

**FIRST SUPPLEMENT TO THE GIBRALTAR
GAZETTE**

No. 2,958 of 16th January, 1997.



I ASSENT,
HUGO WHITE,
GOVERNOR.

16th January, 1997.



GIBRALTAR

No. 5 of 1997

AN ACT to amend the Traffic Act for the purpose of partially transposing into the law of Gibraltar Council Directive 91/439/EEC, as amended by Council Directive 94/72/EC, and Decision 7/94/EC of the EEA Joint Committee.

ENACTED by the Legislature of Gibraltar.

Title.

1. This Act may be cited as the Traffic Act (Amendment) (EEA Driving Licences) Act 1997.

Amendment to Traffic Act.

2. The Traffic Act is amended as follows-

- (a) after the definition of “driver” in section 2 there shall be inserted a new definition-

““EEA State” means a State which is a party to the Agreement on the European Economic Area signed at Oporto on 2nd May 1992 as adjusted by the Protocol signed at Brussels on 17th March 1993;”;

- (b) after the definition of “medical certificate” in section 2 there shall be inserted the following new definition-

““moped” means a motorcycle which-

- (a) cannot exceed 45 km/h and which,
- (b) has a weight not exceeding 250 kg,
- (c) and if fitted with a petrol driven engine, an engine with a cubic capacity of not more than 50cc;”;

- (c) for the definition of “motor cycle” in section 2 there shall be substituted-

““motor cycle” means any two wheeled vehicle with a maximum design speed of over 50 km/h or, if powered by an internal combustion engine, with a capacity of more than 50 cubic centimetres; and a motor cycle and sidecar combination shall be treated in the same way as such a vehicle and “tricycle” and “quadricycle” mean respectively any three or four wheeled vehicle in category B (as specified in section 16G) with a maximum design speed of over 50 km/h, or powered by a spark-ignition internal combustion engine with a capacity of more than 50 cubic centimetres or any other engine of equivalent power provided that the unladen mass of such a powered vehicle shall not exceed 550 kilograms and the unladen mass of such a vehicle which is electrically

propelled shall not for the purposes of this provision take account of the battery mass;”;

- (d) for section 4A (appointment of examiners) there shall be substituted the following new section-

“Appointment of examiners.

4A(1) The licensing authority may from time to time by order published in the Gazette, appoint a Chief Examiner and as many additional examiners as that authority may think necessary for the testing and examination of drivers and vehicles.

(2) Each examiner shall be professionally competent to oversee correctly the candidates’ ability to drive.

(3) The licensing authority shall monitor the work of the examiners to ensure correct and consistent application of the fault assessment of the standards required of candidates for examination.”;

- (e) in section 16C(1) after paragraph (b) there shall be inserted the following new paragraph-

“(c) his normal residence (within the meaning of section 46) is in Gibraltar or he has been attending a school or other educational institution throughout a period of six months immediately preceding the date on which he passes his driving test.”;

- (f) for section 16E there shall be substituted the following new section-

“No person to hold two licences.

16E (1) No driving licence shall be granted to any person who already holds a driving licence, whether that licence is suspended or not other than a Services licence granted under this Act.

- (2) Sub-section (1) shall not prevent an exchange in accordance with section 46 of a licence which at the

time of exchange is valid and issued in an EEA State.”;

- (g) for section 16G there shall be substituted the following new section—

“Categories of motor vehicles.

16G(1) A driving licence shall specify which of the following categories of motor vehicle a person is permitted to drive—

Category A

motorcycles with or without sidecar;

Category B

motor vehicles with a maximum authorised mass not exceeding 3,500 kilograms and having not more than eight seats in addition to the driver’s seat; motor vehicles in this category may be combined with a trailer having a maximum authorised mass which does not exceed 750 kilograms;

combinations of a tractor vehicle in category B and a trailer, where the maximum authorised mass of the combination does not exceed 3,500 kilograms and the maximum authorised mass of the trailer does not exceed the unladen mass of the tractor vehicle;

Category B + E

combination of vehicles consisting of a tractor vehicle in category B and a trailer, where the combination does not come within category B;

Category C

motor vehicles other than those in category D and whose maximum authorised mass is over 3,500 kilograms; motor vehicles in this category may be

combined with a trailer having a maximum authorised mass which does not exceed 750 kilograms;

Category C + E

combinations of vehicles where the tractor vehicle is in category C and its trailer has a maximum authorised mass of over 750 kilograms;

Category D

motor vehicles used for the carriage of persons and having more than eight seats in addition to the driver's seat; motor vehicles in this category may be combined with a trailer having a maximum authorised mass which does not exceed 750 kilograms;

Category D + E

combinations of vehicles where the tractor vehicle is in category D and its trailer has a maximum authorised mass of over 750 kilograms.

Category E

motor vehicles of category B, C, or D or sub-category C1 or D1 having a trailer with a laden weight exceeding 750 kilograms;

Within categories A, B, B + E, C, C + E, D and D + E, a driving licence may specify which of the following sub-categories a person is permitted to drive-

Sub-category A1

light motorcycles with a capacity not exceeding 125 cubic centimetres and of a power not exceeding 11 kilowatts;

Sub-category B1

motor-powered tricycles and quadricycles;

Sub-category C1

motor vehicles other than in category D and whose maximum authorised mass is over 3,500 kilograms but not more than 7,500 kilograms; motor vehicles in this sub-category may be combined with a trailer having a maximum authorised mass which does not exceed 750 kilograms;

Sub-category C1 + E

combination of vehicles where the tractor vehicle is in sub-category C1 and its trailer has a maximum authorised mass over 750 kilograms, provided that the maximum authorised mass of the combination thus formed does not exceed 12,000 kilograms, and that the maximum authorised mass of the trailer does not exceed the unladen mass of the tractor vehicle;

Sub-category D1

motor vehicles used for the carriage of passengers and having more than eight seats in addition to the driver's seat but not more than 16 seats in addition to the driver's seat; motor vehicles in this sub-category may be combined with a trailer having a maximum authorised mass which does not exceed 750 kilograms;

Sub-category D1 + E

combinations of vehicles where the tractor vehicle is in sub-category D1 and its trailer has a maximum authorised mass of over 750 kilograms, provided that:

- (i) the maximum authorised mass of the combination thus formed does not exceed 12,000 kilograms and the maximum authorised mass of the trailer does not exceed the unladen mass of the tractor vehicle;

- (ii) the trailer is not used for the transport of persons.

Category F

motor vehicles designed, constructed and used for the purpose of trench digging or any kind of excavating or shovelling work;

Category G

motor vehicles designed and constructed as mobile cranes;

Category H

road rollers;

Category I

motor vehicles of any description not included in categories A to D and F to I;

Category J

motor vehicles categories F to J towing a trailer with a laden weight exceeding 750 kg;

Category K

mopeds.”.

(2) Licences granted for –

- (a) category C + E or D + E shall be additionally valid for combinations of vehicle in categories B and E;
- (b) category C + E shall be additionally valid for category D + E for so long as the holders of such licences are entitled to drive vehicles in category D.”;

- (c) category C or D shall be granted only to a person who holds a licence entitling him to drive vehicles in category B;
- (d) category B + E, C + E, or D + E shall be granted only to a person respectively who holds a licence entitling him to drive a vehicle for category B, C or D;
- (3) Driving licences issued before the coming into effect of this provision, as substituted by the Traffic Act (Amendment) (EEA Driving Licences) Act 1997 shall continue to be valid until the date of expiry or until they are revoked.”;
- (h) sub-section (3) of section 16H shall be deleted;
- (j) in section 26 after the words “Services driving licence” there shall be inserted “, a licence issued by an EEA State”;
- (k) for section 46 there shall be substituted the following new section -

“Recognition of EEA State driving licences

46.(1) Where the holder of a valid national driving licence of an EEA State authorizing the driving on any public roads in the State takes up normal residence in Gibraltar that licence shall for as long as the licence continues to be valid in the EEA State in which it was issued and as long as the holder continues to normally reside in Gibraltar have the same validity and effect as if it were a licence issued under this Act.

(2) Where the holder of a valid national driving licence issued by an EEA State has taken up residence in Gibraltar, he may request that his driving licence be exchanged for a licence issued under this Act.

(3) Before issuing a licence pursuant to a request made to them under sub-section (2) the licensing authority may make such investigations as it may consider necessary to find out if the licence to be exchanged is at the relevant time valid.

(4) Upon the issue of a licence under sub-section (2) the licensing authority shall return the surrendered licence to the

EEA State which issued the licence and shall give that State reasons why it is doing so.

(5) The licensing authority may refuse to issue a licence.

(6) The licensing authority may supply such information to a State as is requested in accordance with Article 8 of the Council Directive 91/439/EEC on driving licences (as amended by Council Directive 94/72/EC and Decision 7/94/EC of the EEA Joint Committee).

(7) Subject to sub-sections (8) to (10) a person's normal residence is, for the purpose of this section, the place he lives at for not less than 185 days in any calendar year because of—

- (a) in the case of a person who has an occupation, occupational and personal ties; or
- (b) in the case of a person who does not have an occupation, personal ties.

(8) Where the places at which the occupational and personal ties of a person, to whom sub-section (7)(a) applies, are in different EEA States his residence shall be in the EEA State in which he has his personal ties, provided that he regularly returns to that place of those ties.

(9) A person shall not be considered as having an occupational tie to a place if he is residing at that place—

- (a) to carry out a task of a definite duration, or
- (b) to attend a school or university.

(10) In determining if a person's normal residence is in Gibraltar account shall be taken of any period during which that person has lived in the United Kingdom because of ties mentioned in sub-section (7) as if that person had lived in Gibraltar.

(11) The Minister with responsibility for Government Services may make regulations prescribing the form of requests under sub-section (2).”.

Traffic Act (Amendment) (EEA Driving Licences) Act, 1997 [No.5 of 1997]

Passed by the Gibraltar House of Assembly on the 7th day of January, 1997.

D. J. REYES,
Clerk to the Assembly.