

SUBSIDIARY LEGISLATION 545.20**LIQUEFIED PETROLEUM GAS MARKET
REGULATIONS**

7th October, 2008

LEGAL NOTICE 249 of 2008, as amended by Legal Notices 37 of 2010, 125 and 465 of 2011, 101 and 184 of 2012, and 175 of 2015; Act XXV of 2015; and Legal Notices 134, 170 and 235 of 2016.

1. (1) The title of these regulations is the Liquefied Petroleum Gas Market Regulations.

Citation and scope
Amended by:
L.N. 37 of 2010.

(2) The scope of these regulations is to regulate the Liquefied Petroleum Gas Market in Malta.

(3) These regulations are being made for the safeguarding of the public interest and public safety. Any requirements contained therein including those relating to authorisations and to services are made for overriding reasons relating to public interest.

2. (1) Unless stated otherwise in these regulations, the definitions in the Regulator for Energy and Water Services Act shall apply.

Definitions.
Amended by:
L.N. 37 of 2010;
L.N. 125 of 2011;
L.N. 465 of 2011;
L.N. 101 of 2012;
L.N. 175 of 2015;
XXV. 2015.41.
Cap. 545.

(2) In these regulations, unless the context otherwise requires:

"applicant" means an applicant for an authorisation issued by the Regulator under these regulations;

"autogas" means liquified petroleum gas used for the propulsion of motor vehicles;

"autogas retail station" means an authorised facility which has been authorised by the Regulator to store and retail autogas and which may be subject to any such conditions as the Regulator may establish;

"authorised person" means a final customer authorised by the Regulator to operate a secondary storage facility of LPG in terms of these regulations;

"authorised provider" means a provider authorised by the Regulator to import and, or wholesale LPG, or to operate a primary storage facility or to bottle LPG in terms of the Petroleum for the Inland (Wholesale) Fuel Market Regulations or to wholesale, retail, transport and, or distribute LPG in bulk by means of a bulk LPG distributor vehicle or to distribute LPG by means of a fixed piped network or to retail LPG, including retail of portable cylinders filled with LPG, in terms of these regulations, or a service provider who is authorised to operate under any law in force in a Member State of the European Union or a state which is a participant to the European Economic Area:

S.L. 545.17

Provided that whenever the Regulator is required to exercise its functions under these regulations in relation to offshore storage facilities, the Regulator shall act in collaboration

with the authority responsible for maritime matters;

"authorisation" means any authorisation granted under these regulations, and in relation to services and service providers means a permit, licence, warrant, appointment, concession or any formal decision concerning access to a service activity or the exercise thereof;

S.L. 545.17 Provided that it shall mean an authorisation granted under the Petroleum for the Inland (Wholesale) Fuel Market Regulations when it is issued in regard to LPG;

"authorised facility" means a facility in respect of which an authorisation has been issued and includes all buildings, tanks, pipework, pumps, dispensers, electrical equipment, appliances, drainage, ancillary equipment, forecourt area and any other asset within that part of the facility relevant to LPG;

"bulk LPG distributor" means a person who in terms of an authorisation issued by the Regulator is authorised to transport and, or distribute LPG in bulk and, or retail LPG in bulk to authorised facilities and, or to wholesale, transport and, or distribute LPG in bulk to an autogas retail station;

S.L. 65.22 "bulk LPG distributor vehicle" means a vehicle (including its contents) as defined in the Motor Vehicles (Carriage of Dangerous Goods by Road) Regulations, designated for the purpose of transporting and, or distributing LPG to authorised facilities, secondary storage facilities of LPG and autogas retail stations;

"competent LPG installer" means a person who is approved by the Regulator and who is suitably trained, has sufficient knowledge, experience and capability as approved by the Regulator to:

- (a) construct equipment and, or sites intended to be designated by the Regulator as authorised facilities; and
- (b) carry out material alterations to authorised facilities; and
- (c) carry out other work of a technical nature that is complimentary or ancillary to the above;

"competent person" means a person who is approved by the Regulator and who:

- Cap. 321.
- (a) practices the profession of an engineer under the Ingeniera Act; and
 - (b) who is suitably trained, has sufficient knowledge, experience and capability as approved by the Regulator to:
 - (i) carry out assessment inspections of authorised facilities;
 - (ii) supervise material alterations to authorised facilities;
 - (iii) certify in writing that authorised facilities are being maintained and operated as prescribed in

any authorisation conditions and, or guidelines and, or Codes of Practice duly approved by the Regulator;

- (iv) certify in writing the design, construction, testing and commissioning of equipment and, or sites intended to be designated by the Regulator as authorised facilities;
- (v) carry out other work of a technical nature that is complimentary or ancillary to the above;

"establishment" means the actual pursuit of an economic activity by a service provider for an indefinite period and through stable infrastructure from where the business of providing services is actually carried out;

"final customer" means any natural or legal person purchasing LPG for his own use and not resale or transfer purposes;

"fixed piped network" means an authorised facility used for the storage and, or distribution and retail of LPG by means of a storage facility linked with a piped network;

"fixed point of sale" means a specific area designated by the Regulator, and duly approved by any other competent authority and in consultation with any relevant authority, from where a person duly authorised by the Regulator may retail portable cylinders filled with LPG;

"inspector" means any employee or officer of the Regulator or any other person duly appointed and authorised in writing by the Regulator in accordance with the provisions of the Act to inspect and check compliance with these regulations and any authorisation condition;

"LPG" means liquefied petroleum gas, composed of either propane or butane, according to BS 4250: 1997 or the equivalent or a mixture of both gases according to MSA EN 589;

"material alteration" means any alteration which, within the limits of the applicability of the authorisation, may in the opinion of the Regulator reasonably affect the operation of an authorised facility and includes the addition, change, removal, repair, replacement or cessation of use of any equipment, whether electrical or mechanical;

"Member State" means a member state of the European Union;

"the Minister" means the Minister responsible for resources;

"overriding reasons relating to public interest" means reasons recognised as such in case law of the European Courts of Justice and which reasons present a justification for the issue of an authorisation and, or the issue of a condition thereto and, or to any other policy decision taken in terms of such authorisation, when such authorisation, and, or condition and, or policy decision thereto could not have been issued or taken under normal circumstances but for such overriding reasons relating to public interest which include any of the following grounds:

- (a) public policy, public security, public safety and public health, provided that, these grounds shall be

interpreted within the meaning of Article 46 and Article 55 of the Treaty;

- (b) the maintenance of order in society;
- (c) social policy objectives;
- (d) the protection of recipients of services;
- (e) consumer protection;
- (f) the prevention of fraud,
- (g) the prevention of unfair competition; and
- (h) the protection of the environment;

"owner" means any natural or legal person established within the European Union, who lawfully holds certificates of conformity assessment of an LPG cylinder and who originally placed the said cylinder on the market;

"person" includes an individual, an undertaking, a body or other association of persons, whether such body or association is a juridical person or not;

S.L. 427.30

"portable cylinders" or "cylinders" means transportable containers suitable for use with LPG and which conform to the Transportable Pressure Equipment Regulations;

Cap. 500.

"recipient" shall have the same meaning as it has under the Services (Internal Market) Act;

Cap. 545.

"Regulator" means the Regulator for Energy and Water Services established by the Regulator for Energy and Water Services Act;

S.L. 545.17

"primary storage facility of LPG" means an authorised facility approved by the Regulator and issued with an authorisation for a primary storage facility in terms of the Petroleum for the Inland (Wholesale) Fuel Market Regulations, and which is used by the authorised provider as aforesaid to store LPG:

Provided that such an authorised facility wherein LPG is stored in bulk shall be onshore and fixed, and for the purposes of this definition "fixed" shall mean a permanently fixed structure underground or aboveground at a defined site;

Provided further that the Regulator may, when reasonably necessary, authorize primary storage facilities of LPG which are not onshore and, or fixed;

"retail" means the sale of LPG to final customers;

"secondary storage facility of LPG" means a storage facility, not being a primary storage facility, with a minimum storage capacity of either more than 150 kg of LPG or any six or more interconnected portable LPG cylinders, whichever is the lower:

Provided that a storage facility shall not be a secondary storage facility of LPG, unless the LPG therein stored is for the authorised person's own exclusive use;

"service" means any self-employed activity performed for economic considerations;

"service provider" means any natural person who is a national of

a Member State, or any legal person established in a Member State, who offers or provides a service;

"the Treaty" means the Treaty establishing the European Community.

3. (1) An authorised provider who is the holder of an authorisation -

Minimum storage capacity of a primary storage facility used for the storage of LPG.

(a) to carry out the activity of an importer and, or wholesaler of LPG or to bottle or load LPG, or to carry out all the aforementioned activities, or some of them, simultaneously;

(b) to operate a primary storage facility of LPG,

shall be required to have a storage facility used for the storage of LPG with a minimum storage capacity of 50 tonnes, as specified in Column 2 of Part 2 of the First Schedule of the Control of Major Accident Hazard Regulations.

S.L. 424.19

(2) The 50 ton storage facility mentioned in sub-regulation (1) need not be the property of the authorised provider:

Provided that the said 50 ton storage facility shall not be committed or contracted to any other authorised provider.

4. An authorised provider authorised by the Regulator to import or wholesale or store and bottle LPG shall maintain a minimum stock level equivalent to 20% of the total storage capacity of his storage facility of LPG. This minimum level of 20% may include, at the discretion of the Regulator, a vessel loaded with LPG for departure to or in transit to Malta, when warranted by the size of the facility and the scale of operations involved:

Minimum stock level of LPG to be held by the authorised provider.
Amended by:
XXV. 2015.41.

Provided that the authorised provider shall also hold in stock, at any time, as part of his total storage capability, a minimum guaranteed stock of LPG equivalent to his total average sales in Malta and Gozo during eight days of the previous calendar year. In calculating the amount to be held as minimum guaranteed stock of LPG, the Regulator shall take into account any seasonality factor which may be present. The authorised provider shall not be required to hold this minimum guaranteed stock of LPG when such amount is less than the minimum stock level equivalent to 20% of the total storage capacity of his primary storage facility of LPG:

Minimum guaranteed stock of LPG.
Amended by:
XXV. 2015.41.

Provided further that the minimum guaranteed stock of LPG required to be held by the authorised provider in terms of these regulations, shall be held, without prejudice to any obligation incumbent on the authorised provider, in regard to the holding of minimum security stocks of petroleum products, emanating from any national or international obligation.

5. An authorised provider issued with an authorisation by the Regulator to wholesale or store and bottle LPG shall hold, at any time, a minimum storage capacity of LPG, equivalent to a one-day amount of supplies in already-filled cylinders, to be held as operational stock, which one day amount of supplies shall be calculated in accordance with the authorised provider's total sales in the previous calendar year. In calculating the minimum

Minimum storage capacity of LPG to be held in cylinders.
Amended by:
L.N. 37 of 2010
XXV. 2015.41.

guaranteed stock of LPG to be held in already filled cylinders, the Regulator shall take into account any seasonality factor which may be present:

Provided that the amount held in already-filled cylinders may be set-off against the amount required to be held in terms of regulation 4.

Return of LPG cylinders.
Added by:
L.N. 465 of 2011.
Amended by:
XXV. 2015.41;
L.N. 134 of 2016;
L.N. 235 of 2016.

5A. (1) Nothing shall prohibit an authorised provider who is authorised to import and, or wholesale LPG and, or an authorised provider who is authorised by the Regulator to retail LPG, including retail of portable cylinders filled with LPG, from collecting a portable cylinder from a final customer and from returning such LPG cylinder on behalf of such final customer, to the authorised provider who is authorised to import and, or wholesale LPG and who is the owner of such portable cylinder:

Provided that the authorised provider who is authorised to import and, or wholesale LPG and, or the authorised provider who is authorised by the Regulator to retail LPG, including retail of portable cylinders filled with LPG, shall return portable cylinders collected from final customers at his own expense, to the authorised provider who is authorised by the Regulator to import and, or wholesale LPG and who is the owner of such portable cylinder within intervals of seven calendar days from each other:

Provided further that the burden of proving that any portable cylinders collected from final customers have been returned to the owner of such portable cylinder, shall lie on the authorised provider who is authorised to import and, or wholesale LPG and, or the authorised provider who is authorised by the Regulator to retail LPG, including retail of portable cylinders filled with LPG and who is not the owner of the portable cylinder.

(2) Portable cylinders collected from a final customer in terms of sub-regulation (1) may not be used or handled in any manner whatsoever, other than for the purposes of their return to the authorised provider who is authorised by the Regulator to import and, or wholesale LPG and who is the owner of such portable cylinders. Prior to their return, such portable cylinders shall be stored at a facility and under such conditions as approved by the Regulator and in accordance with any applicable legislation, standards and Codes of Practice.

(3) The authorised provider who is authorised to import and, or wholesale LPG and, or an authorised provider who is authorised by the Regulator to retail LPG, including retail of portable cylinders filled with LPG, who collects portable cylinders from a final customer in terms of sub-regulation (1) shall inform the Regulator of such collection within seven calendar days from the date of the collection of such portable cylinders.

(4) An authorised provider who is authorised by the Regulator to import and, or wholesale LPG may require a final customer to effect a deposit as a guarantee for the restitution of a portable cylinder delivered to such final customer. The amount of such deposit shall as a minimum be of ten euro (€10) for each cylinder delivered to a final customer. The aforementioned authorised

provider shall reimburse the final customer or any other person acting on his behalf, for the amount deposited upon the permanent return for the purposes of restitution of the portable cylinder referred to in sub-regulation (1) or for a higher amount when such final customer has in his possession a receipt indicating such higher amount, including when such receipts have been issued to final customers prior to the entry into force of this regulation:

Provided that final customers who are not in possession of a receipt as aforesaid shall be reimbursed by the authorised provider who is the owner of such portable cylinder the amount of five euro (€5) for the permanent restitution of a portable cylinder delivered to such final customer:

Provided further that the deposit as a guarantee for the restitution of a portable cylinder of a capacity of twelve (12) kilograms delivered to a final customer or any other person acting on his behalf, shall in all cases be of fifteen euro (€15) and the reimbursement of such deposit shall also be of fifteen euro (€15) when a final customer, or any other person acting on his behalf, is not in possession of a receipt. In the event that a final customer is in possession of a receipt indicating a higher amount than fifteen euro (€15), then such final customer, or any other person acting on his behalf, shall be reimbursed such higher amount. The effects of this proviso shall apply to all portable cylinders returned for the purpose of restitution after the 29th of April 2016, irrespective of the date, before or after that date, when the portable cylinder was delivered to a final customer.

(5) The deposit referred to in sub-regulation (4) may be effected by the final customer either directly to the authorised provider who is authorised by the Regulator to import and, or wholesale LPG or indirectly through an authorised provider who is authorised by the Regulator to retail LPG, including retail of portable cylinders filled with LPG.

(6) The owner of a portable cylinder shall, upon the payment of a deposit for a portable cylinder by a final customer referred to in sub-regulation (4), issue a receipt to a final customer, which receipt shall as a minimum contain details regarding the ownership of the portable cylinder and the final customer's rights and obligations in terms of such deposit, and the capacity in kilograms of such portable cylinder.

(7) The final customer may permanently return the portable cylinder for the purposes of restitution to the authorised provider who is authorised by the Regulator to import and, or wholesale LPG and who has delivered the portable cylinder to the final customer through an authorised provider who is authorised by the Regulator to retail LPG, including retail of portable cylinders filled with LPG.

(8) Nothing in these regulations shall impinge on the ownership rights of the authorised provider who is authorised by the Regulator to import and, or wholesale LPG and who is the owner of the said LPG cylinder.

(9) Cylinders shall be indelibly marked showing as a minimum

the name of the owner of the LPG cylinder and any other requirement imposed under any other law.

Authorisations
granted by the
Regulator.
Amended by:
L.N. 37 of 2010;
L.N. 175 of 2015;
XXV. 2015.41.

6. (1) The following operations and activities shall require an authorisation:

- (a) the retail of portable cylinders filled with LPG, including retail from a fixed point of sale;
- (b) operation of a fixed piped network;
- (c) operation of an autogas retail station;
- (d) activity of a bulk LPG distributor;
- (e) operation of a secondary storage facility of LPG.

Types of
authorisations.

(2) The Regulator may grant an authorisation and, or authorisations for the:

- (a) carrying out of the activity of a bulk LPG distributor;
- (b) operation of a fixed piped network;
- (c) operation of a secondary storage facility of LPG;
- (d) carrying out of the retail activity of portable cylinders filled with LPG, including retail from a fixed point of sale;
- (e) operation of an autogas retail station:

Provided that such person or authorised provider in whose favour an authorisation is granted, shall satisfy any such conditions as may be specified in the authorisation, in these regulations and in any other applicable laws.

(3) In the case of a secondary storage facility of LPG consisting of six, but of not more than eight interconnected portable LPG cylinders, a notification submitted in the form established by the Regulator shall be required, instead of an application for the issue of an authorisation for a secondary storage facility. After the receipt of such notification, the Regulator may require the applicant to submit certification of the storage facility by a competent person and written confirmation of the secondary storage facility of LPG having been installed by a competent LPG installer.

Issue of
authorisations.
Amended by:
XXV. 2015.41.

7. (1) Authorisations shall be issued by the Regulator in respect of the execution of the operations, activities and practices referred to in these regulations and shall include the terms and conditions for the execution of such operations, activities and practices.

(2) An authorisation issued by the Regulator shall be in writing and, unless cancelled, suspended or revoked in accordance with any condition contained in it or in accordance with these or other regulations, it shall continue to be in force for such period as may be specified in, or determined by or under the authorisation.

Issue of single
authorisation.

(3) Nothing in these regulations shall prohibit the Regulator from issuing a single authorisation incorporating more than one authorisation.

-
- (4) Authorisations, unless revoked, shall be valid for a period of years equal to:
- (a) ten years in the case of an authorisation to operate an autogas retail station;
 - (b) six years in the case of an authorisation for the carrying out of the activity of a bulk LPG distributor;
 - (c) six years in the case of an authorisation for the carrying out of the retail activity of portable cylinders filled with LPG, including retail from a fixed point of sale;
 - (d) twenty years in the case of an authorisation for the operation of a fixed piped network;
 - (e) ten years in the case of an authorisation for the operation of a secondary storage facility of LPG.
- (5) Any person who wishes to -
- (a) carry out of the activity of a bulk LPG distributor;
 - (b) operate a fixed piped network;
 - (c) operate a secondary storage facility of LPG;
 - (d) carry out the retail activity of portable cylinders filled with LPG including retail from a fixed point of sale;
 - (e) operate an autogas retail station,
- shall submit an application in writing to the Regulator in such form and manner as the Regulator may prescribe. A non-refundable application fee as established in the First Schedule shall be paid to the Regulator with the authorisation application.
- (6) The Regulator shall establish its procedure, which shall be made publicly known, for the purposes of determining an application, for the:
- (a) carrying out of the activity of a bulk LPG distributor;
 - (b) operation of a fixed piped network;
 - (c) operation of a secondary storage facility of LPG;
 - (d) carrying out of the retail activity of portable cylinders filled with LPG, including retail from a fixed point of sale;
 - (e) operation of an autogas retail station.
- (7) The Regulator shall communicate to the applicant in writing within a reasonable time, which reasonable time shall not be of more than three months from the date of receipt of a valid application, any decision taken concerning an application for an authorisation or an application for the renewal of an authorisation, or of any valid reason impeding the Regulator to reach such a decision.
- (8) Upon expiry, an authorisation may be renewed, and an application for renewal of the authorisation, in such form and manner as the Regulator may require, shall be submitted in writing to the Regulator, six months prior to the date on which the
- Validity of authorisation.
- Applications for an authorisation.
- Determination procedure of applications.
- Decision on application by the Regulator.
- Renewal, modification of an authorisation.

authorisation expires. The Regulator may modify, amend, replace, add or delete any authorisation condition in the renewed authorisation and add specific conditions relevant to each individual authorisation as the Regulator considers to be reasonably justified in the circumstances.

(9) An authorisation issued by the Regulator under these regulations shall not exempt the authorised provider from the requirement of obtaining any other authorisation or permit as may be required under any other law.

Payment of
authorisation fees.
Amended by:
XXV. 2015.41.

8. (1) The first authorisation fee shall be due by the authorised provider immediately upon the granting of the authorisation and thereafter, every year on the anniversary of the grant of such authorisation or on any other date as the Regulator may reasonably establish:

Provided that the authorisation shall not be valid until the payment of the first authorisation fee is made.

(2) The amount of the authorisation fee shall be according to the Second Schedule and shall be paid to the Regulator together with an application for an authorisation.

(3) If any authorisation fee payable under sub-regulation (2) is not paid within thirty days, the Regulator shall after the lapse of such time, communicate with the authorised provider whose authorisation fee has not so been paid informing him about his failure to pay such fee.

(4) The Regulator shall be deemed to have complied with sub-regulation (3) if such communication is sent by registered post, to the usual or last known address of the authorised provider whose authorisation fee has not so been paid.

Requirement to
reapply in case of
failure to pay an
authorisation.
Amended by:
L.N. 125 of 2011;
XXV. 2015.41.

9. (1) If any authorisation fee is not paid within thirty days after the date upon which the communication as aforesaid in regulation 8(4) has been sent by registered post, the authorisation to which it relates shall cease to be in force, and if the authorised provider to whom it was granted wishes again to carry out the activity of a bulk LPG distributor, to operate a fixed piped network, to operate a secondary storage facility of LPG, to carry out the activity of retail of portable cylinders filled with LPG, including retail from a point of sale, to operate an autogas retail station, he shall then be required to apply for a new authorisation.

(2) In considering any such application, the Regulator may take into consideration the previous failure of the applicant to pay the authorisation fee and of any explanation regarding that failure which the applicant may submit to the Regulator.

Criteria to be
adopted by the
Regulator.
Amended by:
L.N. 37 of 2010;
XXV. 2015.41.

10. (1) The aforementioned criteria shall be published by the Regulator.

(2) In taking a decision in respect of the grant, issue, amendment or renewal or any other matter pertaining to an authorisation issued under these regulations, the Regulator shall require the applicant to meet the following criteria, when

appropriate:

- (a) compliance by the applicant with all other relevant permits and authorisations, however so described, issued by any other public authority;
- (b) the capability of the applicant to ensure safety conditions, in the context of the authorisation being applied for;
- (c) private and professional integrity of the applicant;
- (d) protection of the health and safety of employees;
- (e) protection of the environment;
- (f) record of compliance with these regulations and any other relevant laws by the person with regard to whom the decision shall be made;
- (g) suitability of the facility with regard to safety, health, security, hazardous substances, environment, land use and planning requirements;
- (h) the need for facilities and services to be provided for consumers at the facility concerned and the extent to which the interests of consumers shall be served;
- (i) any other matter relevant to the orderly provision, of LPG in Malta; and
- (j) the public interest in general:

Provided that when taking account any of the aforementioned, the Regulator shall give a justification for its decision. Any such decision shall be taken in conformity with any applicable laws and regulations and in an objective, transparent and non-discriminatory manner:

Provided further that in case of failure by the Regulator to inform the applicant regarding any decision taken concerning access to a service activity or the exercise thereof, including refusal or withdrawal of an authorisation, shall not mean in any manner whatsoever, that the Regulator has tacitly granted such authorisation and that the applicant has automatically been granted access to a service activity or the exercise thereof.

11. (1) The Regulator shall approve an application for the issue of an authorisation or, if an authorisation has been issued, it shall approve an application for the renewal of an authorisation, when:

- (a) the Regulator considers that the applicant has satisfied the criteria required or requested to be met in regulation 10;
- (b) the application contains all such information requested by the Regulator in the application form or any other additional information that the Regulator may request from the applicant for the purpose of determining the application for the authorisation;
- (c) the application is accompanied by such application fee as specified in accordance with these regulations.

Conditions relating to the granting and renewal of authorisations.
Amended by:
L.N. 37 of 2010;
XXV. 2015.41.

(2) The authorised provider shall inform the Regulator of any changes relating to his service activity which result in the conditions for his authorisation no longer being met and the creation of subsidiaries whose activities fall within the scope of the authorisation and, or the authorisation scheme.

Powers to impose conditions of authorisation.
Amended by:
L.N. 37 of 2010;
XXV. 2015.41.

12. (1) The Regulator shall have the power to include in an authorisation issued under these regulations any such conditions as the Regulator considers requisite or suitable. Any such conditions shall be fair, objective, transparent and non-discriminatory:

Provided that, any condition for the granting of an authorisation for a new establishment shall not duplicate requirements and controls which are equivalent or essentially comparable as regards their purpose to which the service provider is already subject in another Member State or in Malta.

(2) Each of the individual authorisations described in regulation 6(1) shall have a minimum set of general conditions:

Provided that special conditions may be attached to any authorisation issued under these regulations.

(3) The authorised provider shall at all times comply with these regulations and with the conditions of his authorisation.

(4) The conditions included in the authorisation may contain, but not necessarily be limited to, provisions regarding:

- (a) the grant and term of the authorisation;
- (b) suspension, variation and transfer conditions of the authorisation;
- (c) compliance requirements to conditions, directions, management letters, standards, guidelines, codes of practice or rules given by the Regulator or as may be established at law;
- (d) the obligations of the authorised provider, including but not limited to consumer service obligations and holding of minimum security stocks of LPG;
- (e) the promotion of the efficient operation of the LPG market and protection of consumers in terms of the lowest possible prices combined with the highest quality of the products;
- (f) monitoring and recording of the authorised operations;
- (g) reporting, auditing and submission of information to the Regulator;
- (h) inspection, making of copies and taking of extracts from books and records held by the authorised provider and carrying out of measurements and tests in relation to any facility, assets or plant provided these are carried out by an approved inspector;
- (i) assessment and auditing of operations, activities and practices and their compliance to authorisation conditions;

- (j) regulation of subsidiary companies and, or companies executing part of the regulated operations, activities and practices:

Provided that the Minister may give directions in writing of a policy nature to the Regulator in relation to any of the above matters that appear to him to affect the public interest.

(5) Any person granted an authorisation under these regulations shall:

- (a) comply with any direction given by the Regulator as to such matters as are specified in the authorisation or are of a description so specified;
- (b) execute the regulated operations, activities and practices in accordance with such authorisation conditions;
- (c) act in accordance with any requirements as are specified in the authorisation or are of a description so specified; and
- (d) comply with the decisions or directions issued by the Regulator for the purposes of complying with any international obligation of Malta.

13. (1) Inspectors shall be authorised to enter and inspect any authorised facility in which LPG is, stored, blended, or is under transport and inspect all tanks, pipework, pumps, dispensers, electrical equipment, drainage, ancillary equipment and other equipment or assets directly or indirectly connected with the carrying out of the authorisation conditions in order to ascertain if they are in accordance with the conditions as prescribed in the authorisation.

*Inspection of an authorised facility.
Amended by:
XXV. 2015.41.*

(2) Every inspector of the Regulator so authorised shall at all reasonable times be allowed unrestricted access to the authorized facility, for the purpose of ascertaining whether the conditions attached to the authorisation are being duly observed. The authorised provider shall give all reasonable assistance which such inspector may require for that purpose.

14. (1) Authorised providers shall keep records of all transactions in respect of each authorisation they hold and other information about all LPG transactions permitted under the authorisations being in force and where applicable, to keep originals of all audited accounts at their principal place of business for the purpose of auditing by the Regulator. The Regulator may make copies or take extracts of such records, whether in physical or digital form, or require the authorised provider to provide same:

*Keeping of accounts and LPG transactions.
Amended by:
XXV. 2015.41.*

Provided that the Regulator shall treat as confidential any information obtained from the authorised provider and the authorized provider shall communicate to the Regulator as being commercially sensitive and which the Regulator accepts to be so, and in doing so the Regulator shall not divulge any such information unless required to do so by law or by a court order.

- (2) The Regulator shall have the right to publish information

regarding activities and statistics related to LPG:

Provided that the aforesaid publication shall not refer to any specific authorised provider and shall be in accordance with data protection laws.

Design and construction of an authorised facility.
Amended by:
L.N. 175 of 2015;
XXV. 2015.41.

15. (1) Without prejudice to any other provisions of these regulations or any other law, all authorised facilities designed and constructed after the entry into force of these regulations have to be designed and constructed in accordance with standards and specifications prescribed by the Regulator and, or any other authority competent at law.

(2) Once the design and construction have been carried out, a competent person must submit in writing to the Regulator a certification that all standards and safety requirements imposed on the authorised facility have been abided by and including a signed declaration to the effect that such authorised facilities have been constructed by a competent LPG installer.

(3) No person other than a competent LPG installer, shall construct an authorised facility or a facility required to be so authorised or carry out any material alteration to an authorised facility under these regulations:

Provided that such competent LPG installer shall be supervised by a competent person in the construction of an authorised facility or a facility required to be so authorised under these regulations.

Material alterations.
Amended by:
L.N. 175 of 2015;
XXV. 2015.41.

16. (1) The authorised provider shall not undertake or permit to be undertaken any material alterations to the authorised facility, unless the written consent of the Regulator has been obtained.

(2) The approved consent to the material alterations by the Regulator under these regulations shall not exempt the authorized provider from the requirement of obtaining any other written approval or permit required under any other law.

(3) No person, other than a competent person, shall supervise any material alteration carried out on an authorised facility.

(4) In supervising the material alterations, the competent person shall follow any guidelines that the Regulator may from time to time issue.

(5) Once the material alterations have been carried out, the competent person commissioned by the authorised person to supervise the material alterations and the competent LPG installer commissioned by the authorised person to perform such alterations must submit in writing a certification that all safety requirements imposed on the authorised facility have been complied with.

(6) The Regulator may, subsequent to the material alterations referred to in sub-regulation (5) send an inspector to perform an assessment inspection of the authorised facility.

(7) No person other than a competent LPG installer, shall construct or carry out any material alteration on an authorised facility or a facility required to be so authorised:

Provided that such competent LPG installer shall be supervised by a competent person in the construction of and the carrying out of any material alteration on an authorised facility or a facility required to be so authorised.

17. The Regulator may, at any time in the course of the period for which the authorisation is valid, order its suspension, revocation or cancellation where the Regulator is satisfied that:

Suspension,
revocation or
cancellation of
authorisations.
Amended by:
XXV. 2015.41.

- (a) the authorised provider has failed or is failing to abide by any conditions of the authorisation or to abide by these regulations; or
- (b) the authorised provider does not possess all other relevant permits and authorisations that are issued by any other public authority; or
- (c) the authorised provider is contravening any requirement imposed by law; or
- (d) the authorised provider fails to comply with any directive given by the Regulator as to such matters as are specified in the authorisation or are of a description so specified; or
- (e) any information submitted in the application for an authorisation or the application for renewal of an authorisation and for which the authorisation has been issued or renewed, as the case may be, is determined to be false; or
- (f) the authorised provider does not meet the criteria in respect of one or more of the criteria referred to in regulation 10:

Provided that in exercising its powers of suspension, revocation or cancellation of authorisations, the Regulator may take into account the nature of the failure, or the fact that the authorised provider is taking the appropriate steps which the Regulator considers are necessary in order to comply with the conditions of the authorisation or any other requirement that the Regulator may deem relevant.

18. (1) Subject to the following provisions in this regulation, the Regulator may at any time in the course of the period for which the authorisation is valid, modify, amend, replace, add or delete the conditions of the authorisation as it considers requisite or suitable:

Modification etc.,
of authorisation.
Amended by:
XXV. 2015.41.

Provided that any condition which is so modified, amended, replaced or added, shall be fair, objective, transparent and non-discriminatory:

Provided further that any deletion of a condition, shall be made in a fair, objective, transparent and non-discriminatory manner.

(2) Before making any amendments, replacements, additions or deletions to the authorisation, the Regulator shall:

- (a) in accordance with the provisions of sub-regulation (3) communicate such amendments, replacements,

additions or deletions to the authorisation it proposes to make;

- (b) state the reasons why such amendments, replacements, additions or deletions are being proposed;
- (c) specify the period (not being less than one month from the date of publication of the notice) within which representations or objections have to be made in respect of the proposals being made:

Provided that the Regulator in doing so shall consider any representations made.

(3) The notice referred to in sub-regulation (2) shall be:

- (a) brought to the attention of the Minister and the holders of authorisations;
- (b) brought to the public's attention by the publication of a notice in the Gazette.

Termination of
authorisation.
Amended by:
XXV. 2015.41.

19. (1) When an authorised provider or an authorised person decides either to suspend or to terminate his authorisation to carry out the activity of a bulk LPG distributor or to operate a fixed piped network or to operate a secondary storage facility of LPG or to carry out the retail activity of portable cylinders filled with LPG, including retail from a fixed point of sale or to operate an autogas retail station, the authorised provider or the authorised person, as the case may be, shall promptly notify the Regulator in the form prescribed by the Regulator to notify such a termination or suspension.

(2) Upon acknowledgement by the Regulator to the authorised provider or authorised person of the notification mentioned in sub-regulation (1), the authorisation shall be considered to have ceased and with immediate effect from the date of such acknowledgement, the activity of a bulk LPG distributor, the operation of a fixed piped network, the carrying out of the retail activity of portable cylinders filled with LPG, including retail from a fixed point of sale or the operation of an autogas retail station business and the operation of a secondary storage facility of LPG, shall be deemed to be unauthorised.

(3) Notwithstanding any notification for termination or suspension of an authorisation, the authorised provider shall remain liable for the payment of any authorisation fees due prior to such notification.

Transfer of
authorisation.
Amended by:
XXV. 2015.41.

20. (1) An authorisation issued by the Regulator under these regulations shall not be validly transferred *inter vivos* to any other natural or legal person unless:

- (a) the transferor informs in writing the Regulator in such form and manner as the Regulator shall prescribe;
- (b) the Regulator is satisfied that at least the same criteria as listed in regulation 10 are complied with;
- (c) the transfer is subject to the conditions prescribed in the authorisation; and

- (d) the Regulator approves in writing the transfer of the authorisation:

Provided that the leasing of the authorised facility shall require the issue of a new authorisation in the name of the person leasing the authorised facility.

(2) An authorisation issued by the Regulator under these regulations shall not be validly transmitted *causa mortis* to any other natural or legal person unless:

- (a) the transferee informs in writing the Regulator in such form and manner as the Regulator shall prescribe;
- (b) the Regulator is satisfied that at least the same criteria as listed in regulation 10 are abided by;
- (c) the transfer is subject to the conditions prescribed in the authorisation; and
- (d) the Regulator approves in writing the transfer of the authorisation:

Provided that the authorisations issued in terms of these regulations shall be an indivisible right:

Provided further that in the event that the Regulator approves the transfer of the authorisation as aforesaid, the transfer shall have retrospective effect from the date of the death of the *deujus*.

21. The storage of LPG in underground basements or garages is prohibited. Prohibited LPG storage.

22. All authorisations issued in terms of these regulations are to be accompanied by an insurance policy taken by the authorised provider to the satisfaction of the Regulator. The insurance policy shall include cover for third party liability. Requirement of insurance.
Amended by:
XXV. 2015.41.

23. The authorised provider shall co-operate in any scheme promoted by a competent authority, designed to ensure that the maximum fire-fighting efficiency for the sector, at a national co-operative level is achieved. Co-operation with authorities.

24. (1) The Regulator shall keep a register or registers of authorisations which shall include records of: Register of authorisations.
Amended by:
XXV. 2015.41.

- (a) all authorisations granted under these regulations, and
- (b) all applications for an authorisation received and refused.

(2) The register or registers of authorisations shall be kept under review and up to date.

25. The Regulator may require any authorised provider to supply the necessary data for the Regulator to fulfill its function to regulate, monitor and keep under review all practices, operations and activities relating to the LPG market. Supply of data to the Regulator.
Amended by:
XXV. 2015.41.

Administrative
Review Tribunal.
Substituted by:
L.N. 184 of 2012.
Amended by:
XXV. 2015.41.
Cap. 490.

Dyeing of LPG
used for autogas
purposes.
Amended by:
XXV. 2015.41.

Offences and
penalties.
Amended by:
XXV. 2015.41.

26. The Administrative Review Tribunal established by article 5 of the Administrative Justice Act shall have jurisdiction to hear and determine appeals from decisions of the Regulator made under these regulations.

27. The dyeing of LPG used for autogas purposes shall be carried out when such LPG is loaded on road tankers in accordance with such method as approved by the Regulator.

- 28.** (1) Any person who -
- (a) willfully or through negligence acts in breach of any provision of these regulations;
 - (b) willfully or through negligence breaches any condition listed in the authorisations regulated by these regulations;
 - (c) is a party to a boycott;
 - (d) carries out any activity requiring an authorisation without being in possession of a valid authorisation;
 - (e) fails to comply with any lawful order by an inspector, employee or officer of the Regulator in execution of their duties in terms of these regulations;
 - (f) hinders, obstructs, molests or interferes or attempts to hinder, obstruct, molest or interfere with any inspector, any employee or officer of the Regulator in the execution of his duties in terms of these regulations;
 - (g) makes a declaration for any of the purposes of these regulations which is false, misleading or incorrect in any material aspect,

shall be guilty of an offence against these regulations and shall, on conviction, be liable to imprisonment for not more than eighteen months, or to a fine (*multa*) of not more than seventy thousand euro (€70,000) or to one thousand five hundred euro (€1,500) for each day during which the offence persists, or to both such fine and imprisonment.

(2) The liability of an offender under sub-regulation (1) shall be without prejudice to the liability of the offender to pay to the Regulator any cost incurred in removing the cause of the offence and to undo anything which was done without an authorisation under these regulations.

(3) The Court, besides awarding the punishment referred to in this regulation, may order the convicted offenders to close their activity and, or to undo anything which was done without an authorisation.

(4) In the prosecution of offences against these regulations officials of the Regulator shall have the right to assist the police, and to plead the case before the Court.

(5) Officers from the Regulator may assist the Police in the exercise of any of their powers to prevent the commission of an

offence against these regulations and, or to secure evidence concerning any such offence.

(6) The provisions of these regulations shall not affect any criminal proceedings and, or any other proceedings that may be instituted under any other law.

29. The Regulator may impose an administrative fine upon any person who infringes any provision of these regulations or who fails to comply with any directive or decision given by the Regulator in ensuring compliance with these regulations.

Administrative
fines.
Amended by:
XXV. 2015.41.

30. Notwithstanding any other law, proceedings for an offence against these regulations may be commenced at any time within six years from the commission of the offence.

Commencement of
proceedings.
Added by:
L.N. 37 of 2010.

Substituted by:
L.N. 37 of 2010.
Amended by:
L.N. 175 of 2015;
L.N. 170 of 2016.

FIRST SCHEDULE

Regulation 7(5)

Authorisation application fee payable in respect of an application for an:

Authorisation to carry out the activity of retail of portable cylinders filled with LPG, including retail from a fixed point of sale

The applicable fee for applying for an authorisation for carrying out the activity of retail of portable cylinders filled with LPG, including retail from a fixed point of sale is of €500;

Authorisation to operate a fixed piped network

The applicable fee for applying for an authorisation for operating a fixed piped network shall be as follows:

- (i) for a fixed piped network with 2 metered outlets - €50.00;
- (ii) for a fixed piped network with a number of metered outlets between 3 and 5 - €100.00;
- (iii) for a fixed piped network with a number of metered outlets between 6 and 10 - €200.00;
- (iv) for a fixed piped network with a number of metered outlets between 11 and 15 - €300.00;
- (v) for a fixed piped network with over 15 metered outlets - €500.00;

Authorisation to operate a secondary storage facility of LPG:

The applicable fee for applying for an authorisation for operating a secondary storage facility of LPG is of €50;

Authorisation to carry out the activity of a bulk LPG distributor:

The applicable fee for applying for an authorisation for carrying out the activity of a bulk LPG distributor is of €500;

Authorisation to operate an autogas retail station:

The applicable fee for applying for an authorisation for operating an autogas retail station is of €500.

Substituted by:
L.N. 37 of 2010.
Amended by:
L.N. 175 of 2015.

SECOND SCHEDULE

Regulation 8(5)

Authorisation fee payable in respect of an:

Authorisation to carry out the activity of retail of portable cylinders filled with LPG, including retail from a fixed point of sale

The applicable authorisation fee for carrying out the activity of retail of portable cylinders filled with LPG, including retail from a fixed point of sale is of €50 per annum;

Authorisation to operate a fixed piped network

The applicable authorisation fee for operating a fixed piped network shall be as follows:

- (i) for a fixed piped network with 2 metered outlets - €50.00;
- (ii) for a fixed piped network with a number of metered outlets between 3 and 5 - €100.00;
- (iii) for a fixed piped network with a number of metered outlets between 6 and 10 - €200.00;
- (iv) for a fixed piped network with a number of metered outlets between 11 and 15 - €300.00;
- (v) for a fixed piped network with over 15 metered outlets - €500.00;

Authorisation to operate a secondary storage facility of LPG

The applicable authorisation fee for operating a secondary storage facility of LPG is of €50 per annum;

Authorisation to carry out the activity of a bulk LPG distributor

The applicable authorisation fee for an authorisation for carrying out the activity of a bulk LPG distributor is of €500 per annum and €50 per bulk LPG distributor vehicle;

Authorisation to operate an autogas retail station.

The applicable authorisation fee for an authorisation for operating an autogas retail station is of €500 per annum and €50 per nozzle.

The above mentioned fee of €500 per annum for operating an autogas retail station shall not be due by the holders of an authorisation to operate a petroleum filling station.

THIRD SCHEDULE

Regulation 2

Added by:
L.N. 125 of 2011.
Amended by:
L.N. 175 of 2015;
XXV. 2015.41.

Fee due to the Regulator for approval as a competent person	€35
Fee due to the Regulator for approval as a competent LPG installer	€35