

**SECOND SUPPLEMENT TO THE GIBRALTAR
GAZETTE**

No. 3344 of 29 May, 2003

LEGAL NOTICE NO. 66 OF 2003

TRANSPORT ACT

TRANSPORT (AMENDMENT) REGULATIONS 2003

In exercise of the powers conferred on him by section 68 of the Transport Act 1998, and all other enabling powers, the Minister has made the following regulations—

Title.

1. These regulations may be cited as the Transport (Amendment) Regulations 2003.

Amendments to the Transport Regulations 2000.

2.(1) Regulations 38 to 40, inclusive are revoked.

(2) Regulation 124A is revoked.

(3) The following is inserted after regulation 64—

“Advertising on taxis.

64A. No advertisement shall be displayed on a taxi except in accordance with the following conditions—

- (a) the written consent of the Commission (which may impose further conditions) is obtained;
- (b) the vehicle must remain clearly identifiable as a taxi;
- (c) the advertisement is professionally executed and applied;
- (d) the advertisement does not carry wording or symbols with political slogans or which are defamatory;

- (e) all windows of the taxi remain fully transparent from inside and out;
- (f) only 50% of the area on the taxi where the advertisement is permissible is taken up by the advertisement;
- (g) where the advertisement is on behalf of a third party (that is to say advertising goods or services other than taxi services provided by the owner or driver of the taxi), such advertisements may only be displayed on the rear doors, rear panels and the roof.”.

(4) Regulation 116(1) is amended by adding the following at the end—

“whose tour is to be delivered by omnibus licensed under this Act;”.

(5) Regulation 117(1) is amended by inserting after “licensee” the words “other than a taxi”.

(6) Form 2 in Schedule 1 to the Regulations is replaced by the Form in the Schedule to these Regulations.

SCHEDULE

Regulation 2

FORM 2

TRANSPORT ACT

TRANSPORT REGULATIONS

**APPLICATION FOR OPERATOR'S LICENCE
APPLICATION FOR RENEWAL OF AN OPERATOR'S LICENCE
APPLICATION FOR AMENDMENT OF AN OPERATOR'S
LICENCE**

(delete whichever is inappropriate)

To the Secretary
Transport Commission

I/We
of

apply for a road service operator's licence.

I/we enclose the following information that is required by the Commission in order to process the application:

- (a) the licence is to cover:
- (i) both national transport operations and international operations, or
 - (ii) national transport operations only.

(please delete as appropriate)

- (b) the following vehicle(s) will be used in respect of this licence

Make	Engine Number	Chassis Number	Registration No.

- (c) I/we enclose evidence that I/we have available sufficient financial resources to ensure the establishment and proper administration of the road transport undertaking carried on, or proposed to be carried on, under the licence. (see Notes 1 and 2).
- (d) I/we enclose evidence of professional competence. (see Note 3)
- (e) Details of the place from which the business is proposed to be carried out are as follows:
- (f) I/we enclose particulars of any convictions or road traffic offences during the five years preceding the making of this application recorded against myself, my company or my transport manager. (see Note 4) or
- (g) I/we certify that no convictions or road traffic offences have been recorded against me/us, my/our company or my/our transport manager in the 5 years immediately preceding this application (delete as appropriate).

I give below details of other applications made for the issue, renewal or amendment of an Operator's Licence within the last 24 months.

I certify that the information given in this application is complete and accurate and I authorise the verification of any part as may be required.

Signed (see Note 5)

Date

N.B. Every application must be sent to the Commission so as to reach it not less than eight weeks before the date on which the applicant desires the licence, renewal or amendment applied for to take effect.

NOTES

These notes are to be read in conjunction with the Application for Operator's Licence and the Transport Act, 1998 and serve as an aide-memoire only.

NOTE 1

If the application is for international transport operations you are required to provide proof to the Commission that you have available capital and reserves of an amount equal to at least:

- (i) 3,000 Euro multiplied by the number of vehicles which are to be or are used under the licence; or
- (ii) in the case of road haulage operator licences, 150 Euro multiplied by the number of tonnes of the aggregate of the maximum authorised weight of such vehicles; or
- (iii) in the case of road passenger transport operator licences, 150 Euro multiplied by the number of passenger seats in that number of vehicles,

whichever is the less.

NOTE 2

In assessing the financial resources available to an applicant for or a holder of a licence, the Commission will have regard to—

- (a) the annual accounts, if any, of the applicant or the holder;
- (b) the extent that they are available for the road transport undertaking, in respect of which the application is made or the licence is held—
 - (i) funds available to the applicant or the holder, including money in bank accounts, overdraft and loan facilities;
 - (ii) any assets of the applicant or holder, including property, and the extent to which such assets are available by way of security;
- (c) the costs to the applicant, or the holder of the road transport undertaking in respect of which the application is made or the licence is held, including, but not limited to—
 - (i) the purchase cost of or initial payment in respect of the vehicles the applicant proposes to operate in the

undertaking, and in respect of which the licence is to be issued or is issued;

(ii) the cost of purchase or rent in respect of premises, plant and equipment used in the operation of the undertaking;

(d) whether the amount and cost of working capital is adequate in respect of the undertaking.

The applicant or holder must provide such evidence as the Commission may require for the purpose of establishing that these requirements are met, including, if so required, guarantees by a bank or other similar institution.

NOTE 3

An individual or a company satisfies the requirement as to professional competence if, and as long as, in respect of its road transport undertaking, he has a transport manager, or managers who, or if more than one each of whom, is of good repute and professionally competent.

An individual is regarded as professionally competent for the purposes of this application if, and only if—

(a) he has demonstrated possession of the requisite skills by passing a written examination, which may take the form of a multiple-choice examination, organised by an approved body and he is the holder of a certificate to that effect issued by the approved body; or

(b) he is the holder of any other certificate of competence, diploma or other qualifications recognised for the purposes of this subparagraph by the Commission.

“the requisite skills” at (a) above means skills in the subjects listed in Part A of the Annex to Council Directive (EEC) 89/438 of 21 June 1989; and, in the case of a licence to cover international operations, also skills in the subjects listed in Part B of the Annex to that Directive.

An individual is regarded as professionally competent if he was authorised to engage in the occupation of road passenger transport if he was so authorised prior to 22 September 2000 for a period of 2 years during the period 1

January 1975 to 31 December 1979 or at any time between 1 January 1970 and 31 December 1974.

NOTE 4

(1) In determining whether an individual is of good repute, the Transport Commission will have regard to any relevant matter, and in particular to—

- (a) relevant convictions of the individual and his employees and agents; and
- (b) such other information as the Transport Commission may have as to his previous conduct appearing to relate to his fitness to hold a licence.

(2) In determining whether a company is of good repute, the Commission will have regard to all the material evidence and in particular to—

- (a) relevant convictions of the company, its officers, employees and agents; and
- (b) such other information as the Transport Commission may have as to previous conduct of—
 - (i) the company's officers, employees and agents appearing to relate to the company's fitness to hold a licence; and
 - (ii) each of the company's directors, in whatever capacity, appearing to relate to the company's fitness to hold a licence.

(3) The Transport Commission will determine that an individual is not of good repute if he has been convicted—

- (a) of a serious offence;
- (b) of an offence under the Transport Act which has resulted in the exercise by the Transport Commission of its powers under section 29 of the Transport Act to suspend or revoke a licence;
- (c) on two or more occasions of road transport offences that is to say—

- (i) an offence under the Transport Act relating to drivers' driving and rest periods, the weight and dimension of commercial vehicles, road safety, vehicle safety or falsification of documents;
- (ii) an offence under the Employment and Training Act relating to the employment of persons in a business in respect of which a licence is required;
- (iii) any corresponding offence under the law of a country or territory outside Gibraltar of which the person was convicted in the seven years preceding the date of application.

(4) For the purposes of sub-paragraph (3)(a) above a serious offence is–

- (a) an offence under the law of Gibraltar for which a sentence of imprisonment for a term exceeding three months or a fine exceeding level 4 on the standard scale was imposed; and
- (b) any corresponding offence (in the seven years preceding the date of the application) under the law of a country or territory outside Gibraltar for which a corresponding punishment was imposed.

(5) In sub-paragraph (4)(a) above “a sentence of imprisonment” includes any form of custodial sentence or order other than one under the enactments relating to mental health.

(6) Paragraph (3) above of this Note is without prejudice to the power of the Transport Commission to determine that an individual is not of good repute for reasons other than convictions of the kind there mentioned.

(7) In this Note references to an individual include references to a transport manager as well as to an individual who is an applicant for, or the holder of, a licence.

NOTE 5

Every application must be signed–

- (i) if made by an individual person, by that individual,
- (ii) if made by a body corporate, by an individual person authorised for the purpose by the body or under its common seal, and
- (iii) if made by persons in partnership, by one of the partners with the authority of the others.

Dated the 29th day of May, 2003

J J HOLLIDAY

Minister for Tourism and Transport

EXPLANATORY MEMORANDUM

These regulations amend the Transport Regulations to correct some minor anomalies.

