N.B. Dawn in-Noti ta' Spjegazzjoni mhumiex maħsuba biex ikunu deskrizzjoni eżawrjenti tal-istrument legali u lanqas sostitut tiegħu jew suppliment leġiżlattiv għall-istess. Dawn in-Noti ta' Spjegazzjoni mhumiex intiżi bħala deċiżjoni awtorevoli fuq l-interpretazzjoni tal-leġiżlazzjoni.

Anness

Noti ta' Trasposizzjoni għall-fini tal-paragrafu (vi) tas-Skeda III tal-Kapitolu 512 tal-Liġijiet ta' Malta

Direttiva 2020/1057	**Ir-Regolamenti dwar Xufiera Stazzjonati f'Malta (L.S. 499.72)**
Artikolu 1(13)	Ir-Regolament 8
Artikolu 1(15)	Ir-Regolament 8
Artikolu 8	Ir-Regolament 8A

Is-6 ta' Ottubru, 2023

No. 1365

MINISTRY FOR TRANSPORT, INFRASTRUCTURE AND CAPITAL PROJECTS

Explanatory Notes[1]

Posting of Drivers in Malta (Amendment No. 2) Regulations, 2023

1. Introduction

Directive (EU) 2020/1057 of the European Parliament and of the Council of 15 July 2020 laying down specific rules with respect to Directive 96/71/EC and Directive 2014/67/EU for posting drivers in the road transport sector and amending Directive 2006/22/EC as regards enforcement requirements and Regulation (EU) No 1024/2012 (hereinafter referred to as "the amending Directive"), was originally transposed in national legislation by the Authority for Transport in Malta (hereinafter referred to as Transport Malta) through the Posting of Drivers in Malta Regulations, 2022, published as L.N. 299 of 2022, and later amended by means of the Posting of Drivers in Malta (Amendment) Regulations, 2023, published as L.N. 189 of 2023.

The consolidated version of the Posting of Drivers in Malta Regulations, S.L.499.72, shall be hereinafter referred to as "the principal regulations".

This new amendment further transposes Articles 1(13), 1(15) and 8 of the amending Directive into the principal regulations, whereby transport industry specific rules were laid down with respect to Directive 96/71/EC and Directive 2014/67/EU and therefore had to be mirrored in national legislation.

2. Summary and background

The purpose of these regulations is to further enhance a safe, efficient and socially responsible road transport sector by ensuring adequate working conditions and social protection for drivers, on the one hand, and suitable conditions for business and for fair competition for road transport operators (hereinafter referred to as "operators"), on the other. Such sector-specific regulations were necessary due to the high degree of mobility of the workforce in the road transport sector, to ensure a balance between the freedom of operators to provide cross-border services, free movement of goods, adequate working conditions and social protection for drivers.

The Posting of Drivers in Malta (Amendment No. 2) Regulations, 2023 shall impose three (3) obligations on Malta, the regulatory authorities (Department for Industrial and Employment Relations and Transport Malta) and the sending parties (employers) being the following:

[1]These Explanatory Notes are for the purpose of and in accordance with Article 3(2)(c) and Schedule III of Chapter 512 of the Laws of Malta.

1. An obligation on operators to ensure that the information provided in the IMI repository is retained for a period of twenty-four (24) months;

2. An obligation on the regulatory authorities to ensure that any delays in implementation of control measures do not affect the duration and dates of posting, by ensuring the proper implementation of road-side checks in compliance with the Standard Operation Procedures published by the Authority for this purpose;

3. An obligation for the regulatory authorities to co-operate with one another in order to provide adequate training and knowledge to enforcement authorities and employees respectively.

3. Overview of the structure of the instrument

The Posting of Drivers in Malta (Amendment No. 2) Regulations, 2023 is made up of three (3) regulations and consist of the following:

Regulation 1 – Citation and scope.
Regulation 2 – Amends regulation 8 to the principal regulations.
Regulation 3 – Amends regulation 8A to the principal regulations.

4. Commentary

Regulation 1: Introduces the title of the regulations and explains the scope of the regulations, being the partial transposition of the amending Directive.

Regulation 2: Adds two (2) obligations regarding the information provided in the IMI repository to be retained by operators for a period of twenty four (24) months; and the need to ensure that any delays in implementation of control measures do not affect the duration and dates of the posting by having road side inspections comply with the Standard Operation Procedures published by the Authority for this purpose;

Regulation 3: Adds one (1) obligation for both regulatory authorities, TM and DIER to co-operate with one another in order to provide adequate training and knowledge to enforcement authorities and employees, respectively.

5. Concluding section

These regulations shall come into force upon their publication in the Gazette.

For more information or clarification on the implementation of these regulations, kindly refer your queries to DIER via email on info.dier@gov.mt and, or to Transport Malta via email on info.tm@transport.gov.mt.

N.B. These Explanatory Notes are not intended to be an exhaustive description of the instrument nor a substitute thereof or a legislative supplement to it. These Explanatory Notes do not purport to be an authoritative ruling on the interpretation of the legislation.

Annex

Transposition Notes for the purpose of paragraph (vi) of Schedule III of Chapter 512 of the Laws of Malta

Directive 2020/1057	**Posting of Drivers in Malta Regulations (S.L. 499.72)**
Article 1(13)	Regulation 8
Article 1(15)	Regulation 8
Article 8	Regulation 8A

6th October, 2023