or entity in order to provide, before the end of the quayside or roadside check, any evidence which is found to be missing on board; and this without prejudice to the driver's obligation to ensure the proper use of tachograph equipment."

Adds new regulation to the principal regulations.

5. Immediately after regulation 103 of the principal regulations there shall be added the following new regulation:

"Comprehensive checks.

103A. (1) Checks carried out at the premises of internationally operating road passenger transport services undertakings established in Malta, shall be planned in light of past experience in relation to the various types of transport and undertakings and the checks shall also be carried out if serious infringements of Regulation (EC) No 561/2006 or (EU) No 165/2014 or of these regulations have been detected during quayside or roadside checks.

(2) Checks carried out at the premises of internationally operating road passenger transport services undertakings established in Malta shall, in addition to the provisions of regulation 103, include a check on the following:

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

(b) observance of the two (2) weekly limitations of driving times;

(c) record sheets, vehicle unit and the information of the driver card data and printouts;

(d) compliance with maximum average weekly working times, breaks and night work requirements; and

(e) observance of the obligations of undertakings as regards the payment for drivers' accommodation and the organization of the work of drivers.

(3) The Authority may, if it deems it appropriate, verify the joint liability of other instigators or accessories in the transport chain, such as shippers, freight forwarders or contractors, if an infringement is detected, including verification that contracts for the provision of transport permits compliance with Regulations (EC) No 561/2006 and (EU) No 165/2014."

6. Immediately after regulation 104 of the principal regulations there shall be added the following new regulations:

Adds new regulations to the principal regulations.

"Concerted checks.

104A. (1) The Authority shall, at least six (6) times per year, carry out concerted roadside or quayside checks, on drivers and vehicles falling within the scope of Regulation (EC) No 561/2006 or (EU) No 165/2014.

(2) The Authority shall organize additional concerted checks at the premises of the undertaking;

(3) The concerted checks referred to in sub-regulations (1) and (2) shall be carried out at the same time by the enforcement authorities of two (2) or more Member States, each operating in its own territory.

Intra-community liaison.

104B. The Authority shall be responsible for intracommunity liaison and shall have the following functions:

(a) to ensure coordination with the competent enforcement authorities in the other Member States concerned as regards actions taken on concerted quayside and roadside checks;

(b) to forward the biennial statistical returns to the Commission in accordance with Article 17 of Regulation (EC) No 561/2006;

(c) to be primarily responsible for assisting the competent authorities of other Member States; and

(d) to ensure exchange of information with the other Member States in accordance with regulation 104C with regard to the application of these regulations.

Exchange of information.

104C. (1) Information made available bilaterally in accordance with Article 22(3) of Regulation (EC) No 561/2006 shall also be exchanged between the Authority and the competent enforcement authorities of other Member States and notified to the Commission in accordance with regulation 104B:

(a) at least once every six (6) months after 2nd February 2022;

(b) upon the reasoned request by a Member State in individual cases.

(2) The Authority shall provide the information requested by another Member State pursuant to sub-regulation (1)(b) within twenty-five (25) working days from the receipt of the request, unless a shorter timeframe is agreed between the Member States. In urgent cases or in cases requiring only a simple consultation of registers, such as registers of a risk rating system, the requested information shall be provided within three (3) working days:

Provided that where the Authority considers that the request is insufficiently reasoned, it shall inform the requesting Member State accordingly, within ten (10) working days from the receipt of the request, and instruct that Member State to further substantiate the request. Where the requesting Member State is unable to further substantiate the request, the Authority may reject the request:

Provided further that, where it is difficult or impossible to comply with a request for information or to carry out controls, inspections or investigations, the Authority shall inform the requesting Member State accordingly within ten (10) working days from the receipt of the request and provide reasons to duly justify that difficulty or impossibility. Every effort shall be made with a view of finding a solution.

(3) The exchange of information provided for in this regulation shall be implemented through the Internal Market Information System ("IMI"), established by Regulation (EU) No 1024/2012, unless such information is being exchanged by Member States through direct consultation of national electronic registers referred to in Article 16(5) of Regulation (EC) No 1071/2009."