

SECOND SUPPLEMENT TO THE GIBRALTAR GAZETTE

No. 4995 GIBRALTAR Thursday 22nd September 2022

LEGAL NOTICE NO. 275 OF 2022

TRAFFIC ACT 2005

PROHIBITION OF USE OF MOBILE TELEPHONES WHILE DRIVING (AMENDMENT) REGULATIONS 2022

In exercise of the powers conferred upon him by section 57 of the Traffic Act 2005, the Minister has made the following Regulations-

Title.

1. These Regulations may be cited as the Prohibition of Use of Mobile Telephones While Driving (Amendment) Regulations 2022.

Commencement.

2. These Regulations come into operation on the day of publication.

Amendment of the Prohibition of Use of Mobile Telephones While Driving Regulations 2010.

3.(1) The Prohibition of Use of Mobile Telephones While Driving Regulations 2010 are amended in accordance with this regulation.

(2) In regulation 2-

(a) for “paragraph” substitute “subregulation” in each place it occurs;

(b) in subregulation (4)-

(i) for “paragraphs” substitute “subregulations”;

(ii) for “performs an interactive communication function by transmitting and receiving data” substitute “is capable of transmitting and receiving data, whether or not those capabilities are enabled”.

(c) in subregulation (5)(a) for “of” substitute “or”;

(d) after subregulation (5), insert-

“(5A) A person does not contravene a provision of this regulation, if at the time of the alleged contravention-

- (a) that person is using the mobile telephone or other device to make a contactless payment;
 - (b) that payment is for a good or service which is received at the same time as, or after, the contactless payment is made; and
 - (c) the motor vehicle is stationary.”.
- (e) in subregulation (6)-
- (i) in paragraph (a), for “during the course” to the end, substitute “while being used”;
 - (ii) for paragraph (c) substitute-
 - “(c) in subregulations (1), (2) and (3), the word “using” includes the following –
 - (i) illuminating the screen;
 - (ii) checking the time;
 - (iii) checking notifications;
 - (iv) unlocking the device;
 - (v) making, receiving or rejecting a telephone or internet based call;
 - (vi) sending, receiving or uploading oral or written content;
 - (vii) sending, receiving or uploading a photo or video;
 - (viii) utilizing camera, video or sound recording functionality;
 - (ix) drafting any text;
 - (x) accessing any stored data such as documents, books, audio files, photos, videos, films, playlists, notes or messages;
 - (xi) accessing an application;
 - (xii) accessing the internet.”.
 - (iii) after paragraph (c) insert –
 - “(d) “contactless payment” means a payment made at a contactless payment terminal using the contactless payment facility of a card, mobile telephone or other device;
 - (e) “an application” means a software programme that runs through a web browser or offline on a mobile telephone or other device.”.

(3) In regulation 3, after “offence” insert “and is liable on summary conviction to a fine at level 3 on the standard scale.”.

Dated: 22nd September 2022.

P.BALBAN,
Minister for Transport.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Prohibition of Use of Mobile Telephones While Driving Regulations 2010.

Regulations 2(1) and (2) of the Prohibition of Use of Mobile Telephones While Driving Regulations 2010 prohibit the use, while driving a motor vehicle, of hand-held mobile telephones or other interactive communication devices, when performing an interactive communication function.

Regulations 3(2)(b)(ii) and (d)(i) and (ii) amend regulation 2 of the 2010 Regulations by widening the scope of the offence to include any use of a mobile telephone or interactive communication device held in the hand whilst driving. These provisions remove the requirement that the driver is using the mobile telephone or interactive communication device to perform an interactive communication function.

Regulation 3(2)(c) amends regulation 2 by inserting an additional exemption to provide that a person is not in contravention of that regulation where the hand-held mobile telephone or interactive communication device is being used to make a contactless payment at a contactless payment terminal, in compliance with the requirements as set out in these regulations.

Regulation 3(2)(d)(iii) inserts definitions for the terms “contactless payment” and “an application”.