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L.N. 438 of 2018

**GOVERNMENT LANDS ACT
(CAP. 573)**

Government-Owned Agricultural Land, Regulations 2018

IN EXERCISE of the powers conferred by sub-paragraph (L) of paragraph (g) of article 31 of the Government Lands Act, the Parliamentary Secretary for Planning and the Property Market has made the following regulations:-

Title. **1.** The title of these regulations is the Government-Owned Agricultural Land, Regulations, 2018.

Interpretation. **2.** In these regulations unless the context otherwise requires:

"Agricultural Advisory Committee" means the Committee established under regulation 15;

"Agricultural land" means any Government land which is mainly leased for the cultivation of agricultural products, flowers, fruit-trees or vines and for related agricultural purposes, including the erection of glasshouses, cloches or cold frames, but does not include grazing grounds;

Cap. 563. "Authority" means the Lands Authority established in accordance with article 5 of the Lands Authority Act or any person or any other entity that has been entrusted by contract or by law to administer Government land;

Cap. 563. "Board of Governors" means the Board of Governors of the Authority established by article 10 of the Lands Authority Act;

"Building" means any immovable property except for reservoirs or wells;

"family member" means the husband or wife of the lessee, a lineal ascendant, a lineal descendant, the husband, partner, or cohabitant of the daughter or the wife, partner or cohabitant of the son, the widow or widower of the descendants while not remarried;

"lease" means a lease for an agreed total term not exceeding sixteen years for rent, in cash or by other consideration, which is paid annually at one rate or more and includes a lease which is tacitly renewed from year to year, but

does not include emphyteusis or a lease agreement whereby the produce is shared between the landlord and the lessee; it also includes "sublease" in relation to a sub-lessor or sub-conductor;

"lessee" means that person who is recognised as such by the Authority.

3. Except where a transfer or assignment of the rights required under these regulations is related to a transfer and assignment of rights between family members as described in these regulations:

Exclusion of the application of these regulations.

No application made under these regulations shall be considered by the Authority when it is made in regards to the:

(a) transfer and assignment of the rights of the person holding agricultural land owned by the Government of Malta under a valid title in his name, and on which agricultural land there is already a building with a roofed floor space totalling more than forty square metres (40m²);

(b) transfer and assignment of the rights of the person holding agricultural land owned by the Government of Malta under a valid title in their name, and on which agricultural land there is a building, and the agricultural land and, or the building to be assigned or transferred are situated, even in part, in the development scheme or can be developed:

Except when a transfer or assignment of the rights requested under these regulations is related to a transfer or assignment of the rights between a family member as described in these regulations, no application shall be considered by the Authority unless it has previously been referred to the Agricultural Advisory Committee set up by virtue of these regulations to give its advice and if necessary to make suggestions concerning the conditions to be imposed.

4. All applicants submitting an application under these regulations must confirm by sworn declaration that the entire content of the application is true and that no information or other relevant facts have been omitted, which had they been known to the Authority would have caused the denial or refusal of said application. No applicant may justify such omission on the basis that the omitted information or facts were known to the Authority.

General Provisions.

5. (1) Whenever agricultural land and, or a building situated on that agricultural land is returned to the Authority, it should be returned with adequate access to such land and, or building. This access shall be verified and approved by the Authority.

Land returned to the Authority.

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(2) When the Authority is to transfer agricultural land and, or a building situated on that agricultural land to third parties, which agricultural land and, or building situated thereon has been returned to the Authority under these regulations, the latter must first take the advice of the Agricultural Advisory Committee set up by virtue of these regulations and if necessary it shall make suggestions on the conditions to be imposed.

The Authority shall ensure that the agricultural land which will be transferred to third parties by virtue of these regulations continues to be used for agricultural purposes.

Consent of, and approval by, the Board of Governors of the Authority.

6. (1) Any transfer and assignment of rights made under these regulations shall be subject to the approval of the Board of Governors of the Authority and subject to such conditions imposed by the said Board, including in these conditions the new rate of rent to be paid by the assignee of the rights of the person who has agricultural land and, or building thereon owned by the Government of Malta with a valid title thereto. These conditions shall be published.

(2) Prior to the approval by the Board of Governors of the Authority, it must be ascertained that:

(a) there is no breach of law or contractual provision in respect of the said land or building. No transfer may be done unless such breach has been rectified;

(b) there are no arrears. If there are arrears, these must be settled in their entirety before such transfer can be made;

(c) there is no legal impediment on such land or building, including stop notices, writs of execution, stop notices and writs of execution or warning notices issued by any authority. In such case, these legal impediments must be rectified.

Transfer of agricultural land.

7. Saving the provisions of regulation 3, any person holding agricultural land owned by the Government of Malta with a valid title in their name may apply to the Authority for the transfer and assignment of their rights, or parts thereof, on said land to a third party, provided that such third party is a *bona fide* full-time or part-time farmer registered with the Director of Agriculture.

Transfer of agricultural land that includes a building or a reservoir or well.

8. Saving the provisions of regulation 3, any person holding agricultural land owned by the Government of Malta under a valid title in their name and on which agricultural land there is a building, reservoir or well, may apply to the Authority for the transfer and assignment of their rights, or parts thereof, on the said land or building to a third party, provided that such third party is a *bona fide* full-time

or part-time farmer registered with the Director of Agriculture.

9. (1) In the event of the death of the lessee of the agricultural land, the lease shall pass onto a family member or members *in solidum* as determined by the same lessee and the existing conditions prior to the lessee's death shall continue to apply in their entirety and shall also be transferred to the new lessee: Death of the lessee.

Provided that, where the lessee does not determine to which family members the land is to be transferred, the land shall be transferred to that member of family in the following order of preference after an application is made from that family member within one year of the death of the lessee together with a declaration signed by a lawyer or notary that the person on which the lease is to be transferred is so entitled:

- (a) the husband or wife of the lessee;
- (b) the linear descendant, linear ascendant;
- (c) the husband, partner, or cohabitant of the daughter or the wife, partner or cohabitant of the son;
- (d) the widow or widower of the descendants while not remarried:

Provided that, in the event there is more than one person in the same category, in the above mentioned order, the land can be transferred *in solidum* to such persons after one application is made by those family members within a year of the lessee's death together with a declaration signed by a lawyer or notary stating that the proposed assignee is entitled thereto.

The application should be accompanied by all documentation, including the research, justifying the lawyer's or notary's declaration.

(2) If, after the death of the lessee, there is no other person recognised by the Authority as a lessee on the agricultural land to continue the lease under these regulations, the land and everything found thereon shall be returned to the Authority without any right to compensation.

10. (1) Except for the provisions of regulation 3, a person holding agricultural land and, or a building on agricultural land owned by the Government of Malta under a valid title in his name, held *in solidum* with several other persons, may transfer his entire share, or part thereof, to a third party, provided that he obtains the consent of all the other lessees, which consent may be withheld only for a valid Agricultural land and buildings held *in solidum*.

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reason:

Provided that, in the event that a person does not give his consent to this transfer, he must present his reasons in writing within thirty (30) days from when he receives the request to give such consent and the Board of Governors of the Authority shall decide whether such reasons are valid and sufficient to refuse such consent. The decision of the Board of Governors of the Authority must be in writing and shall contain detailed reasons for its decision.

(2) The limitations imposed in sub-regulation (1) shall not apply if the agricultural land or part thereof is returned to the Authority.

Division of
agricultural land
or of buildings
thereon.

11. Saving the provisions of regulation 3, persons who are in possession of agricultural land or building situated thereon, by valid title in their name, jointly with other persons, may request the Authority for permission to divide such property provided that:

(a) the application is first referred to the Agricultural Advisory Committee for its advice and, as the case may be, give its suggestions regarding the conditions to be imposed;

(b) the land can be easily divided where;

(i) it is economically viable as agricultural land according to the agricultural trade and with a view to maximising the agricultural product therefrom in full respect of sustainable agricultural production in Malta;

(ii) there is adequate access to the property so divided;

(iii) all necessary permits issued by the Planning Authority for such division to take place are in hand.

Students.

12. The Authority may grant Government-owned agricultural land by title of lease to anyone who has successfully completed an academic course in agricultural studies in the preceding five years from the entry into force of these regulations with the intent of starting an agricultural activity as mentioned above. Every grant of land shall be subject to approval by the Board of Governors of the Authority and subject to such conditions imposed by the said Board, which conditions shall be published. Any person to whom this regulation applies shall benefit from a preferential lease rate for a maximum period of five years.

Reservations.

13. The Authority has absolute and sole discretion to refuse

any application made pursuant to these regulations. Such refusal or denial shall be made in writing accompanied by detailed reasons for such decision.

14. The Authority is empowered to proceed with an action before the First Hall of the Civil Court if it considers that:

The Authority's right to proceed before the Court.

(a) the agricultural land is being used for purposes other than agricultural ones; or

(b) the agricultural land is not being farmed; or

(c) the building is being used for purposes other than agricultural ones; or

(d) the building is being used as a residence; or

(e) any provision of these regulations is being or has been violated,

even after the related deed of transfer has been made, against any person involved, including the occupant, and to request the court to declare the transfer made under these regulations, or any other transfer not made in accordance with these regulations, null and void.

In such case, the court shall order the eviction of every person from the land or building and order that such property, including any improvements made therein, be returned to the Authority without any right to any damages, of whatever nature, or compensation to that person or occupant, for the improvements they made or could have made to that property.

15. (1) A Committee, known as the Agricultural Advisory Committee, whose members are to be appointed by the Minister and on the advice of the Minister responsible for Agriculture for those officers falling under his responsibility, shall be set up.

Setting up of an Agricultural Advisory Committee.

(2) The Agricultural Advisory Committee shall consist of a Chairperson representing the Authority, another representative of the Authority, a representative of the department, agency or authority responsible for agriculture, another representative of the department, agency or authority responsible for veterinary services and another representative of the department, agency or authority responsible for Sustainable Development on the advice of the Minister responsible for Agriculture.

(3) Three members of the Agricultural Advisory Committee shall constitute a quorum at the meetings of the Agricultural Advisory

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Committee. The Chairperson of a sitting shall have an original vote, and in the event of a tie, a casting vote. There shall also be a secretary to the Agricultural Advisory Committee who shall be appointed by the Authority whose duties shall be assigned by the Agricultural Advisory Committee.

(4) Besides the functions already conferred by these regulations, the Agricultural Advisory Committee shall be authorised to issue guidelines to be made available to the public and to give professional and expert advice to the Authority's Board over applications made in relation to this Notice.

(5) The Agricultural Advisory Committee may ask any person for expert or professional advice on any issue the Committee may be addressing.

(6) Without prejudice to the provisions of these regulations and to any rules prescribed by the Minister, the Agricultural Advisory Committee may regulate its procedures.

Expenses.

16. The Authority shall ensure that all expenses incurred in relation to the above-mentioned transfers are paid by the person to whom the agricultural land or building is to be assigned and that no transfer or division of the property regarding which an application has been made can be made before such expenses are settled in full.

Transitory provisions.

17. Any application regarding Government agricultural land or buildings situated thereon made prior to the entry into force of these regulations shall be examined and decided according to these regulations.
