

**SECOND SUPPLEMENT TO THE GIBRALTAR
GAZETTE**

No. 4249 of 24 March, 2016

LEGAL NOTICE NO. 66 OF 2016.

TRANSPORT ACT 1998

TRANSPORT (AMENDMENT) (No.2) REGULATIONS 2016

In exercise of the powers conferred upon him by section 69 of the Transport Act 1998, the Minister has made the following Regulations—

Title.

1. These Regulations may be cited as the Transport (Amendment) (No.2) Regulations 2016.

Commencement.

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

Amendment of Regulations.

3. The Transport Regulations 2000 (“the principal Regulations”) are amended in accordance with the provisions of these Regulations.

Regulation 12.

4. Regulation 12(3) is revoked.

Regulation 37.

5. In subregulation (2) delete “, unless the Commission authorises otherwise”.

Regulation 64.

6. Regulation 64 of the principal Regulations is amended as follows—
 - (a) in subregulation (1)—
 - (i) after the words “affixed to the” insert the words “front and to the rear of the”;

- (ii) substitute “road” with “taxi rank”; and
- (ii) substitute “capital Latin characters of a height of at least 2.5 centimetres and a breadth throughout of not less than 0.75 centimetres.” with “of such font and size as prescribed by the Commission.” ;
- (b) after subregulation (1) insert the following subregulation–
 - “(1A) The word “Taxi” referred to in subregulation (1) shall be fixed to the vehicle as the Commission may require.”;
- (c) in subregulation (2) substitute “white in colour” with “in such colour as directed by the Commission”;
- (d) for subregulation (3) substitute the following subregulation–
 - “(3) Every taxi shall show a logo and a red stripe, in such form and together with any other emblems as the Commission may require.
 - (3A) The designs referred to in subregulation (3) shall be placed on each front door of the vehicle as the Commission may require.”;
- (e) for subregulation (4) substitute the following subregulation–
 - “(4) Taxis shall be of such design and appearance as approved by the Commission from time to time.”
- (f) after subregulation (4) insert the following subregulation–
 - “(5) A person who fails to comply with the provisions of this regulation is liable as though each breach were a separate offence, and for the avoidance of doubt, this includes instances where a subregulation requires more than one notice or sign or combination thereof, that person is liable to a separate penalty for each missing or defective notice or sign.”.

Regulation 64A.

7. Regulation 64A of the principal Regulations is amended as follows–

- (a) in subregulation (e) by substituting “the back of the taxi (including the window)” with “the window at the back of the taxi”; and
- (b) revoking subregulation (g).

Substitution of regulation 66.

8. For regulation 66 of the principal Regulations substitute the following regulation–

“Plying or standing for hire and prohibition on touting.

- 66.(1) A driver of a taxi shall not ply or stand for hire other than in a taxi rank or within the security area of the Port”.
- (2) A driver of a taxi who in breach of subregulation (1) touts commits an offence.
- (3) Nothing in this regulation shall prohibit a taxi from accepting a fare when hailed by a person next to a road.
- (4) Nothing in this regulation shall prohibit a taxi from accepting a fare which has been pre-booked.”.

Regulation 67.

9. Regulation 67 of the principal Regulations is amended as follows–

- (a) for subregulation (1) substitute the following subregulation–
 - “(1) Drivers of taxis, whilst at a taxi rank, must stay in or beside their vehicle whilst the taxi is in service.”; and
- (b) for subregulation (3) substitute the following subregulation–

“(3) Where there is more than one taxi at a taxi rank, the taxi which is at the front of that rank must take the first available fare paying passenger.

(3A) Subregulation (3) does not apply where a fare paying passenger requires a taxi with more seats than that taxi is licensed for and in such cases the taxi with the requisite number of seats and nearest the front of the taxi rank must take that fare paying passenger.”.

Regulation 71.

10. In regulation 71(1) of the principal Regulations–

(a) at the end of paragraph (d) for “.” substitute “;”; and

(b) after paragraph (d) insert the following tailpiece–

“and the information referred to in paragraphs (a) to (d) shall be exhibited–

(i) at the front of the taxi so that it is visible by any passenger seated on any front seat; and

(ii) at a location behind the driver or front passengers’ seats so that it is visible by any passenger occupying a seat other than the front passenger seat.”.

Regulation 71A.

11. After regulation 71 insert the following regulation–

“Plate to be affixed.

71A.(1) There shall be affixed to the rear of the vehicle a plate which displays the information conforming to the requirements set out in Schedule 6.

(2) The plate referred to in subregulation (1) shall be displayed at all times when the taxi is in use or available for hire, and it shall be an offence to obscure the plate when the taxi is in use or standing for hire.”.

Revocation of regulation 124.

12. Regulation 124 of the principal Regulations is revoked.
13. After regulation 125 insert the following Part–

“PART IX

FIXED PENALTY OFFENCES

Punishment without prosecution of offences in connection with obstruction, parking, etc.

- 126.(1) The provisions of this regulation shall apply to any offence created by or under these Regulations being–
 - (a) an offence punishable on summary conviction; and
 - (b) listed in Part 1 of Schedule 3 and hereinafter referred to as a “fixed penalty offence”.
- (2) Where a police officer or a Transport Inspector finds a person on any occasion and has reason to believe that on that occasion he is committing or has committed an offence to which this regulation applies, he may give that person the prescribed notice in writing offering the opportunity of the discharge of any liability to conviction of that offence by payment of a fixed penalty under this regulation; and no person shall then be liable to be convicted of that offence if the fixed penalty is paid in accordance with this section before the expiration of the 14 days following the date of the notice or such longer period (if any) as may be specified therein or before the date on which proceedings are begun, whichever event last occurs.
- (3) Where a person is given a notice under this regulation in respect of an offence, proceedings shall not be taken against any person for that offence until the end of 28 days following the date of service of the notice or the day after posting such notice or such longer period (if any) as may have been specified therein.

- (4) In subregulations (2) and (3) “proceedings” means any criminal proceedings in respect of the act or omission constituting the offence specified in the notice under subregulation (2), and “convicted” shall be construed in like manner.
- (5) Payment of a fixed penalty under this regulation shall be made to such person or entity as the Minister may prescribe by Notice in the Gazette (in this regulation referred to as “the designated person”), and sums paid by way of fixed penalty for any offence shall be treated as if they were fines imposed on summary conviction for that offence and in any proceedings a certificate that payment of a fixed penalty was or was not made to the designated person by a date specified in the certificate shall, if the certificate purports to be signed by the designated person, be sufficient evidence of the facts stated, unless the contrary is proved.
- (6) A notice under subregulation (2) shall specify the offence alleged and the statutory provision allegedly contravened and state also the period during which, by virtue of subregulation (3), proceedings will not be taken for the offence, the amount of the fixed penalty and the address of the designated person to whom the fixed penalty may be paid.
- (7) Subject to subregulations (8) and (9) below, where a police officer or Transport Inspector believes that an authorised camera or other digital device has detected a vehicle or finds a vehicle on an occasion and has reason to believe that on the occasion there is being or has been committed in respect of it an offence to which this regulation applies, he may proceed under this regulation as if he had found a person reasonably believed by him to be committing the offence, and for that purpose the registered owner of the vehicle shall be the person liable for the offence and, in the case of a vehicle detected on camera, a notice sent to the owner by registered post and, in the case of a vehicle physically found, a notice affixed to the vehicle shall be deemed to have been given to the registered owner.
- (8) In any proceedings in respect of an offence to which subregulation (7) applies it shall be a defence for the registered owner of the vehicle to prove that—

- (a) at the time of the offence the vehicle was in charge of some other person; and
 - (b) he had exercised all such diligence as was practicable to avoid the commission of the offence by that person.
- (9) A person shall not without leave of the Court, be entitled to rely on the defence referred to in subregulation (8), unless within a period ending 7 clear days before the hearing, he has served on the prosecutor a notice in writing giving such information identifying or assisting in the identification of that other person as was then in his possession.
- (10) A notice affixed to a vehicle under subregulation (7) or served under this regulation shall not be removed or interfered with except by or under the authority of the driver or person in charge of the vehicle or the person liable for the offence in question; and any person contravening this subregulation is liable on summary conviction to a fine at level 1 on the standard scale.
- (11) The penalty for a fixed penalty offence shall be £50 or £100 as indicated in Part 1 of Schedule 3, save that in the case set out in regulation 64, the penalty shall be calculated on the basis of £50 in respect of each deficient or missing sign, badge or emblem, as the case may be.
- (12) In any proceedings for an offence to which subregulation (1) applies, no reference shall be made after the conviction of the accused to the giving or affixing of any notice under this regulation or to the payment or non-payment of a fixed penalty thereunder unless in the course of the proceedings or in some document which is before the court in connection with the proceedings reference has been made by or on behalf of the accused to the giving or affixing of such notice, or as the case may be, to such payment or non-payment.

Form of notice under regulation 126.

- 127.(1) A notice under regulation 126(2) offering the opportunity of the discharge of any liability to conviction of an offence to

which that regulation applies by payment of a fixed penalty (hereinafter in these Regulations referred to as “a notice”) shall be in the form in Part 2 of Schedule 3 or in a form to the like effect or any form that contains the information required by these Regulations.

- (2) A notice, in specifying an alleged offence, shall contain a reference to the regulation allegedly contravened.

Copy to be sent to the designated person.

128. A copy of any notice given under regulation 126 shall, as soon as practicable, be forwarded by or on behalf of the police officer or Transport Inspector giving the notice to the designated person.

Identification of notice.

- 129.(1) The person paying a fixed penalty shall either forward with the remittance the payment slip attached to the relevant notice or identify the notice by specifying its serial number.
- (2) If, owing to the failure of the person paying a fixed penalty to comply with the provisions of subregulation (1), the designated person is unable to identify the relevant notice, the designated person shall, as soon as practicable, return the remittance to that person.

Only full amount of penalty to be accepted.

130. If less than the full amount of a fixed penalty payable on the date of payment is tendered to the designated person in payment of the fixed penalty the designated person shall, as soon as practicable, return to the sender the amount tendered.

Discounts for prompt payment.

131. Where a person is served a fixed penalty notice and that person makes payment within 14 days of the fixed penalty notice being issued he shall only be liable to pay 50% of the amount of the fixed penalty.

Issue of receipt.

132. Subject to the foregoing provisions of these Regulations the designated person shall, as soon as practicable after payment of a fixed penalty has been made to him send to the payer a receipt for the payment.”.

Schedule 3.

14. For Schedule 3 substitute the following Schedule–

“SCHEDULE 3

PART 1

FIXED PENALTY OFFENCES

REGULATION	DESCRIPTION OF THE OFFENCE	FINE (£)
6(1)	Every vehicle in respect of which a licence has been granted, shall carry an identification disc, prominently displayed in such a place as to be readily seen by persons entering or leaving the vehicle.	50
6(2)	Every guide in the course of his duties shall wear a badge, prominently displayed, as to be readily seen by persons intending to engage his services.	50
37(2)	Every public service vehicle shall be constructed in such manner as enables the driver to steer the vehicle from the left hand side of the vehicle.	50
37(3)	Every public service vehicle, shall, at all times, be in a good and serviceable condition, with bodywork, upholstery, paintwork and fittings, finished to such specifications and to such design as the Commission may, from time to time, authorise.	100
41(1)	Every public service vehicle shall carry, in such position as to be readily available for use, suitable and efficient apparatus for	100

	extinguishing fire of one or more of the following types– (a) a 4 litre foam producing fire extinguisher; (b) a 2 kilogram carbon dioxide fire extinguisher; (c) a 2 kilogram dry powder fire extinguisher.	
41(2)	The apparatus shall comply with any requirements prescribed by the Chief Fire Officer of the City Fire Brigade.	100
41(5)	Fire extinguishers carried in public service vehicles to exhibit a valid certificate.	100
42	Every public service vehicle shall provide an efficient and practical means for carrying the luggage of passengers using the vehicle.	100
43	The body, both externally and internally, and all paintwork, windows, fittings and all upholstery and seating for passengers in a public service vehicle shall be maintained in a good, clean, fit and serviceable condition.	100
44	Seating capacity of public service vehicle exceeded.	100
45(2)	No article shall be carried in such a position as to be liable to obstruct the driver.	100
46	No person except the driver of a public service vehicle shall be permitted to remain or be in a public service vehicle while petrol or other inflammable liquid is being poured or pumped into the fuel tank or any spare or reserve tank and container in the vehicle.	100
47(1)	Except for the fuel and lubricant necessary for the use of the public service vehicle, no explosive, highly inflammable or otherwise dangerous, substance shall be carried on a public service vehicle.	100
47(2)	No container of fuel shall be carried on the roof of a public service vehicle.	100
61(1)	No bus shall carry standing passengers unless a Transport Inspector certifies the vehicle as fit for the carriage of standing passengers	100
62	No goods other than the personal luggage of passengers shall be carried in a bus.	100
64(1)	Every taxi shall have a sign of a type and	50

	colour approved by the Commission and bearing the word "Taxi" affixed to the front and to the rear of the vehicle at all times when it is on hire or plying or standing for hire on a taxi rank, and the letters of such word shall be of such font and size as prescribed by the Commission.	
64(1A)	The word "Taxi" referred to in subregulation (1) shall be painted on or otherwise permanently fixed to the vehicle.	50
64(2)	Every taxi shall be painted in such colour as directed by the Commission.	50
64(3)	Every taxi shall show the castle and key logo and a red stripe, in such form and together with any other emblems as the Commission may require.	50
64(3A)	The designs referred to in subregulation (3) shall be placed on each front door and shall be painted on or otherwise permanently fixed to the vehicle	50
64A	Advertisement contravenes a provision in paragraph (a) to (f)	100
65	Vehicles which are the subject of import duty drawback by reason of their intended use as taxis shall be used for no other purposes.	100
66(1)	A driver of a taxi shall not ply or stand for hire other than in a taxi rank or within the security area of the Port.	100
66(2)	A driver of a taxi who in breach of 66(1) touts commits an offence.	100
67(1)	Drivers of taxis, whilst at a taxi rank, must stay in or beside their vehicle whilst the taxi is in service.	100
67(3)	Where there is more than one taxi at a taxi rank, the taxi which is at the front of that rank must take the first available fare paying passenger.	100
67(5)	A taxi has failed to abide by any rota system imposed by a Transport Inspector designed to ensure that a sufficient number of taxis are available at specific taxi ranks in order to meet expected demand.	100

68(1)	Refusing or neglecting to be hired.	100
69	No person other than a fare paying passenger, or a guide licensed under these Regulations, shall sit or be carried alongside the driver of a taxi when that taxi is on hire.	50
71(1)	There shall be exhibited inside every taxi, printed and framed in such manner as the Commission may require- (a) a statement of the prescribed fares; (b) the road service licence number; (c) the name and photograph of the driver actually driving the taxi as such; (d) a statement of the procedure to be followed should the passenger wish to lodge a complaint; and the information referred to in paragraphs (a) to (d) shall be exhibited- (i) at the front of the taxi so that it is visible by any passenger seated on any front seat; and (ii) at a location behind the driver or front passengers' seat so that it is visible by any passenger occupying a seat other than the front passenger seat.	50
71(2)	The statements referred to in sub-regulation (1) shall not be concealed or rendered illegible at any time while the taxi is plying or being used for hire.	50
71A(1)	There shall be painted on or otherwise permanently affixed to the rear of the vehicle a plate which displays the information conforming to the requirements set out in Schedule 6.	50
71A(2)	The plate referred to in subregulation (1) shall be displayed at all times when the taxi is in use or available for hire, and it shall be an offence to obscure the plate when the taxi is in use or standing for hire.	50
79(1)	The following information shall be prominently displayed in buses by a sign in a form approved by the Commission within the view of passengers inside the route bus- (a) the seating capacity;	50

	(b) what seats (if any) have been adapted or designated to provide for the greater comfort of the elderly, the physically disabled or persons requiring special assistance; (c) the registration number relating to the vehicle pursuant to regulation 12(1); (d) the procedure to be followed should the passenger wish to lodge a complaint; (e) fare information; (f) the following route information— (i) the route taken; (ii) the applicable bus stops, indicating, where appropriate, what bus stops are used by buses serving other routes.	
80	Every route bus shall be fitted with a board or other form of indicator, clearly visible from the front and rear exterior of the vehicle, showing the destination of the bus or, if the vehicle is on private hire, showing the word “Private.”	50
99	No driver of a private hiring vehicle shall ply or stand for hire on a road, or taxi rank.	50
103	Every driver of a vehicle licensed under these Regulations and every holder of a guide licence issued under these Regulations shall, while on duty, be dressed to a standard prescribed by the Commission.	50
117A(1)	A self-drive car licence shall not be carried or exhibited on the vehicle in respect of which it is issued, but shall be kept by the self-drive operator at the principal place where he carries on business in Gibraltar as a self-drive operator at all times during the currency of the licence.	50
117B(1)	No owner or operator of a self-drive car and no person acting on behalf of the owner or operator shall on a road or other public place by words or otherwise solicit for the hire of a self-drive vehicle.	50

PART 2

FORM OF NOTICE

Notice Number:

Notice Served on:

By Police Officer/Transport Inspector:

Who had reason to believe that the following contravention had occurred and that a penalty charge is now payable:

[INSERT THE DETAILS OF THE OFFENCE]]

Date of contravention:

Time:

Vehicle observed from:

Location:

Vehicle Registration:

Make:

Colour:

A penalty charge of [£50/£100 as indicated in Part 1 of Schedule 3 or total sum owing where regulation 64 applies] is now payable. Payment must be received by [INSERT DETAILS OF DESIGNATED PERSON], no later than the last day of the period of 28 days beginning with the date on which this notice was issued.

The fixed penalty will be reduced by a discount of 50% to X if [THE DESIGNATED PERSON] receives payment no later than the last day of the period of 14 days beginning with the date on which this Fixed Penalty Notice was issued.

SEE OVERLEAF FOR

How to pay

What happens if the charge is not paid

-----DETACH HERE -----
Payment Slip

Fixed Penalty Notice number:

Notice issued on:

Vehicle registration:

Contravention:

The penalty charge is X or X if payment is received by [THE DESIGNATED PERSON] no later than the last day of the period of 14 days beginning with the date on which this payment was served.

DO NOT IGNORE THIS NOTICE

Within 14 days from the date of issue of this notice you can

- Pay the reduced fixed penalty detailed overleaf which will be accepted as full settlement.
Payment **must** be received by [THE DESIGNATED PERSON] within 14 days from the date of service of this notice to be eligible for the reduced penalty charge.

After the expiry of the 14 day discount period you can

- Pay the full fixed penalty detailed overleaf.

After 28 days from the date of service of this notice

- If the fixed penalty is not paid in full the notice will be forwarded to the Magistrates' Court and a Summons issued.

HOW TO PAY

By cash or cheque in person or by post, in all cases to [INSERT DETAILS OF THE DESIGNATED PERSON]. A receipt for the payment will be given. Part payment will not be accepted. The person paying the penalty must forward with the remittance the payment slip of the notice. This notice is deemed to have been given to the person liable for the offence indicated

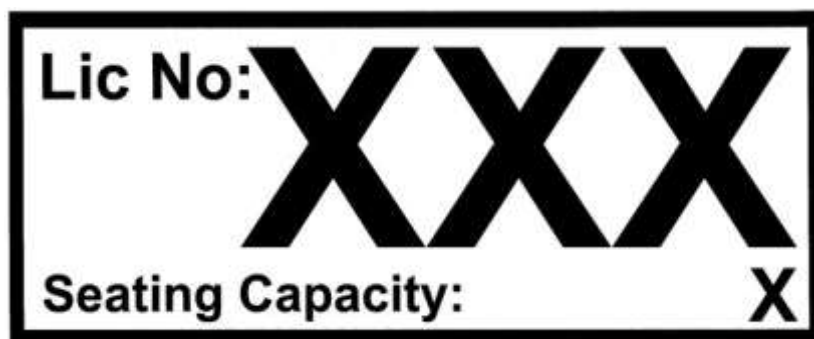
above. If the fixed penalty is not paid within the time limit set, the offender is liable to be prosecuted.

FOR ALL ENQUIRIES IN RELATION TO THIS FIXED PENALTY NOTICE PLEASE CONTACT [INSERT DETAILS OF THE DESIGNATED PERSON].

Schedule 6.

15. After schedule 5 insert the following schedule-

“Schedule 6



The size of the words “Lic No:” and “Seating Capacity” and corresponding entries shall be of such font and size as prescribed by the Commission.”

Saving and transitional provisions.

16.(1) Where prior to the commencement of these Regulations proceedings have been instituted in respect of an offence, those proceedings shall continue as though these Regulations had not been commenced.

(2) In this regulation proceedings include appeal proceedings.

(3) Where any contract for advertising is entered into prior to the commencement of these Regulations, that contract shall remain valid and

continue until it expires in such manner as if these Regulations have not been commenced.

Dated 24th March, 2016.

P J BALBAN,
Minister with responsibility for Transport.

EXPLANATORY MEMORANDUM

These Regulations amend the Transport Regulations 2000 with the introduction of fixed penalty offences.

