

SECOND SUPPLEMENT TO THE GIBRALTAR GAZETTE

No. 4715 GIBRALTAR Friday 22nd May 2020

LEGAL NOTICE NO. 190 OF 2020

TRAFFIC ACT 2005

INTERPRETATION AND GENERAL CLAUSES ACT

TRAFFIC (DRIVERS' QUALIFICATION AND TRAINING) (AMENDMENT) REGULATIONS 2020

In exercise of the powers conferred on it by sections 57 and 101 of the Traffic Act 2005, and section 23(g)(i) of the Interpretation and General Clauses Act, and in order to partly transpose into the Law of Gibraltar Directive (EU) 2018/645 of the European Parliament and of the Council of 18th April 2018 amending Directive 2003/59/EC on the initial qualification and periodic training of drivers of certain road vehicles for the carriage of goods or passengers, the Government has made these Regulations-

Title.

1. These Regulations may be cited as the Traffic (Drivers' Qualification and Training) (Amendment) Regulations 2020.

Commencement.

2. These Regulations come into operation on the 23rd May 2020.

Amendment of the Traffic (Drivers' Qualification and Training) Regulations 2008.

3. The Traffic (Drivers' Qualification and Training) Regulations 2008 are amended in accordance with the provisions of these Regulations.

Amendment of Regulation 2.

4. After sub regulation (2) the following new sub regulation is inserted-

“(3) References in these Regulations to categories of driving licences containing a plus sign (“+”) shall be read in accordance with the correspondence table set out in Schedule 3.”

Amendment of Regulation 3.

5. In Regulation 3-

- (a) in sub regulation (2)(b), the word ‘and’ between the words ‘service’ and ‘forces’ is replaced with ‘,’;
- (b) in sub regulation (2)(b), after the words ‘public order’ the ‘,’ is removed and the words ‘and emergency ambulance services, when the carriage is undertaken as a consequence of the tasks assigned to those services;’ are inserted;
- (c) in sub regulation (2)(d), the ‘,’ at the end is removed and the words ‘including vehicles used in the non-commercial transport of humanitarian aid;’ are inserted;
- (d) sub regulation (2)(e) is replaced in its entirety with-
 - “(e) vehicles used in the course of driving instruction for, and examination of, any person wishing to obtain a driving licence or a CPC, as provided for in regulation 7 and regulation 9(1), provided that they are not being used for the commercial carriage of goods and passengers;”;
- (e) in sub regulation (2)(f) the ‘,’ after the word ‘goods’ is removed and the words ‘for personal use’ are deleted;
- (f) in sub regulation (2)(g) the words ‘vehicles carrying material or equipment’ are replaced with ‘vehicles carrying material, equipment or machinery’ and the ‘.’ is replaced with ‘,’;
- (g) the following new sub regulation (2)(h) is inserted after sub regulation (2)(g)-
 - “(h) vehicles for which a driving licence of category D or D1 is required and which are driven without passengers by maintenance personnel to or from a maintenance centre situated in the vicinity of the nearest maintenance base which is used by the transport operator, provided that driving the vehicle is not the driver’s principal activity;”
- (h) the following new sub regulation (2A) is inserted between sub regulation (2) and sub regulation (3) –
 - “(2A) with regard to sub regulation (2)(e), these Regulations shall not apply to any person wishing to obtain a driving licence or CPC, as provided for in regulation 7 and regulation 9(1), when that person is undergoing additional driving training during work-based learning, where that person is accompanied by another person certified by a CPC, or a driving instructor, for the category of vehicle used for the purpose set out in that sub regulation.”

Amendment of Regulation 8.

6. In Regulation 8-

- (a) in sub regulation (1), the words ‘as referred to in regulation 7 and the drivers referred to in regulation 4’ are deleted;
- (b) in sub regulation (1), the words ‘and the rationalisation of fuel consumption; are replaced with ‘, health and safety at work, and the reduction of the environmental impact of driving.’;
- (c) in sub regulation (2), the ‘,’ is removed after the words ‘Schedule 1’ and the words ‘and shall consist of classroom teaching, practical training and training by means of information and communication technology tools, if available or, in part, on top of the range simulators,’ are inserted between the words ‘Schedule 1’ and ‘and where a driver’;
- (d) in sub regulation (3), the following is inserted at the end, ‘The training shall cover a variety of subjects and shall- (i) include at least one road safety related subject; (ii) take into account developments in relevant legislation and technology; and (iii) where appropriate, take into account the specific needs of the driver.’

Amendment of Regulation 10.

7. In Regulation 10, in sub regulation (1)(a), the reference to ‘Article 14 of Regulation (EEC) No 3821/85’ is replaced with ‘Article 12 of Directive 2006/126/EC’.

Amendment of Regulation 11.

8. In Regulation 11-

- (a) in sub regulation (4), the word ‘certificate’ is replaced with the word ‘attestation’;
- (b) in sub regulation (4), the reference to ‘Regulation (EC) No 484/2002’ is replaced with ‘Regulation (EC) No 1072/2009 provided that it bears the Community code 95.’;
- (c) sub regulation (5) is substituted with-

“(5) For the purposes of these Regulations, the competent authority shall indicate the Community code 95 in the remarks section of the attestation if the driver concerned has fulfilled the qualification and training requirements provided for in these Regulations.’;

- (d) sub regulation (6) is substituted with –

“(6) Driver attestations that do not bear the Community code 95 and that were issued before 23 May 2020 in accordance with Article 5 of Regulation (EC) No 1072/2009 with a view to certifying compliance under these Regulations shall be accepted as a proof of qualification until their date of expiry.’

Amendment to Schedule 1.

9. Schedule 1 is amended as follows-

(a) the second paragraph of Section 1 is substituted in its entirety with-

“The minimum level of qualification shall be comparable at least to level 2 of the European Qualifications Framework as provided for in Annex II to Recommendation of the European Parliament and of the Council of 23 April 2008.”;

(b) the second paragraph of point 1.2 of Section 1 is substituted in its entirety with-

“limits to the use of brakes and retarder, combined use of brakes and retarder, making better use of speed and gear ratio, making use of vehicle inertia, using ways of slowing down and braking on downhill stretches, action in the event of failure, use of electronic and mechanical devices such as Electronic Stability Program (ESP), Advanced Emergency Braking Systems (AEBS), Anti-Lock Braking System (ABS), traction control systems (TCS) and in vehicle monitoring systems (IVMS) and other, approved for use, driver assistance or automation devices.”;

(c) the second paragraph of point 1.3 of Section 1 is substituted in its entirety with-

“optimisation of fuel consumption by applying know-how as regards points 1.1 and 1.2, importance of anticipating traffic flow, appropriate distance to other vehicles and use of the vehicle’s momentum, steady speed, smooth driving style and appropriate tyre pressure, and familiarity with intelligent transport systems that improve driving efficiency and assist in route planning.”;

(d) the following new point 1.3A is inserted before the heading “Licences C, C+E, C1, C1+E”-

“Objective: ability to anticipate, assess and adapt to risks in traffic:

to be aware of and adapt to different road, traffic and weather conditions, anticipate forthcoming events; to understand how to prepare and plan a journey during abnormal weather conditions; to be familiar with the use of related safety equipment and to understand when a journey has to be

postponed or cancelled due to extreme weather conditions; to adapt to the risks of traffic, including dangerous behaviour in traffic or distracted driving (through the use of electronic devices, eating, drinking, etc.); to recognise and adapt to dangerous situations and to be able to cope with stress deriving therefrom, in particular related to size and weight of the vehicles and vulnerable road users, such as pedestrians, cyclists and powered two wheelers;

identify possible hazardous situations and properly interpret how these potentially hazardous situations may turn into situations where crashes can no longer be averted and selecting and implementing actions that increase the safety margins to such an extent that a crash can still be averted in case the potential hazards should occur.”

- (e) in point 1.4 of Section 1 the words “use of automatic transmission systems,” are inserted between the words “road profile,” and “calculation of payload”;
- (f) in point 1.6 of Section 1 the words “use of automatic transmission systems,” are inserted between the words “road profile,” and “calculation of payload”;
- (g) in point 2.1 of Section 1 the reference to “(EEC) No 3821/85” is replaced with “(EU) No 165/2014”;
- (h) in point 2.2 of Section 1, the words “documents to be carried in the vehicle, bans on using certain roads, road-use fees,” are inserted between the words “transport operating licences,” and “obligations under standard contracts for the carriage of goods”;
- (i) in point 3.7 of Section 1, the words “dangerous goods, animal transport,” are inserted between the words “controlled temperature,” and “etc.”;
- (j) in point 3.8 of Section 1, the words “disability awareness,” are inserted between the words “different activities involving the carriage of passengers by road,” and “crossing borders (international transport),”;
- (k) point 2.1 of Section 2 is substituted in its entirety with-

“2.1 Option combining both course attendance and a test.

Initial qualification must include the teaching of all subjects in the list under section 1. The duration of this initial qualification must be 280 hours.

Each trainee driver must drive for at least 20 hours individually in a vehicle of the category concerned which meets at least the requirements for test vehicles as set out in Directive 2006/126/EC.

When driving individually, the trainee driver must be accompanied by an instructor, employed by an approved training centre. Each trainee driver may

drive for a maximum of eight hours of the 20 hours of individual driving on special terrain or on a top-of-the-range simulator so as to assess training in rational driving based on safety regulations, in particular with regard to vehicle handling in different road conditions and the way they change with different atmospheric conditions, the time of day or night, and the ability to optimise fuel consumption.

The competent authority may allow part of the training to be delivered by the approved training centre by means of ICT tools, such as e-learning, while ensuring that the high quality and the effectiveness of the training are maintained, and by selecting the subjects where ICT tools can most effectively be deployed. In particular the competent authority shall require reliable user identification and appropriate means of control. The competent authority may count specific training required under other Union legislation as part of the training. This includes, but is not restricted to, training required under Directive 2008/68/EC of the European Parliament and of the Council for the transport of dangerous goods, training on disability awareness under Regulation (EU) No 181/2011 of the European Parliament and of the Council and training on animal transport under Council Regulation (EC) No 1/2005.

For the drivers referred to in Regulation 6(6) the length of the initial qualification must be 70 hours, including five hours of individual driving.

At the end of that training, the competent authority or the entity designated by it shall give the driver a written or oral test. The test must include at least one question on each of the objectives in the list of subjects under Section 1.”;

- (l) in point 2.2(b) of Section 2, the reference to “Directive 91/439/EEC” is replaced with “Directive 2006/126/EC” in the second subparagraph;
- (m) Sections 3 and 4 are substituted in their entirety with the following:

“Section 3: Accelerated initial qualification provided for in Regulation 5(3).

Accelerated initial qualification must include the teaching of all subjects in the list in section 1. Its duration must be 140 hours.

Each trainee driver must drive for at least 10 hours individually in a vehicle of the category concerned which meets at least the requirements for test vehicles set out in Directive 2006/126/EC.

When driving individually, the trainee driver must be accompanied by an instructor, employed by an approved training centre. Each trainee driver may drive for a maximum of four hours of the 10 hours of individual driving on special terrain or on a top-of-the-range simulator so as to assess training in rational driving based on safety regulations, in particular with regard to vehicle handling in different road conditions and the way those

road conditions change with different atmospheric conditions, the time of day or night, and the ability to optimise fuel consumption.

The provisions of the fourth paragraph of point 2.1 shall also apply to the accelerated initial qualification.

For the drivers referred to in Regulation 6(6), the length of the accelerated initial qualification must be 35 hours, including two-and-a-half hours of individual driving.

At the end of that training, the competent authority or the entity designated by it shall give the driver a written or oral test. The test must include at least one question on each of the objectives in the list of subjects under section 1.

Section 4: Compulsory periodic training provided for in Regulation 5(1)(b).

Compulsory periodic training courses must be organised by an approved training centre. Their duration must be of 35 hours every five years, given in periods of at least seven hours, which may be split over two consecutive days. Whenever e-learning is used, the approved training centre shall ensure that the proper quality of the training is maintained, including by selecting the subjects where ICT tools can most effectively be deployed. In particular, the competent authority shall require reliable user identification and appropriate means of control. The maximum duration of the e-learning training shall not exceed 12 hours. At least one of the training course periods shall cover a road safety related subject. The content of the training shall take into account training needs specific to the transport operations carried out by the driver and relevant legal and technological developments and should, as far as possible, take into account specific training needs of the driver. A range of different subjects should be covered over the 35 hours, including repeat training where it is shown that the driver needs specific remedial training.

The competent authority may consider counting the completed specific training as required under other Union legislation for up to one of the stipulated seven-hour periods. That includes, but is not restricted to, training required under Directive 2008/68/EC for the transport of dangerous goods, training on animal transport under Regulation (EC) No 1/2005, and, for the carriage of passengers, training on disability awareness under Regulation (EU) No 181/2011. However, Member States may decide that completed specific training as required under Directive 2008/68/EC for the transport of dangerous goods counts as two of the seven-hour periods, provided that this is the only other training that is taken into account in the periodic training.

10. In Schedule 2 –

- (a) in Section 2, concerning side 1 of the driver qualification card, in paragraph (d), point 9, the word “(sub)categories” is replaced with the word “categories”;
- (b) in Section 2, concerning side 1 of the driver qualification card, in paragraph (e), the first sentence is replaced with the following:

“the title “European Union model” in the language or languages of the Member State issuing the card and the heading “driver qualification card” in the other official languages of the Union, printed in blue so as to form the background to the card.”;

- (c) in Section 2, concerning side 2 of the driver qualification card, in paragraph (a), points 9 and 10 are replaced with the following:

“9. the categories of vehicles for which the driver satisfies the initial qualification and periodic training requirements;

10. the harmonised Union code, “95”, provided for in Annex I to Directive 2006/126/EC;”;

- (d) the following new Section 5 is inserted immediately after Section 4:

“5. Transitional Provisions.

Driver qualification cards issued before 23 May 2020 shall be valid until their date of expiry.

New Schedule 3.

11. The following new schedule is inserted after Schedule 2:

“SCHEDULE 3

Regulation 2

**CORRESPONDENCE TABLE FOR THE REFERENCES TO CERTAIN
CATEGORIES OF DRIVING LICENCES**

Reference in these Regulations	Reference in the Traffic Act 2005
C + E	CE
C1 + E	C1E

D + E	DE
D1 + E	D1E

Dated: 22nd May 2020.

V DARYANANI,
Minister with responsibility for traffic,
for the Government.

EXPLANATORY MEMORANDUM

The Traffic (Drivers' Qualification and Training) Regulations 2008 ("the 2008 Regulations") implement Directive 2003/59/EU of the European Parliament and of the Council of 15 July 2003 on the initial qualification and periodic training of drivers of certain road vehicles for the carriage of goods or passengers ("the Directive").

These Regulations amend the 2008 Regulations to implement the amendments made to the Directive by Directive (EU) 2018/645 of the European Parliament and of the Council of 18 April 2018 ("the Amending Directive").

The Amending Directive makes provision in addressing difficulties and uncertainties relating to the interpretation of exemptions, the content of the training, difficulties for drivers in obtaining mutual recognition of completed or partially completed training undergone in another Member state and inconsistencies of minimum age requirements.