

Subsidiary Legislation made under s.61.

Traffic (Interoperability of Electronic Road Toll Systems) Regulations 2006

LN.2006/152

Commencement **7.12.2006**

EU Legislation/International Agreements involved:
Directive 2004/52/EC

ARRANGEMENT OF REGULATIONS

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2005-26

Traffic

**2006/152 Traffic (Interoperability of Electronic Road Toll Systems)
Regulations 2006**

In exercise of the powers conferred upon it by section 61 of the Traffic Act, and all other enabling powers and for the purposes of transposing into the law of Gibraltar Directive 2004/52/EC of the European Parliament and of the Council of 29 April 2004 on the interoperability of electronic road toll systems in the Community, the Government has made the following Regulations—

Title.

1. These Regulations may be cited as the Traffic (Interoperability of Electronic Road Toll Systems) Regulations 2006.

Interpretation.

2.(1) In these Regulations—

“Directive” means Directive 2004/52/EC of the European Parliament and of the Council of 29 April 2004 on the interoperability of electronic road toll systems in the community;

“electronic toll system” means a system for the charge and collection of a toll or fare in respect of the use of a road or ferry by a motor vehicle, where—

- (a) the system operates by means of a communications interface comprising two or more electronic devices (whether or not the system also uses equipment and technologies which are not electronic),
- (b) those electronic devices collect or transmit data used to determine the amount of the toll or fare payable, and
- (c) at least one of the electronic devices has to be carried in the motor vehicle;

“ferry” means a vessel used for sea or harbour crossings;

“Minister” means the Minister with responsibility for roads;

“operator”, in relation to an electronic road toll system, means the undertaking responsible for the charge and collection of tolls or fares in respect of motor vehicles which use a road or ferry to which the system applies.

(2) Any term used, but not defined in these Regulations, shall be construed in accordance with the provisions of the Directive.

Application of Regulations.

3.(1) These Regulations—

- (a) apply to any new electronic toll system which is brought into service on or after 1st January 2007; but
- (b) do not apply if an exemption certificate has been issued under regulation 5 in respect of the system.

(2) A new system is to be regarded as being brought into service when—

- (a) the system becomes operational for the purpose of charging and collecting tolls or fares;
- (b) changes are made to the system which enable new electronic devices with significantly improved technical specifications to be used for the purpose of charging and collecting tolls or fares;
- (c) changes are made to the system which result in a significant improvement in the operation of the system generally; or
- (d) there is a significant addition to the roads or ferries to which the system applies (for example, by the addition of a new bridge, tunnel or road or the replacement of a road by a ferry service).

Technical requirements for electronic toll systems.

4. An electronic toll system must use one or more of the following technologies for the electronic devices used in its communications interface—

- (a) satellite positioning;
- (b) mobile communications using the GSM-GPRS standard (reference GSM TS 03.60/23.060);
- (c) 5,8 gigahertz microwave technology.

Exemption certificates.

5.(1) The Minister may issue an exemption certificate in respect of an electronic toll system on one or more of the grounds specified in paragraph (2).

- (2) The grounds are that the Minister is satisfied—
- (a) that no electronic means exist for the purpose of charging and collecting any tolls or fares;
 - (b) that the system is designed to operate without the use by the motor vehicle of an on-board electronic device;
 - (c) that—
 - (i) the system is small and strictly local; and
 - (ii) the costs of complying with regulation 4 would be disproportionate to the benefits of doing so.
- (3) An application for an exemption certificate must—
- (a) state the grounds on which the application is made;
 - (b) be made in such manner as the Minister may direct; and
 - (c) contain, or be accompanied by, such other information as the Minister may require.
- (4) Any time after receiving an application and before determining it, the Minister may require the applicant to provide him with such further information as he reasonably considers necessary to enable him to determine the application.
- (5) The applicant may withdraw his application, by giving the Minister written notice, at any time before he determines it.
- (6) If the Minister grants an exemption certificate, he must give the applicant written notice.

Refusal of exemption certificate.

- 6.(1) If the Minister proposes to refuse to grant a certificate, he must give the applicant written notice of that proposal.
- (2) A notice under paragraph (1) must specify a reasonable period (which may not be less than 28 days) within which the applicant may make representations to the Minister.
- (3) The Minister must then decide, within a reasonable period, whether or not to issue a final notice of refusal.

(4) A notice given under paragraph (1) or (3) must—

- (a) be in writing; and
- (b) state the Minister's reasons for refusing the application.

Power to require information and carry out investigations.

7.(1) The Minister may exercise either or both of the powers conferred by subregulations (2) and (4) for the purpose of—

- (a) determining whether a system for charging and collecting tolls or fares in respect of the use of a road or ferry by a motor vehicle is an electronic toll system;
- (b) determining whether an electronic toll system is one to which these Regulations apply; or
- (c) ensuring that the requirements of regulation 4 are met in relation to the system.

(2) The Minister may, by notice in writing given to the operator of an electronic toll system, require the operator—

- (a) to provide specified information, or information of a specified description, about the operation of the system and the equipment the system uses; or
- (b) to produce specified documents or documents of a specified description.

(3) The information or documents must be provided or produced—

- (a) before the end of such reasonable period as may be specified; and
- (b) at such place as may be specified.

(4) The Minister may appoint one or more competent persons to conduct an investigation on his behalf into the operation of the system and the equipment the system uses.

(5) In this regulation “specified” means specified in the notice.

Notice of non-compliance with technical requirements.

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8.(1) Where the Minister considers that the requirements of regulation 4 are not, or may not be, met in relation to an electronic toll system, he may give the operator of the system a notice to that effect.

(2) A notice given under paragraph (1) must—

- (a) state the reasons why the Minister considers that the technical requirements are not met;
- (b) provide details of any remedial steps that he considers to be necessary; and
- (c) specify the period before the end of which remedial steps are to be taken; and
- (d) inform the operator that he may make representations to the Minister within such period as may be specified in the notice.

(3) The Minister may extend the period allowed under the notice for—

- (a) taking remedial steps; or
- (b) making representations.

(4) When both of those periods have expired, the Minister must then decide, within a reasonable period, whether to issue a stop notice.

(5) A stop notice is a notice requiring the operator of the system to cease charging and collecting tolls or fares by means of electronic devices which do not use one or more of the technologies specified in regulation 4.

(6) A stop notice must—

- (a) be in writing;
- (b) give details of the action the operator must take;
- (c) state the date on which the action is to be taken; and
- (d) be given to the operator.

(7) If, having considered any representations made by the operator, the Minister decides not to issue a stop notice, he must give the operator written notice.