No. 1019

MINISTRY FOR TRANSPORT, INFRASTRUCTURE AND CAPITAL PROJECTS

Explanatory Notes[1]

The Posting of Drivers in Malta (Amendment) Regulations, 2023

By means of the Posting of Drivers in Malta (Amendment) Regulations, 2023 (hereinafter referred to as "the regulations"), the Authority for Transport in Malta (hereinafter referred to as Transport Malta) has partially transposed 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"), into national legislation. These regulations transpose Article 8 of the amending Directive, whereby transport industry specific rules were laid down with respect to Directive 96/71/EC and Directive 2014/67/EU and this therefore had to be mirrored in national legislation. The regulations impose an obligation on Member States and employers to provide adequate training and knowledge to enforcement authorities and employees respectively.

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) Regulations, 2023 shall impose two (2) main obligations on Malta and the sending parties (employers) being the following:

1. An obligation on the competent Authority in Malta, being the Department of Industrial and Employment Relations to provide training and enforcement strategies to authorised inspecting officers; and

2. An obligation on employers (sending party) to provide the adequate training and knowledge to the posted drivers in Malta (employees).

[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.

3. Overview of the structure of the instrument

The Posting of Drivers in Malta (Amendment) Regulations, 2023 is made up of two (2) regulations and consist of the following:

Regulation 1 – Citation and scope.

Regulation 2 – Adds a new regulation to the principal regulations.

4. Commentary

Regulation 1: Introduces the title of the regulations being the Posting of Drivers in Malta (Amendment) Regulations, 2023 and explains the scope of the regulations, being the partial transposition of the amending Directive.

Regulation 2: Adds two (2) obligations regarding training related to these regulations, one to Member States and one to the sending parties. Malta, through the assistance of the competent Authority, the Department of Industrial Relations and Employment, shall be obliged to provide training and enforcement strategies to the officials authorised to inspect. The sending parties are obliged to provide the necessary training in connection with these regulations to their posted drivers.

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 Notes do not purport to be an authoritative ruling on the interpretation of the legislation.

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 8	Regulation 8A

21st July, 2023