

LEGAL NOTICE NO. 57 OF 2011.

TRAFFIC ACT 2005

INTERPRETATION AND GENERAL CLAUSES ACT

TRAFFIC (PARKING AND WAITING) REGULATIONS 2011

In exercise of the powers conferred on the Government by sections 89, 91, 92, and 101 of the Traffic Act 2005 as read with section 23(b) of the Interpretation and General Clauses Act, the Government has made the following Regulations—

PART I

PRELIMINARY AND INTERPRETATION

Title and commencement.

1.(1) These Regulations may be cited as the Traffic (Parking and Waiting) Regulations 2011.

(2) These Regulations come into operation on such day as the Minister may appoint by notice in the Gazette and different days may be appointed for different provisions and different purposes.

Interpretation.

2. In these Regulations, unless the context otherwise requires—

the “Act” means the Traffic Act 2005;

“Air Terminal” means any building used as a terminal for passengers in connection with civil aviation;

“authorised person” means a person authorised by the Minister in writing for the purposes of these Regulations or any police officer;

“Authority” means a person or entity designated by the Government by Legal Notice to carry out the functions and exercise the powers of the Authority under these Regulations;

- “Blue Zone” means a place designated by the Minister as a Blue Zone under Regulation 26;
- “Bus Stop” means any place on or adjacent to the public highway designated by the Minister by means of a traffic sign and or paint on the road surface as a bus stop;
- “car park” means a car park, or car parking space or spaces appointed as such under regulation 12;
- “caravan” has the same meaning as in the Vehicles (Construction, Equipment and Maintenance) Regulations;
- “distinct zone” means a street, district or housing estate or part thereof designated pursuant to regulation 7;
- “doctors’ permit” means a permit issued to a general medical practitioner in such form as the Minister may prescribe for the purposes of regulation 59.
- “Minister” means the Minister with responsibility for traffic issues;
- “official vehicle” means any vehicle operated by the Government, a statutory agency or authority, or any entity exercising statutory functions and powers and issued by the Minister with an official vehicle permit;
- “official vehicle permit” means a permit issued by the Minister in such form as he may prescribe authorising official vehicles to park or wait in a parking space reserved for official vehicles or where official vehicles may park or wait;
- “owner” includes a person in whose name a vehicle is registered and the person by whom the vehicle is kept and used and, in respect of a vehicle which is the subject of a hire purchase agreement, means the person in possession of the vehicle under the agreement and “owned by” shall be interpreted accordingly;
- “parking scheme” means a parking scheme established by the Minister under regulation 8;

“Pay and Display Zone” means a car park, or car parking space or spaces designated by the Minister under regulation 16 to be subject to payment of a fee;

“permit issuing authority” means the person or entity designated by the Minister under regulation 10(2);

“taxi rank” means a place demarcated by traffic signs as a taxi rank;

“ticket” means a paper ticket issued by a ticket issuing machine;

“ticket issuing machine” means a machine installed by the Government or any person authorised by the Government to do so for the purpose of issuing tickets upon payment of the fee for parking in a Pay and Display Zone;

“traffic sign” means a traffic sign as defined in section 83 of the Act and regulation 11;

“vehicle” includes animal drawn vehicles, motor vehicles, bicycles, tricycles, hand carts and all other contrivances, the primary purpose of which is the conveyance of goods or persons and includes any vehicle of whatever description which is propelled by mechanical or electrical power;

“waiting” means the stopping of the vehicle with the driver thereof remaining at the controls and able to drive it away immediately

PART II

GENERAL PROVISIONS RELATING TO PARKING

Prohibition of parking.

3.(1) No person shall park a vehicle at any place where parking is prohibited by any traffic sign.

(2) No person shall park a vehicle in contravention of a traffic sign.

(3) No person who does not hold the required permit for that zone shall park a vehicle in any parking place which is indicated by traffic signs to be for resident permit holders of that zone only.

(4) No person shall park a vehicle upon a footpath.

(5) A person shall not be deemed to have parked a vehicle if the driver thereof remains at the controls of the vehicle and is able to drive it away immediately.

(6) No person shall park a motor cycle in a parking space demarcated for a motorcar or in between spaces demarcated for motor cars.

(7) No person shall park a motor car in a parking space demarcated for motor cycles.

(8) No person shall park a vehicle in any communal area, including any entrance hall, corridor, landing or staircase, foyer, patio, terrace, garden or passage of any Government residential building.

(9) No person shall park a caravan in any public place in Gibraltar except at such place as the Government may, from time to time, authorise therefor.

(10) No person shall park any vehicle at any place within or adjacent to the air terminal except at one of the places (if any) demarcated by traffic signs.

(11) No person shall park any vehicle at any place or in any manner whereby the flow of traffic is prevented, interrupted, disrupted or delayed or otherwise adversely affected.

(12) No person (other than the driver of an official vehicle or a taxi driver in a taxi plying and ready for hire) shall park in a vehicle at a taxi rank.

Bus Stops.

4.(1) No person (other than the driver of a bus which is operating a bus service on a scheduled route in Gibraltar under a licence from the Transport commission) shall park with any vehicle in a Bus Stop.

(2) No person shall park any vehicle in such a place or in such a manner as obstructs or would obstruct the access of a bus into a Bus Stop or prevents or would prevent a bus from being able to fully enter a Bus Stop in manner that the whole bus is within the Bus Stop.

Time limits in car parks.

5.(1) No person shall park a motor vehicle in a place for a continuous period exceeding any period specified by the Act, by these Regulations, or by traffic signs by the Minister by Order-in relation to that place.

(2) Subject to any shorter period that may apply under sub-regulation (1), no person shall park any vehicle at any place for a continuous period exceeding 14 days.

Parking for official Vehicles.

6.(1) The Minister may, by traffic signs, reserve any parking space for official vehicles.

(2) No person (other than the driver of an official vehicle) shall park any vehicle in a parking space reserved under this regulation without the permission of the Government or the entity for whose use it has been reserved.

Establishment of Parking Schemes

Distinct Parking zones.

7.(1) The Minister may by Order in the Gazette designate any district, street, area, housing estate or any part thereof to be a distinct zone for purpose of regulating or controlling parking.

(2) Every Order made under sub-regulation (1) may describe and demarcate a distinct zone by reference to a map setting out its extent and boundaries.

Parking Schemes.

8.(1) The Minister may by Order in the Gazette establish parking schemes to regulate and control parking within a distinct zone or zones.

(2) Every Order made under this regulation shall contain the provisions of the parking scheme applicable within the distinct zone to which it relates.

(3) The Minister may by Order cancel or vary a parking scheme, or any designation or prescription in respect thereof.

Content of Parking Schemes

Designation of parking spaces.

9. A parking scheme may designate parking spaces in which—
- (a) only vehicles of a certain kind may be parked, either free of charge or subject to payment of a fee prescribed by the Minister under the Act;
 - (b) only vehicles owned by a permit holder may be parked, either free of charge or subject to payment of a fee prescribed by the Minister under the Act;
 - (c) parking, whether free of charge or subject to payment of a fee under the Act is limited to a specified period of time;
 - (d) no vehicle may be parked;
 - (e) only a specified person or vehicle may park, free of charge or subject to payment of a fee prescribed by the Minister under the Act;
 - (f) different parking restrictions apply for different categories of persons or vehicles at different times.

Permits.

10.(1) A parking scheme may provide for particular categories of persons, whether by reference to their place of residence or otherwise, or vehicles to be eligible to be issued by the Minister or the permit issuing authority with any permit required by the parking scheme or any provision of it.

(2) A permit under sub-regulation (1) shall be issued by such person or entity as the Minister may designate and appoint for that purpose.

(3) A permit under sub-regulation (1) may be issued in such terms and subject to such conditions as the Minister may prescribe or may be specified in the Order including but not limited to—

- (i) the payment of the fees prescribed in Schedule 3; and
- (ii) entering into a written licence agreement with the Minister.

(4) Any permit issued under sub-regulation (1) may be cancelled or suspended by the permit issuing authority for breach of any of its terms and conditions.

(5) The permit issuing authority may, at any time, with the consent of the Minister, add to, cancel or vary any term or condition of the permit.

Traffic Signs for parking schemes.

11.(1) A parking scheme shall be demarcated by such signs as are prescribed by this regulation or as the Minister may prescribe and cause to be erected for the purpose, as he considers necessary for the regulation of parking therein.

(2) The signs set out in Schedule 1 are hereby prescribed for the purposes therein described in relation to each sign.

(3) Notwithstanding the other provisions of this regulation a sign set out in Schedules 1 or 2 may contain such additional information, including (but not limited to) information relating to the identification of a particular area within a zone as the Minister may direct to be included in it, and any such additional information so included shall apply to regulate parking accordingly.

Car Parks

Car Parks.

12.(1) There shall be appointed as car parks such places as the Minister shall cause be demarcated as such by traffic signs. No person shall park a vehicle in a car park other than appropriately within the area demarcated with paint on the ground, if that be the case.

(2) No person shall wait with or park any vehicle, other than a motor vehicle, in any car park.

(3) No person shall wait with or park a motor cycle or bicycle in any car park except in an area demarcated for their use.

Motorcycle parks.

13.(1) There shall be appointed as motorcycle parks such places as the Minister shall cause to be demarcated as such by traffic signs.

(2) No person shall wait with or park any vehicle, other than a motor cycle, in any motorcycle park.

Parking in public places.

14.(1) Parking spaces in public spaces may be demarcated by paint on the ground or in accordance with regulation 15.

(2) Where parking spaces in a public place are demarcated by paint on the ground no person shall park a vehicle unless the whole of the vehicle and all its component parts is completely within a single demarcated parking space.

Demarcation of Parking spaces.

15.(1) Where no other method is specified in these regulations for the demarcation or designation of parking spaces for specific types of vehicles or subject to particular conditions or restrictions, such demarcation or designation shall be by means of traffic signs prescribed by these regulations or by the Minister and erected adjacent or near to the relevant parking spaces.

(2) The demarcation or designation of parking spaces for specific types of vehicles or subject to particular conditions or restrictions set out in a traffic sign shall apply to all parking spaces in between two such traffic signs.

Parking Fees – Pay and Display

Designation of Pay and Display Zone.

16.(1) The Minister may designate any car park or car parking space or spaces to only be available for use for parking vehicles upon payment of a fee in such amount as he may from time to time prescribe under the Act.

(2) The Minister may cancel or vary any such designation made under sub-regulation (1).

Demarcation of Pay and Display Zone.

17.(1) A Pay and Display Zone shall be demarcated by the signs depicted in Schedule 2.

(2) The Minister may by signs erected at or near the Pay and Display Zone prescribe in respect thereof any of the following—

- (a) the type or class of vehicle permitted to park;
- (b) the category of persons who may park;
- (c) the categories of persons or vehicles that may park without payment of the fee;
- (d) the terms and conditions upon which parking is permitted;
- (e) the means, including mechanical means, by which the fee is to be paid;

(3) The following sign displayed in a Pay and Display Car Park shall signify that payment for the use of the parking is available through a ticket issuing machine—



Parking fee.

18. The parking fee prescribed in Schedule 3 shall be paid into a ticket issuing machine relating to the Pay and Display zone in which the vehicle is parked immediately upon the car being parked.

Display of ticket.

19. Every person who parks a vehicle in a Pay and Display Zone shall display the ticket on the inside of the front windscreen facing forward and up in manner that someone standing outside the vehicle looking at the ticket through the windscreen can read all the written content of the ticket.

Unauthorised removal of ticket.

20. No person shall remove a ticket displayed on a vehicle unless authorised by the driver of the vehicle to do so.

Times during which parking fee payable.

21. The parking fee prescribed under the Act shall be payable in respect of parking between such hours and on such days as the Minister may by Order specify.

Maximum parking period.

22. No person shall park a vehicle in a Pay and Display Zone for any continuous period greater than five hours.

Offences and Penalties.

23.(1) If a vehicle is parked in a Pay and Display Zone—

- (a) without having paid the correct fee;
- (b) without displaying the ticket as required by these regulations;
or
- (c) having exceeded the maximum parking period specified in regulation 22,

the owner of the vehicle shall be guilty of an offence and liable to the penalties and consequences specified in sub-regulation (2).

(2) The penalties and consequences referred to in sub-regulation (1) are the following—

- (a) where the vehicle has not been parked for more than two hours, the fine prescribed in Schedule 3;
- (b) where the vehicle has been parked for more than two hours, the fine prescribed in Schedule 3;
- (c) the vehicle may be removed or caused to be removed by an authorised person as if it were parked in a Blue Zone and the provisions of regulations 29 and 30 shall apply *mutatis mutandis*,

Provided that where a vehicle is removed pursuant to paragraph (c), it may not be retrieved until a penalty fee has been paid in the sum prescribed in Schedule 3.

- (3) The penalties in sub-regulation (2) above may be applied cumulatively.
- (4) Penalties levied pursuant to this regulation are recoverable by the Minister as a civil debt.

No Waiting

No waiting.

24.(1) No person shall wait with or in any vehicle at any place in manner that may interfere with the free flow of traffic, except momentarily for such time as is reasonably necessary to allow persons to board or alight from a motor vehicle or to load or unload luggage or other things.

(2) No person shall wait with or in any vehicle at places demarcated with a yellow line painted on the ground or by means of traffic signs.

(3) No person shall wait with or in any vehicle within or adjacent to the Air Terminal except at one of the places (if any) demarcated by traffic signs and then only for such time as is reasonably necessary to allow persons to board or alight from the vehicle or to load or unload luggage.

(4) No person (other than the driver of an official vehicle or a taxi driver in a taxi plying and ready for hire) shall wait in a vehicle at a taxi rank.

(5) No person (other than the driver of an official vehicle) shall wait in a parking space reserved for official vehicles under Regulation 6.

(6) No person shall wait with or in any vehicle in circumstances in which it would be unlawful to park under Regulation 4 (which relates to Bus Stops).

Notice of Traffic signs.

25. For the avoidance of doubt, where a traffic sign is erected pursuant to these regulations, any person shall be conclusively presumed to have seen such a sign within 24 hours of it having been so placed.

Blue Zones

Designation of Blue Zones.

26.(1) The Minister may designate any place in Gibraltar to be a Blue Zone for the purposes of these Regulations.

(2) A Blue Zone shall be demarcated by a blue line painted on the roadway.

(3) The Minister may cancel or vary any such designation made under sub regulation (1).

Parking and Stopping in Blue Zones.

27.(1) No person shall stop or park a vehicle in a Blue Zone.

(2) In this Regulation, “stop” means temporary park, or to stop a vehicle to drop off or pick up any person or thing, or waiting, or any other type of stopping except in a line of traffic that has stopped immediately ahead or for any other reasons for the cause or need for which that vehicle or driver is not responsible.

(3) A person who stops or parks a vehicle contrary to sub regulation (1) commits an offence and shall be liable on summary conviction to a fine in the amount of level 1 on the standard scale.

Traffic signs.

28. The Minister may (but shall not be obliged to) cause to be erected at, in, by or outside any Blue Zone such signs as he considers necessary or desirable to further alert drivers to the existence of a Blue Zone.

Power to move vehicle.

29.(1) An authorised person may immediately remove or cause to be removed any vehicle stopped or parked in a Blue Zone.

(2) Once removal of a vehicle has begun, it may not be interrupted by the arrival of its driver to drive it away.

(3) Where sub regulation (2) applies, the owner of the vehicle is liable for the payment of the penalty fee prescribed in Schedule 3 for the release of a vehicle that has been removed.

No liability for damage.

30. None of the Minister, the authorised person or the person who removes or stores a vehicle shall be liable for any damage caused to a vehicle during its removal or storage pursuant to these Regulations.

Disabled Persons Badges

Interpretation.

31.(1) In Regulations 32 to 42 both inclusive—

“disabled parking bay” means a parking bay that is demarcated in paint on the ground or by means of traffic signs as appointed parking spaces for the holders of badges issued under Regulation 32;

“disabled person” means a person who is disabled within the meaning of regulation 32;

“disabled person’s badge” means a badge in the form prescribed under regulation 39—

(a) for display on a motor vehicle driven by a disabled person, or

(b) used for the carriage of a disabled person,

and includes a replacement badge issued under regulation 35;

“holder”, in relation to a disabled person’s badge, means the individual or institution to whom a disabled person’s badge was issued;

“institution” means an institution concerned with the care of disabled persons to which a disabled person’s badge may be issued;

“individual’s badge” means a disabled person’s badge issued to an individual disabled person under regulation 32(1);

“institutional badge” means a disabled person’s badge issued to an institution;

“issuing authority”, in relation to a disabled person’s badge, means the Department of Transport;

“relevant conviction” means any conviction of—

(a) the holder of a disabled person’s badge; or

(b) any other person using such a badge with the holder’s consent,

for an offence specified in regulation 42;

(2) Every notice given under these Regulations shall be in writing.

Issue, duration and revocation of badges

Disabled persons and disabled person’s badge.

32.(1) The issuing authority may issue a disabled person’s badge to a disabled person or to the parent of a disabled person who is a child.

(2) A person is a disabled person who is more than 2 years old and who—

(a) is blind;

- (b) drives a motor vehicle regularly, has a severe disability in both upper limbs and is unable to turn by hand the steering wheel of a motor vehicle even if that wheel is fitted with a turning knob; or
- (c) has a permanent and substantial disability which causes inability to walk or very considerable difficulty in walking.

Institutional badges.

33. The issuing authority may issue an institutional badge to an institution for a motor vehicle where that institution wants to use the vehicle for carrying disabled persons.

Period of issue of a badge.

34. Subject to regulations 35(2) and 37, a disabled person's badge shall be issued for a period of not exceeding three years from the date of issue as the issuing authority may deem fit.

Replacement of badges.

35.(1) The issuing authority may issue a replacement badge with the word "duplicate" marked on the front of the badge if the disabled person's original badge has been lost, stolen or destroyed, or has become so damaged or faded that it is not adequately legible when displayed on a vehicle.

(2) A replacement badge shall be valid from the date of issue until the original badge would have ceased to be valid.

Grounds for refusal to issue a badge.

36.(1) The issuing authority may refuse to issue a badge if—

- (a) the applicant holds or has held a badge issued under these Regulations and any misuse of which has led to at least three relevant convictions;
- (b) the applicant fails to provide the issuing authority with adequate evidence—

- (i) in the case of an individual, that that person is a disabled person within the meaning of regulation 32; or
 - (ii) in the case of an institution, that it is an institution eligible to be issued with a disabled person's badge under regulation 33; or
- (c) the issuing authority has reasonable grounds for believing that the applicant—
- (i) is not the person that he claims to be; or
 - (ii) would permit another person to whom the badge was not issued to display it on a motor vehicle.

(2) Where the issuing authority receives an application for a disabled person's badge and refuses to issue one, it shall give the applicant particulars of the grounds of refusal in its notice of determination.

Return of badge to the issuing authority.

37.(1) A disabled person's badge shall be returned to the issuing authority immediately on the occurrence of any of the following events—

- (a) the expiry of the period for which the badge was issued;
- (b) the death of the holder or, in the case of an institutional badge, the institution ceasing to exist;
- (c) the holder of the badge ceases to be a disabled person or, in the case of an institutional badge, the institution ceases to be eligible under regulation 33;
- (d) a replacement of the badge has been issued under regulation 6 to replace a lost or stolen badge and that badge is subsequently found or recovered;
- (e) the badge has become so mutilated or faded as no longer to be clearly legible when displayed on a vehicle; or
- (f) the badge ceases to be required by the holder.

(2) A disabled person's badge shall, within the prescribed period, be returned to the issuing authority if the authority gives a notice to the holder—

- (a) stating that the authority refuses to allow the badge to continue in use on account of its misuse leading to at least three relevant convictions and giving particulars of that misuse; or
- (b) stating that the authority is satisfied that the badge was obtained by false representation.

(3) For the purposes of sub-regulation (2) the prescribed period is 28 days beginning with the day on which the notice under the sub-regulation was issued.

(4) The issuing authority may take such action as may be appropriate to recover a disabled person's badge that the holder is liable to return in accordance with this regulation.

Appeal.

38. (1) A person may appeal to the Minister if—

- (a) that person's application for a disabled person's badge has been refused on the ground specified in regulation 36(1)(a) or (b); or
- (b) the holder of a badge who is required to return it and received a notice of determination under regulation 37(2).

(2) The appeal shall be made by application to the Minister within 28 days from the date on which the notice of the determination is given.

(3) The application of appeal shall be dated and signed by the appellant or by a person authorised to sign on his behalf and shall state the grounds of appeal.

(4) On receipt of the appeal the Minister shall send a copy of it to the issuing authority against whose determination the appeal is made and, within the period of 28 days beginning with the date of the application of appeal, the issuing authority shall send to the Minister and the appellant—

- (a) a copy of the notice issued by it to the appellant in accordance with regulation 36(2) or 37(2); and
- (b) any representation that it wishes the Minister to take into account in determining the appeal.

(6) The appellant may make representations by way of reply to any representations made by the issuing authority within the period of 28 days beginning with the date of those representations.

(7) Any representations made by the issuing authority or the appellant shall be signed and dated and submitted to the Minister on the date they bear.

(8) The Minister may in a particular case give directions setting later time limits than those prescribed by these Regulations.

(9) When the Minister determines an appeal he shall—

- (a) give notice to the appellant of his determination and of the reasons for it; and
- (b) send a copy of the notice to the issuing authority.

(10) The Minister may confirm, vary or quash the notice as it thinks fit, and make such order in the matter as it considers appropriate, and the determination of the Minister on any such appeal shall be binding on all the parties, and shall be final.

Form and display of badges

Form of badge.

39. A disabled person's badge is prescribed as follows—

- (a) the front and reverse of the badge shall be in the form shown in—
 - (i) Part I of Schedule 4 to these Regulations in the case of an individual's badge issued under regulation 32(1); or

- (ii) Part II of Schedule 4 in the case of an institutional badge issued under regulation 33; and
- (b) the badge shall comply with the specifications set out in Part III of Schedule 4.

Manner in which a badge is to be displayed.

40. For the purposes of these Regulations a disabled person's badge shall be displayed on a vehicle in the following manner—

- (a) the badge shall be exhibited on the dashboard or fascia of the vehicle; or
- (b) where the vehicle is not fitted with a dashboard or fascia, the badge shall be exhibited in a conspicuous position on the vehicle, so that the front of the badge is clearly legible from the outside of the vehicle.

Display of a badge when a vehicle is parked.

41.(1) An individual's badge shall be displayed on a vehicle while it is parked if it—

- (a) has been driven by the holder, or has been used to carry the holder, to the place where it is parked; or
- (b) is to be driven by the holder, or is to be used to carry the holder, from that place.

(2) An institutional badge shall be displayed on a vehicle while it is parked if it has been, or is to be, used by or on behalf of the holder for carrying a disabled person to or from the place where it is parked.

Offences.

42.(1) No person shall at any time wait with or park any vehicle at a disabled parking bay unless that vehicle complies with regulation 40 or 41, as the case may be.

(2) A person who fails to comply with sub regulation (1) or regulation 37 commits an offence and is liable on summary conviction to a fine not exceeding level 1 on the standard scale.

PART III

REMOVAL OF VEHICLES

Removal of vehicles illegally, obstructively or dangerously parked or abandoned or broken down.

43.(1) Where any vehicle has been parked or permitted to remain at rest in a public place—

- (a) in contravention of any parking scheme made under regulation 8; or
- (b) in such a position or in such condition or in such circumstances as to cause obstruction to other persons using the road or as to be likely to cause danger to such persons; or
- (c) in such a position, place or manner as interferes or is likely to interfere with the flow or safety of vehicular traffic or pedestrians; or
- (d) on any land in the open air, or on a road or in a parking place or other place to which the public have access on payment of a fee in such a position or in such condition or in such circumstances as to appear to an authorised person to have been abandoned, or appears to an authorised person to be derelict or is deemed to be derelict by virtue of sub-regulation (5) below; or
- (e) having broken down on a road,

an authorised person or any person instructed to do so by an authorised person or by the Authority may remove that vehicle or, in the alternative, may affix a notice to the vehicle stating that the vehicle appears to be one to which sub-regulation (1) applies and will be removed after 7 days unless removed first by the owner.

(2) The Authority shall publish on at least two separate occasions in a daily newspaper circulating in Gibraltar and once in the Gazette any vehicle removed under sub-regulation (1), specifying a brief description of the vehicle, and if known or readily ascertainable, the name and registered owner and registration of the vehicle.

(3) A vehicle removed under this regulation from a public place, may be moved from one position on that public place to another position on that or another public place or removed to some other place designated for that purpose by the Government.

(4) In this regulation and regulation 44, “vehicle” means any vehicle, whether or not it is in a fit state for use on roads, and includes any chassis or body, with or without wheels, appearing to have formed part of such a vehicle, and any load carried by, and anything attached to, such a vehicle.

(5) A vehicle shall be deemed to be derelict for the purposes of this Part if—

- (a) from its appearance it appears not to be fit to be used or driven in compliance with the Traffic Act 2005 or Regulations made there under; or
- (b) from its appearance, it appears to be derelict or abandoned; or
- (c) it appears to have remained immobile in the same location for a period of not less than 30 days; or
- (d) it does not have a valid roadworthiness certificate under the Motor Vehicles Test Regulations 1987; or
- (e) it lacks or is not showing all the required registration number plates; or
- (f) it contains waste or waste material.

Disposal of vehicles abandoned and removed under regulation 43.

44.(1) Where a vehicle is removed under regulation 43(1) and is not reclaimed by its registered owner within a period of 21 days from the date of the second publication referred in regulation 43(2), the Authority shall publish a notice in the Gazette stating his intention to dispose of the vehicle

and may do so after the expiration of 7 days from the publication of the notice unless the owner of the vehicle or person acting for him reclaims the vehicle and pays the charges prescribed in Schedule 3 for the release of a vehicle that has been removed.

(2) The charges prescribed in Schedule 3 shall be paid by the owner of the vehicle to the Authority upon claiming and removing it from the place to which the vehicle has been removed.

Right of owner to recover vehicle or proceeds of sale.

45.(1) If before a vehicle is disposed of by the Authority under regulation 45 above it is claimed by a person who—

- (a) satisfies the Authority that he is its owner; and
- (b) pays to the Authority the relevant charges,

the Authority shall permit him to remove the vehicle from the Authority's custody.

(2) If before the end of the period of one year beginning with the date on which a vehicle is sold by the Authority under regulation 44 above a person satisfies the Authority that at the time of the sale he was the owner of the vehicle, the Authority shall pay him any sum by which the proceeds of sale exceed the amount of the relevant charges.

(3) The relevant charges are—

- (a) any penalty charge payable in respect of the parking of the vehicle in the place from which it was removed;
- (b) any unpaid earlier penalty charges or fines relating to the vehicle;
- (c) such sums as the Authority may have incurred in respect of the sale of the vehicle;
- (d) the charge prescribed in Schedule 3 for the release of a vehicle that has been removed.

(4) If in the case of any vehicle it appears to the Authority that more than one person is or was its owner at the relevant time, such one of them as the Authority think fit shall be treated as its owner for the purposes of this regulation.

Representations and appeals.

46. Where a person—

- (a) is required to pay an amount on recovering the vehicle under regulation 45; or
- (b) receives a sum in respect of the vehicle under regulation 46 or is informed that the proceeds of sale did not exceed the aggregate amount mentioned in that provision,

that person may make representations to the Authority and to appeal to a stipendiary magistrate on a point of fact or law if his representations are not accepted.

Penalty for leaving a derelict vehicle on a public highway or public land.

47. A person who leaves a derelict vehicle on a road or in a parking space or other place to which the public have access on payment of a fee or otherwise is guilty of an offence and liable on summary conviction to a fine at level 2 on the standard scale.

PART IV

IMMOBILISATION OF VEHICLES

Immobilisation of vehicles illegally parked.

48.(1) Where an authorised person finds in a public place a vehicle which has been permitted to remain at rest there in contravention of any prohibition or restriction imposed by or under any enactment or parking scheme, he may—

- (a) fix an immobilisation device to the vehicle while it remains in the place in which he finds it; or

- (b) move it from that place to another place on the same or another road and fix an immobilisation device to it in that other place.

(2) On any occasion when an immobilisation device is fixed to a vehicle in accordance with this regulation the authorised person fixing the device shall also affix to the vehicle a notice—

- (a) indicating that such a device has been fixed to the vehicle and warning that no attempt should be made to drive it or otherwise put it in motion until it has been released from that device;
- (b) specifying the steps to be taken in order to secure its release; and
- (c) giving such other information as the Minister may require.

(3) A vehicle to which an immobilisation device has been fixed in accordance with this regulation may only be released from that device by or under the direction of an authorised person or the Authority.

(4) Subject to sub-regulation (3) above, a vehicle to which an immobilisation device has been fixed in accordance with this regulation shall be released from that device on payment in any manner specified in the notice affixed to the vehicle under sub-regulation (2) above of a charge in the sum prescribed in Schedule 3 for the release of a vehicle that has been immobilised.

(5) A notice affixed to a vehicle under this regulation shall not be removed or interfered with except by or under the authority of the person in charge of the vehicle or the person by whom it was put in the place where it was found by the authorised person; and any person contravening this sub-regulation shall be guilty of an offence.

(6) Any person who, without being authorised to do so in accordance with this regulation, removes or attempts to remove an immobilisation device fixed to a vehicle in accordance with this regulation shall be guilty of an offence and shall be liable on summary conviction to a fine at level 3 on the standard scale.

(7) In this regulation “immobilisation device” means any device or appliance designed or adapted to be fixed to a vehicle for the purpose of preventing it from being driven or otherwise put in motion, being a device or appliance of a type approved by the Minister for use for that purpose in accordance with this regulation.

Exemptions from regulation 48.

49. Regulation 48(1) shall not apply in relation to a vehicle found by an authorised person in the circumstances mentioned in that sub-regulation if a current and valid disabled person’s badge appertaining to that vehicle is displayed on the vehicle.

General Provisions relating to immobilisation and removal of vehicles

Guidelines.

50.(1) The Minister may issue guidelines and codes of practice relating to the traffic and parking management and regulation objectives for which immobilisation and removal powers are to be used, and the manner and circumstances in which they should be exercised or not exercised.

(2) In the exercise of powers under these Regulations to immobilise or remove any vehicle authorised persons shall have regard to and apply any guidelines or codes of practice issued by the Minister pursuant to this regulation.

(3) The Minister shall cause to be published as a Legal Notice in the Gazette any guidelines or codes of practice that he may issue pursuant to this Regulation.

Representations to the Authority and Appeals to the Magistrates’ Court.

51.(1) Where a vehicle has been removed or an immobilisation device has been affixed to a vehicle, the person who settles payment to secure the release of the vehicle, shall have the right—

- (a) to make written representations to the Authority on the grounds set out in sub-regulation (4), and

(b) where the Authority has served notice under sub-regulation (5) that no ground has been made out, to appeal to the magistrates' court.

(2) A person shall be informed, on payment to secure the release of a vehicle, of his rights under sub-regulation (1).

(3) Representations to the Authority under sub-section (1) above shall be made not later than 28 days after the representing person makes payment to secure the release of the vehicle.

(4) Representations made to the Authority under this regulation shall be on one or more of the following grounds—

(a) that there were no reasonable grounds for the person responsible for removing the vehicle or affixing the immobilisation device to believe that the vehicle had been permitted to remain at rest in the parking place in the specified circumstances;

(b) that in the circumstances of the case it was unreasonable for the vehicle to be immobilised or removed;

(c) that the relevant statutory provision did not apply to the vehicle at the time in question;

(5) Not later than 56 days after receiving the representations made under this regulation, the Authority shall serve on the representing party, notice of his acceptance or otherwise that a ground has been reasonably made out.

(6) Notices under sub-section (5) may be served by hand, by registered post or by facsimile transmission.

(7) Where sufficient evidence is adduced to the satisfaction of the authority—

(a) that there was proper service on him of representations under this regulation; and

(b) that he failed to serve a notice under sub-regulation (5),

It shall be conclusively presumed that the Authority has accepted that the ground on which the representation was founded has been established, and any payment settled to secure the release of the vehicle from an immobilisation device or removal shall be reimbursed forthwith.

(8) Where, on receiving representations made under this regulation, the Authority accepts that a ground has been reasonably made out, a notice under sub-regulation (5) shall include the following information—

- (a) that payment made to secure the release of the vehicle from an immobilisation device or removal shall be reimbursed; and
- (b) details of the arrangements made to effect such reimbursement.

(9) Where the Authority does not accept that a ground has been established, a notice under sub-regulation (5) shall inform the representing party of his right to appeal to the magistrates' court, indicate the court's power to award costs against any person making such an appeal and state that information may be requested from the Clerk to the Justices with regard to the form and manner in which such an appeal is required to be made.

(10) An appeal to the magistrates' court under this regulation shall be lodged within 28 days of the date of service of the notice under sub-regulation (5).

(11) Appeals to the magistrates' court under this regulation shall be by complaint.

(12) If the magistrates' court concludes that any of the representations are justified, it shall direct that any payment made to secure the release of the vehicle from an immobilisation device or removal shall be reimbursed forthwith, together with costs as appropriate. The Authority, so directed, shall take the necessary steps to comply with the direction.

(13) A person who makes any representations to the Authority or on appeal to the magistrates' court under this regulation, and does so recklessly or knowing it to be false in any material particular, is guilty of an offence and is liable on summary conviction to a fine not exceeding level 2 on the standard scale.

PART V

**OFFENCES BY DRIVERS
OF FOREIGN REGISTERED VEHICLES**

Power to impose financial penalty deposit requirement.

52.(1) An authorised person may impose a financial penalty deposit requirement (as defined in regulation 53) on a person on any occasion if the conditions in this regulation are satisfied.

(2) The authorised person must have reason to believe that the person is committing or has on that occasion committed an offence contrary to the Traffic Act 2005 with a vehicle not registered in Gibraltar.

(3) The person or the vehicle must be issued a fixed penalty notice in respect of the offence.

(4) The person who is to impose the financial penalty deposit requirement—

- (a) if a police officer, must be in uniform; and
- (b) if another description of authorised person, must produce his authority.

Financial penalty deposit requirement.

53.(1) For the purposes of this Part a financial penalty deposit requirement is a requirement to make a payment of the appropriate amount immediately to the authorised person.

(2) In this Part “the appropriate amount”, in relation to an offence is the amount prescribed in the Traffic (Fixed Penalty) Regulation 2011 for that offence with the benefit of the 50% discount therein specified applicable to a person who, not being the driver of a vehicle registered outside Gibraltar, pays a fixed penalty within a period of 14 days.

(3) In this Part “the relevant period” means the period ending with the person being charged with the offence.

Making of payment in compliance with requirement.

54.(1) This regulation applies where a person on whom a financial penalty deposit requirement is imposed in respect of an offence makes a payment of the appropriate amount in accordance with this Part.

(2) On payment by the person of the appropriate amount the person by whom the payment is received must issue him with a written receipt for the payment specifying the effect of the following provisions of this regulation.

(3) In a case where a fixed penalty notice relating to the offence has been given to the person and the person does not give notice requesting a hearing in respect of the offence in the appropriate manner before the expiry of 90 days and proceedings are not brought in respect of the offence, sub regulation (5) below applies.

(4) In sub regulations (3) above and (6) below “the appropriate manner” means the manner specified in the fixed penalty notice.

(5) Where this sub regulation applies the authorised person must apply the fixed penalty deposit in payment of the fixed penalty notice.

(6) In a case where the person gives notice in the appropriate manner requesting a hearing, that person must in the appropriate manner designate a person resident or carrying on business at a specified address in Gibraltar authorised by him to accept service on his behalf of the summons or other legal process document in respect of that offence, and any such summons or other legal process document so served on the last mentioned person shall be duly served on the first mentioned person for all purposes of law.

(7) In any case to which sub regulation (6) above applies—

- (a) if the person is informed that he is not to be prosecuted for the offence, is acquitted of the offence or is convicted but not fined in respect of it, or the prosecution period comes to an end without a prosecution having been commenced against him in respect of it, sub-regulation (9) below applies; and
- (b) if a fine is imposed on the person in respect of the offence (otherwise than as a result of a conviction obtained on a

prosecution commenced after the end of the prosecution period), sub-regulation (10) below applies.

(8) In this Part “the prosecution period” means the period of twelve months beginning with the imposition of the financial penalty deposit requirement or, if shorter, any period after which no prosecution may be commenced in respect of the offence.

(9) Where this sub-regulation applies, the Authority must take the appropriate steps to make the appropriate refund to the person.

(10) Where this sub-regulation applies, the Authority must—

- (a) apply so much of the payment as does not exceed the amount of the fine in or towards payment of the fine; and
- (b) take the appropriate steps to make any appropriate refund to the person.

(11) Where the Authority is required by this regulation to take the appropriate steps to make an appropriate refund, it must use all reasonable means to trace the person and to make the refund to him.

(12) In this Part, “the appropriate refund”, in any case, is a refund of—

- (a) where sub-regulation (7)(a) above applies, the amount of the payment; and
- (b) where sub-regulation (7)(b) above applies, so much of the amount of the payment as exceeds the amount of the fine,

together with interest calculated in accordance with provision made by order by the Minister.

Prohibition on driving on failure to make payment.

55.(1) This regulation applies where a person on whom a financial penalty deposit requirement is imposed does not make an immediate payment of the appropriate amount in accordance with this Part.

(2) The authorised person by whom the requirement was imposed may prohibit the driving on a road of any vehicle of which the person was in

charge at the time of the offence by giving to the person notice in writing of the prohibition.

(3) The prohibition—

- (a) shall come into force as soon as the notice is given; and
- (b) shall continue in force until the happening of whichever of the events in subregulation (4) below occurs first.

(4) Those events are—

- (a) the person making a payment of the appropriate amount in accordance with this Part; or
- (b) the person having requested a hearing in the appropriate manner—
 - (i) is convicted or acquitted of the offence,
 - (ii) is informed that he is not to be prosecuted for the offence, or
 - (iii) the prosecution period comes to an end without a prosecution having been brought.

(5) An authorised person may require the person to remove the vehicle to which the prohibition relates (and, if it is a motor vehicle drawing a trailer, also to remove the trailer) to such place and subject to such conditions as are specified in the direction; and the prohibition does not apply to the removal of the vehicle (or trailer) in accordance with the direction.

(6) A person who—

- (a) drives a vehicle in contravention of a prohibition under this regulation;
- (b) causes or permits a vehicle to be driven in contravention of such a prohibition; or
- (c) fails to comply within a reasonable time with a requirement under subs-regulation (5) above,

is guilty of an offence punishable by imprisonment for not more than 2 years or to a fine at level 5 on the standard scale or both.

Power to immobilise or remove a vehicle to which Regulation 55 applies.

56.(1) An authorised person or a person acting under his direction may, in relation to a vehicle in a case where regulation 55 applies—

- (a) fix an immobilisation device to the vehicle; and or
- (b) remove the vehicle, or direct it to be removed, to such place as the authorised person may direct.

(2) On any occasion when a vehicle is removed or an immobilisation device is fixed to a vehicle in accordance with this regulation the person fixing the device must also affix to the vehicle or if the driver is present hand to that person a notice (an “immobilisation or removal notice”)—

- (a) indicating that the vehicle has been removed or a device has been fixed to the vehicle and warning that no attempt should be made to drive it or otherwise put it in motion until it has been released from the device;
- (b) specifying the steps to be taken to secure its release, including—
 - (i) how payment of any release fee should be made; and
 - (ii) the evidence to be produced to show that the prohibition under which the driving of the vehicle was prohibited has been removed; and
- (c) giving such other information as may be prescribed.

(3) A vehicle removed or to which an immobilisation device has been fixed in accordance with this regulation these Regulations—

- (a) may only be released by or under the direction of the Authority; but

(b) subject to that, must be released if the first and second requirements specified below are met.

(4) The first requirement is that a charge in the amount prescribed in Schedule 3 in respect of the release of a vehicle that has been immobilised or removed is paid to the Authority in any manner specified in the immobilisation or removal notice.

(5) The second requirement is that, in accordance with instructions specified in the immobilisation or removal notice, there is produced sufficient evidence establishing that the prohibition has been removed.

(6) An immobilisation or removal notice is not to be removed or interfered with except by or on the authority of an authorised person.

(7) In this regulation, “release fee” means the charge referred to in sub-regulation (4).

Offences.

57.(1) A person who fails to comply within a reasonable time with a direction under regulation 55(5) is guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(2) A person, other than an authorised person or his servant or agent who removes, interferes or attempts to remove or interfere with an immobilisation device fixed to a vehicle in accordance with this Part is guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

False or misleading statement.

58. Where—

(a) a person makes a declaration with a view to securing the release of a vehicle from removal or an immobilisation device purported to have been fixed in accordance with these regulations;

(b) the declaration is that the prohibition has been removed; and

- (c) the declaration is to the person's knowledge either false or in any material respect misleading,

he is guilty of an offence and shall be liable on conviction to a fine at level 3 on the standard scale.

PART VI

FINAL PROVISIONS

Saving for medical practitioners.

59. No prohibition against parking or waiting in these Regulations (save those relating to Blue Zones or Bus Stops) shall apply to a medical practitioner when attending patients, provided that he is exhibiting on his windscreen a doctors' permit and providing also that the vehicle is not obstructing the flow of traffic, or to an ambulance whilst on duty.

Fees.

60. The fees and charges set out in Schedule 3 are prescribed and shall apply for the purposes of these Regulations.

Obstructing an authorised person.

61. A person who assaults, batters, wounds, obstructs or endangers an authorised person is guilty of an offence punishable by imprisonment for not more than two years or a fine at level 5 on the standard scale, or both.

Penalties.

62.(1) A person responsible for any act or omission contrary to—

- (a) regulations 3, 4, 5, 6, 12, 13, 14, 19, 20, 22, 23 or 24;
- (b) a scheme to which regulation 8 applies;
- (c) any provision of these Regulations for which no specific penalty is prescribed,

is guilty of an offence and punishable on summary conviction to a fine at level 2 on the standard scale.

(2) Section 97 of the Traffic Act 2005 applies for the purpose of this regulation.

Transitional provisions.

63. The provisions of paragraphs 12B to 12D and Schedule 11 of the Traffic (Parking and Waiting) Order continue to have effect until such time as the Minister executes the provisions of regulations 7 and 8 above.

Revocations.

64. The following are revoked—

- (a) the Traffic (Parking and Waiting) Order;
- (b) the Traffic (Blue Zone) Regulations 2010;
- (c) the Traffic (Parking Fees) Notice 1984;
- (d) the Traffic (City Centre) Parking Restrictions Order 1986;
- (e) the Traffic (Immobilisation of Vehicles) (No.2) Regulations 1986;
- (f) the Abandoned Vehicles (Removal) Regulations 2004;
- (g) the Transport (Bus Stop) Regulations 2004;
- (h) the Disabled Persons (Badges for Motor vehicles) regulations 2007;
- (i) regulations 55 to 63 of the Control of Traffic Regulations.

Dated 14th April, 2011.

J J HOLLIDAY,
Signed Minister responsible for traffic matters,
For and on behalf of the Government.

SCHEDULE 1

Regulation 11

TRAFFIC SIGNS

The sign below indicates that the parking space to which it relates is available free of charge to private cars only. Motorcycles risk being towed away or clamped and fined.



The sign below indicates that the parking space to which it relates is available free of charge to motor cycles only. Private cars risk being towed away or clamped and fined.



The sign below indicates that the parking spaces to which it relates are available only for vehicles in respect of which a residents permit for that zone is held. Other vehicles are liable to be clamped or towed away and fined.



SCHEDULE 2

Regulation 17

PAY AND DISPLAY

Clockwise, the first sign below indicates that the area to which it relates is a controlled zone. Pay parking is available but only within the demarcated areas.

The second and third signs below indicate that the area to which they relate is a pay and display area and payment must be made at the machines situated in the direction of the arrow.



SCHEDULE 3

Regulation 60

PRESCRIBED FEES

The prescribed fee or fine for any matter or offence referred to in column 1 of the table below shall be the sum specified in column 2.

1. MATTER OR OFFENCE	2. AMOUNT OF FEE, CHARGE OR FINE
Issue of parking permit in connection with a parking scheme (fee)	£ zero
Parking in a Pay and Display car park (fee)	For the first 30 minutes: 50p (minimum payment 20p) For one hour: £1.00 For two hours: £2.00
Parking in a Pay and Display car park for less than 2 hours without having paid the correct fee (fine)	£30
Parking in a Pay and Display car park for more than 2 hours without having paid the correct fee (fine)	£ 50
Release of a vehicle that has been immobilised or removed (fee)	£ 60

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SCHEDULE 4

Regulation 39

Part I
Form of individual's badge

Date of expiry:	Parking Card for people with disabilities Parkeringskort Καρτα σταθμευσης Tarjeta de estacionamiento Parkausweis Contrassegno di parcheggio Parkeerkaart Cartão de estacionamento Pysäköintilupa Parkeringsstillstånd Carte de stationnement
Issued by: Department of Transport	
Serial No:	
	 EUROPEAN COMMUNITIES MODEL

<i>Photograph of the card holder</i>	This card entitles the holder to the special local parking facilities available in the Member State concerned. When in use, the card is to be displayed at the front of the vehicle in such a way that the front of the card is clearly visible for checking purposes.
Surname:	MISUSE OF THIS CARD MAY CONSTITUTE A CRIMINAL OFFENCE
Forename:	
Signature: <small>(or other authorised mark)</small>	

Part II
Form of Institutional Badge

Date of expiry:	Parking Card for people with disabilities Parkeringskort Καρτα σταθμευσης Tarjeta de estacionamiento Parkausweis Contrassegno di parcheggio Parkeerkaart Cartão de estacionamento Pysäköntilupa Parkeringstillstånd Carte de stationnement	
Issued by: Department of Transport		
Serial No:		
	INSTITUTIONAL BADGE	 EUROPEAN COMMUNITIES MODEL
 <i>Stamp or logo of institution</i>	<p>This card entitles the holder to the special local parking facilities available in the Member State concerned.</p> <p>When in use, the card is to be displayed at the front of the vehicle in such a way that the front of the card is clearly visible for checking purposes.</p>	
Name of institution:		MISUSE OF THIS CARD MAY CONSTITUTE A CRIMINAL OFFENCE

Part III
Specifications for Badge

The specification for the badge shall be as follows–

- (a) 106 millimetres in height;
- (b) 148 millimetres in width;
- (c) the background on the front and reverse sides of the badge shall be coloured light blue and shall include a background of wheelchair symbols;
- (d) the square box containing the wheelchair symbol and the rectangular box containing the country identifier shall be coloured dark blue. All other boxes on the badge shall be coloured white.