

SUBSIDIARY LEGISLATION 545.22**PETROLEUM FOR THE INLAND (RETAIL)
FUEL MARKET REGULATIONS**

29th January, 2010

LEGAL NOTICE 53 of 2010, as amended by Legal Notices 184 of 2012 and 134 of 2014; Act XXV of 2015; and Legal Notice 38 of 2017.

1. (1) The title of these regulations is the Petroleum for the Inland (Retail) Fuel Market Regulations. Citation and scope.

(2) The scope of these regulations is to regulate the inland retail fuel market of petroleum.

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 otherwise stated in these regulations, the definitions in the Act shall apply. Interpretation.
Amended by:
L.N. 134 of 2014;
XXV. 2015.41.

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

"the Act" means the Regulator for Energy and Water Services Act; Cap. 545.

"approved" means the acceptance in writing by the Regulator;

"assessment inspection" means an inspection carried out by a competent person to check that an authorised facility is operated and maintained according to such authorisation conditions and guidelines as the Regulator may from time to time issue;

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

"authorised facility" means a facility in respect of which an authorisation has been issued under these regulations and includes secondary storage facilities of petroleum and petroleum filling stations and all buildings, tanks, pipework, pumps, dispensers, electrical and electronic equipment, drainage, ancillary equipment, forecourt area and any other asset within that part of the facility relevant to the delivery, storage, dispensing and retail of petroleum;

"authorised person" means the holder of an authorisation issued by the Regulator under these regulations, permitting such person to operate a secondary storage facility of petroleum;

"authorised provider" means the holder of an authorisation issued by the Regulator under 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, permitting such person

to operate a petroleum filling station and, or carry out the activity of a fuel distributor;

"autogas" means LPG used for the propulsion of motor vehicles;

"biofuels" means liquid or gaseous fuel produced from biomass. The term "biofuels" shall include biodiesels, biodimethylethers, bioethanols, biogases, biohydrogens, biomethanols, bio-ETBEs, bio-MTBEs, pure vegetable oils and synthetic biofuels;

"biomass" means the biodegradable fraction of products, waste and residues from agriculture, including vegetal and animal substances, forestry and related industries and also the biodegradable fraction of industrial and municipal waste;

"boycott" means a concerted practice between persons consisting in unilateral or collective action to cut off supplies or purchases to or from a particular customer or retailer, or the application of conditions to that customer or retailer which make continued dealings impractical;

"Class" means the classification given to fuel according to their flash points. For this purpose:

- (a) class 1 means fuels which have a flash point below 21°C;
- (b) class 2 means fuels which have a flash point above 21°C but below 55°C;
- (c) class 3 means fuels which have a flash point above 55°C;

"CN codes" means the code numbers of the combined nomenclature established by Regulation 2658/87 on the tariff and statistical nomenclature and on the customs tariff;

"commercial site" means a site that is not open to the general public but where automotive fuel is dispensed;

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

- (a) practises the profession of an ingénieur under the Ingénieria Act; and
- (b) 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;

"dispenser" means delivery equipment which includes a volumetric measuring system which is to the satisfaction of the Regulator, which may or may not include its own pumping system installed at a petroleum-filling station or on a fuel distributor vehicle and which is used to dispense fuel;

"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 consumer" means any natural or legal person purchasing petroleum for private use;

"flash point" means the minimum temperature at which a liquid, under specific test conditions, gives off sufficient flammable vapour to ignite momentarily on the application of an ignition source;

"fuel distributor" means the holder of an authorisation issued by the Regulator under these regulation, permitting such person to distribute petroleum to duly authorised facilities;

"fuel distribution vehicle" means a vehicle including its contents as defined in the Motor Vehicle Carriage of Dangerous Goods by Road) Regulations, designated for the purpose of distributing petroleum to authorised facilities: S.L. 65.22

Provided that in this case the word "petroleum" shall have the same meaning as in that for a fuel distributor;

"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" shall have the same meaning as in the Liquefied Petroleum Gas Market Regulations; S.L. 545.20

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

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

"the Minister" means the Minister responsible for resources;

"nozzle" means a device for controlling the flow of fuel during a dispensing operation;

"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 protection of the environment; and
- (h) the prevention of unfair competition;

"person" means and includes an individual, an undertaking, a body or other association of persons, whether such body or association is corporate or unincorporate;

"petroleum" shall have the same meaning as under the Act but shall not include those products listed in the First Schedule:

Provided that:

- (a) for the purposes of an authorisation to operate a secondary storage facility of petroleum, the word petroleum excludes LPG;
- (b) for the purposes of an authorisation to carry out the activity of a fuel distributor, the word "petroleum" excludes LPG both when transported in bulk or in portable refillable cylinders;
- (c) for the purposes of an authorisation to operate a petroleum-filling station, the word petroleum excludes autogas:

Provided also that "petroleum" may be given a different meaning in any authorisation issued by the Regulator as the case may be;

"petroleum-filling station" means an authorised facility which has been approved by the Regulator to store petroleum at a retail site or at a commercial site, and which may be subject to any such conditions as the Regulator may establish in the applicable authorisation;

"pipework" means all pipes, lines and fittings including joints designed to carry fuel as liquids or vapour;

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

"primary storage facility" shall have the same meaning as in the Petroleum for the Inland (Wholesale) Fuel Market Regulations; S.L. 545.17

"public service obligation" means any obligation imposed by the Regulator on service providers or authorised providers to carry out any activity which provides a service to final consumers for the purpose of these regulations, and which service shall be carried out at specified prices in the public interest;

"recipient" means any natural person who is a national of a Member State, who benefits from rights conferred upon him by community acts or any legal person established in a Member State, who for professional or non-professional purposes, uses, or wishes to use a service against non-economic considerations;

"the Regulator" means the Regulator for Energy and Water Services:

Provided that whenever the Regulator is required to exercise its functions under these regulations in relation to a fuel distribution vehicle, the Regulator shall act in collaboration with the authority responsible for transport;

"retail" means the sale of petroleum to final consumers;

"retail site" means a site where the general public can purchase automotive fuel;

"secondary storage facility of petroleum" means an authorised facility:

- (a) used for the authorised person's own exclusive use;
- (b) which is not a primary storage facility for the purposes of the Petroleum for the Inland (Wholesale) Fuel Market Regulations; and S.L. 545.17
- (c) which is in excess of a lower limit of 300 litres:

Provided that when a secondary storage facility of petroleum consists of one or more tanks it may be construed by the Regulator of consisting of a single secondary storage facility of petroleum;

"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 provide a service;

"transfer" includes any trade or sale whether by retail or by wholesale, or donation; and

"the Treaty" means the Treaty establishing the European Community;

"undertaking" shall have the same meaning as provided for in the Competition Act. Cap. 379.

3. The following operations and activities shall require an authorisation: Requirement of an authorisation.

- (a) the operation of a petroleum-filling station; or

Authorisations and notifications granted or received by the Regulator.
Amended by:
XXV. 2015.41.

- (b) the operation of a secondary storage facility of petroleum; or
- (c) the carrying out of the activity of a fuel distributor.

4. (1) The Regulator may in terms of these regulations, grant an authorisation and, or authorisations for the:

- (a) operation of a petroleum-filling station;
- (b) operation of a secondary storage facility of petroleum; and
- (c) carrying out of the activity of a fuel distributor:

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

(2) The storage of class 1 fuels in excess of 300 litres is prohibited:

S.L. 545.17

Provided that such storage shall be allowed when an authorisation for a primary storage facility under the Petroleum for the Inland (Wholesale) Fuel Market Regulations is granted for such use by the Regulator or such storage is allowed in terms of an authorisation issued under these regulations for a petroleum-filling station.

(3) In the case of a secondary storage facility of petroleum used for the storage of class 2 fuels in excess of 300 litres, but of not more than 3,000 litres, instead of an application for an authorisation to operate a secondary storage facility of petroleum, a notification submitted in the form established by the Regulator, shall be required. Together with the receipt of such notification, the Regulator shall require the applicant to submit a certification of the storage facility by a competent person, in such form and manner as the Regulator may prescribe.

(4) In the case of a secondary storage facility of petroleum used for the storage of class 3 fuels in excess of 300 litres, but of not more than 3,000 litres, instead of an application for an authorisation to operate a secondary storage facility of petroleum, a notification submitted in the form established by the Regulator, shall be required. Together with the receipt of such notification, the Regulator shall require the applicant to submit a certification of the storage facility by a competent person, in such form and manner as the Regulator may prescribe.

Transitory provisions in respect of existing operators.
Amended by:
XXV. 2015.41.
L.N. 40 of 1986.

5. (1) Any person, who prior to the entry into force of these regulations, was engaged in any activity or operation relating to petroleum and is in possession of a valid licence to do so under the Petroleum (Petrol Stations) Regulations, 1986* may continue to perform such activities as authorised under existing licence conditions for the earlier of a calendar year from the entry into force of these regulations or until the grant of a new authorisation, whichever is the earlier:

Provided that any such person shall apply with the

*Revoked by these regulations.

Regulator for a new applicable authorisation as listed in regulation 4(1) within two months from the day of the sending of a notice by the Regulator to apply for such an authorisation:

Provided also that any such person shall comply with such authorisation conditions as established in the new authorisation that may be issued by the Regulator with effect from such date that the Regulator may establish.

(2) Any person, who upon the entry into force of these regulations, was engaged in any activity or operation relating to petroleum and is in possession of a valid authorisation to conduct the business of a fuel distributor may continue to perform such activities as authorised under existing authorisation conditions for the earlier of a calendar year from the entry into force of these regulations or the grant of a new authorisation, whichever is the earlier:

Provided that any such person shall apply to the Regulator for a new applicable authorisation as listed in regulation 4(1) within two months from the day of the sending of a notice by the Regulator to apply for such an authorisation:

Provided also that any such person shall comply with such authorisation conditions as established in the new authorisation that may be issued by the Regulator with effect from the date that the Regulator may establish.

(3) Any person, who upon the entry into force of these regulations operates a storage facility which is a secondary storage facility of petroleum in terms of these regulations may continue to operate such a storage facility for the earlier of six months from the entry into force of these regulations or the grant of a new authorisation, whichever is the earlier:

Provided that any such person shall apply for an authorisation as listed in regulation 4(1), to the Regulator within three months from the date of entry into force of these regulations:

Provided further that any such person shall comply with such authorisation conditions as established in the new authorisation that shall be issued by the Regulator with effect from such date as the Regulator may establish.

(4) In the period between the date when these regulations come into force and the date when the new authorisations come into effect, the authorised person or the authorised provider shall follow all directions and conditions that the Regulator may issue or set:

Provided that when such conditions are inconsistent with the authorisation then in force, the new condition shall prevail.

(5) Any subsisting agreements between existing operators shall be declared null and void, in so far as they are inconsistent with the provisions of these regulations.

(6) The Regulator may require existing operators to upgrade their authorised facility or fuel distribution vehicles and activities up to approved standards, guidelines and, or codes of practice:

Provided that if there exists a severe safety hazard, the

authorised person or the authorised provider shall of his own motion remove such hazard, and thereafter notify the Regulator of such removal:

Provided also that the Regulator may in its discretion prescribe special transitory authorisation conditions after taking due regard of the existing situation.

(7) A person who possesses a warrant to practice the profession of an engineer, and who has sufficient knowledge, experience and skill as approved by the Regulator may act as a competent person, for the purposes and in terms of these regulations, for a transitory period of a year subsequent to the entry into force of these regulations.

(8) Any fees applicable to new authorisation shall apply pro rata from the date of issue till the 31st December, 2009.

General conditions
of authorisations.
Amended by:
XXV. 2015.41.

6. (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:

Provided that, the conditions 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) 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 regulations or with any other law, shall continue in force for such period as may be specified in the 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 a petroleum filling station;
- (b) four years in the case of an authorisation to operate a secondary storage facility of petroleum; and
- (c) six years in the case of an authorisation to carry out the activity of a fuel distributor.

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

Special cases.
Amended by:
XXV. 2015.41.

7. (1) In the case of an authorisation to operate a petroleum filling station or an authorisation to operate a secondary storage facility of petroleum, each authorised facility shall be separately authorised. Each separate authorisation shall clearly be referable to

the location and address where the authorised facility is situated and issued in the name of any owner of the authorised facility. The authorised person or the authorised provider shall be responsible for the authorisation and for the observance of the authorisation conditions.

(2) In the case of an authorisation to carry out the activity of a fuel distributor, the authorisation shall cover the complete fleet of fuel distribution vehicles used for the distribution of fuel:

Provided that the authorised provider shall promptly inform the Regulator of any additions or reduction in his fleet of fuel distribution vehicles.

(3) The grant of an authorisation in accordance with these regulations shall not be construed as authorising the authorised provider to conduct any activity or operation however so described in relation to biofuels:

Provided that the Regulator may expressly authorise an authorised provider to undertake any activity or operation in relation to biofuels as it may in writing establish. In doing so the Regulator may impose any such conditions it may consider appropriate in the circumstances.

8. (1) Any person who wishes to -

- (a) operate a petroleum-filling station; or
- (b) operate a secondary storage facility of petroleum; or
- (c) carry out the activity of a fuel distributor,

Applications for an authorisation and application fee.
Amended by:
XXV. 2015.41.

shall submit an application in writing to the Regulator in such form and manner as the Regulator may prescribe.

(2) A non-refundable application fee as established in the Second Schedule shall be paid to the Regulator with the application for an authorisation.

9. (1) The Regulator shall establish its procedure for the purposes of determining an application for:

- (a) an authorisation to operate a petroleum filling station;
- (b) an authorisation to operate a secondary storage facility of petroleum; and
- (c) an authorisation to carry out the activity of a fuel distributor.

Determination procedure of applications.
Amended by:
XXV. 2015.41.

(2) The Regulator shall communicate to the applicant in writing within a reasonable time, which shall not be of more than six 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 any valid reason impeding the Regulator to reach such a decision.

10. (1) Upon expiry, an authorisation may be renewed, and an application for the renewal of an authorisation shall have to be submitted in writing to the Regulator in such form and manner as the Regulator may require, six months prior to the date on which

Renewal, modification etc., of an authorisation.
Amended by:
XXV. 2015.41.

the authorisation expires.

(2) 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.

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

11. (1) The first authorisation fee shall be paid by the authorised person or the authorised provider within thirty days from the granting of an authorisation and thereafter every year on the anniversary of the grant of such authorisation or any other date as the Regulator may reasonably establish.

(2) The amount of the authorisation fee shall be as specified in the Third Schedule and shall be paid to the Regulator annually.

(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 to the authorised person or the authorised provider as the case may be, whose authorisation fee has not been so 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 person or the authorised provider whose authorisation fee has not been so paid.

Requirement to
reapply in case of
failure to pay an
authorisation.
Amended by:
XXV. 2015.41.

12. (1) If any authorisation fee mentioned in regulation 11 is not paid within thirty days after the date on which the communication therein mentioned has been sent by registered post, the authorisation to which it refers shall cease to be in force, and if the person to whom it was granted wishes again to operate a petroleum-filling station or to operate a secondary storage facility of petroleum or to carry out the activity of a fuel distributor 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.

Conditions relating
to the granting and
renewal of
authorisations.
Amended by:
XXV. 2015.41.

13. (1) The Regulator shall adopt fair, objective and transparent conditions relating to the granting of an authorisation in terms of the principles of natural justice.

(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 may take account of the following:

- (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 to be authorised or the authorised facility as the case may be and, or vehicles 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 customers at the facility concerned and the extent to which the interests of customers shall be served;
- (i) the possibility of a monopolistic or an oligopolistic condition in the petroleum inland retail market industry detrimental to the public interest being created or aggravated, and the extent to which fair and reasonable competition in the retail of petroleum could be affected;
- (j) any other matter relevant to the orderly provision, distribution and retail of petroleum in Malta; and
- (k) the public interest in general.

14. The Regulator shall have the right to refuse a request for the issue of an authorisation or, if an authorisation has been issued, a request for the renewal of an authorisation, on the grounds that:

- (a) the Regulator considers that the request does not meet one or more of the criteria referred to in regulation 13 of these regulations; or
- (b) the application does not contain 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 an application for the authorisation; or
- (c) the application is not accompanied by such application fee as specified in accordance with these regulations:

Provided that any decision taken by the Regulator, including refusal or withdrawal of an authorisation, shall be fully reasoned and shall be open to challenge before the the Administrative Review Tribunal:

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.

Grounds of refusal
for an
authorisation.
Amended by:
L.N. 184 of 2012;
XXV. 2015.41.

Submitting of
compliance
certificate.
Amended by:
XXV. 2015.41.

15. (1) Authorised providers who are authorised to operate a petroleum-filling station shall every year or as may be otherwise required by the Regulator, submit a compliance certificate duly signed by a competent person, together with the annual authorisation fee payable under regulation 11 of these regulations. Such a compliance certificate shall be in such form and manner as the Regulator may prescribe.

(2) Authorised persons authorised to operate a secondary storage facility of petroleum shall every two years or as may be otherwise required by the Regulator, submit a compliance certificate duly signed by a competent person, together with the authorisation fee payable under regulation 11 of these regulations. Such a compliance certificate shall be in such form and manner as the Regulator may prescribe.

(3) No application for the issue of an authorisation and no renewal of an authorisation shall be accepted or processed by the Regulator, as the case may be, unless accompanied by the relevant compliance certificate mentioned in sub-regulation (1) or sub-regulation (2).

Powers to impose
conditions of
authorisation.
Amended by:
XXV. 2015.41.

16. (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.

(2) Each of the individual authorisations mentioned in regulation 4(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 person or the authorised provider shall at all times comply with these regulations and with the conditions of an authorisation.

(4) The conditions included in an 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 person or the authorised provider including but not limited to customer service obligations;
- (e) the supply of designated geographical areas in the country;
- (f) the promotion of the efficient operation of the petroleum market and protection of consumers in terms of the lowest possible prices combined with the highest quality of petroleum products;
- (g) monitoring and recording of the authorised operations;

- (h) reporting, auditing and submission of information to the Regulator;
 - (i) inspection, making copies and taking extracts from books and records held by the authorised person or authorised provider and the carrying out of measurements and tests in relation to any authorised facility, assets or plant;
 - (j) assessment and auditing of operations, activities and practices and their compliance to authorisation conditions; and
 - (k) regulation of subsidiary companies and, or companies executing part of the regulated operations, activities and practices.
- (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.
- (6) The authorised provider shall inform the Regulator of any changes relating to his 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.

17. (1) Inspectors duly appointed by the Regulator shall be authorised to:

- (a) enter and inspect any authorised facility;
- (b) inspect fuel distributor vehicles by which petroleum is dispensed, stored, retailed or is distributed; and
- (c) 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 whether they are in compliance with the conditions as prescribed in an authorisation or with any direction of the Regulator.

(2) Every inspector of the Regulator shall at all reasonable times be allowed unrestricted access to authorised facilities and fuel distribution vehicles for the purpose of ascertaining whether these regulations or the conditions attached to the authorisation are being duly observed. The authorised person or the authorised

Inspection of an authorised facility, fuel distributor vehicles.
Amended by:
XXV. 2015.41.

provider shall give all reasonable assistance which such inspector may require for that purpose.

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

18. (1) Authorised providers shall keep records of all transactions in respect of each authorisation they hold and any other information about all transactions permitted under an authorisation and to keep originals of all accounts at their principal place of business for the purpose of auditing by the Regulator. Authorised providers shall keep and maintain such records for a minimum period of five years, or more as may be directed by the Regulator:

Provided that the Regulator shall treat as confidential any information obtained from the authorised person or the authorised provider which the authorised person or the authorised provider communicates 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 or in terms of an agreement with any other Government Department or body established by law.

(2) The Regulator shall have the right to publish information regarding activities and statistics related to petroleum:

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

Software and
hardware systems
used at petroleum-
filling stations.
*Amended by:
XXV. 2015.41.*

19.* (1) All activities related to the filling of tanks, dispensing of fuel products, stock control, price display and issuing of receipts in a petroleum filling station are to be controlled, monitored and recorded by a software system:

Provided that such software is to be compliant with any standards or directions which the Regulator may from time to time direct the authorised provider to use or follow.

(2) The software system mentioned in sub-regulation (1) shall, *inter alia*:

- (a) enable direct, continuous reading of tank levels using tank dipping systems with remote connectivity;
- (b) log any event of delivery per product on a non-erasable memory;
- (c) log any event of sale per product on a non-erasable memory;
- (d) log all changes in prices and ensure that the price charged is the same price shown both on the price display and on the dispenser;
- (e) be designed in a manner that the only direct input allowed to the authorised provider is the change in price, which once inputted into the system, shall be made suitably available to the customers, via clear price displays in the forecourt and on the dispenser,

*this regulation is not yet in force.

and shall be logged on a non-erasable memory;

- (f) enable the upgrading of the software to its latest version after consent has been given by the Regulator;
- (g) allow the Regulator to conduct any relevant testing which it might deem necessary;
- (h) enable integrated connectivity to the main system by remote monitoring to monitor vapour recovery equipment.

These logs and all actions within the software and system shall not be modified, deleted or removed without the written consent of the Regulator responsible for monitoring such data.

(3) The software system mentioned in this regulation shall be audited biennially by an entity accredited to perform such audit checks.

(4) The hardware system used shall be robust, secure and tamper proof.

20. (1) No person may retail, store or offer for sale petroleum products other than those permitted by law.

Prohibition and sample taking.

(2) Inspectors shall be authorised to enter and inspect any authorised facility and, or any vehicle including fuel distribution vehicles in which petroleum is being stored, blended, dispensed, retailed and to take samples for the testing of any petroleum found or contained therein.

(3) During the course of the inspection the authorised provider or authorised person shall give all reasonable assistance which such inspectors may require for that purpose. No compensation shall be due to the authorised provider in regard to the samples lifted.

21. (1) Without prejudice to any other provisions of these regulations or any other law, authorised facilities designed or constructed after the entry into force of these regulations shall be designed and constructed in accordance with standards prescribed or as directed by the Regulator and, or as required by any other authority competent at law as a result of a consultation or agreement with the Regulator.

Design and construction of an authorised facility.
Amended by:
XXV. 2015.41.

(2) Once the design and construction of an authorised facility have been carried out, a competent person must submit in writing a certification that all standards and safety requirements required by the authorised provider in regard to the authorised facility have been abided to.

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

Material alterations.
Amended by:
XXV. 2015.41.

(2) The consent of the Regulator to the material alterations mentioned in subregulation (1) shall not exempt the authorised person or the authorised 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, or such other person approved in writing by the Regulator and supervised by a competent person shall carry out any material alteration on an authorised facility.

(4) In conducting the material alterations the competent person shall follow any guidelines or directions 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 or the authorised provider to perform the material alterations must submit in writing to the Regulator a certification that all safety requirements imposed on the authorised facility have been complied with.

(6) The Regulator may, subsequent to the carrying out of material alterations referred to in subregulation (5) send an inspector or official to perform an assessment inspection on the authorised facility.

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

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

- (a) the authorised person or the authorised provider has failed or is failing to comply with any condition of the authorisation or with these regulations; or
- (b) the authorised person or the authorised provider does not possess all other relevant permits and authorisations that are required by any other public authority; or
- (c) the authorised person or the authorised provider is contravening any requirement imposed by law; or
- (d) the authorised person or 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 person or the authorised provider does not meet any criteria in respect to one or more of the criteria referred to in regulation 13 of these regulations:

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

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

Modification of authorisations.
Amended by:
XXV. 2015.41.

Provided that when doing so, the Regulator shall not add new authorisation conditions unless these are being made for overriding reasons relating to public interest.

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

- (a) communicate to the authorised person or to the authorised provider, as the case may be, such amendments, replacement, modifications or deletions to the authorisation it proposes to make;
- (b) state the reasons why such amendments, replacement, modifications or deletions are being proposed; and
- (c) specify the period within which representations or objections have to be made with respect to the proposals being made:

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

25. (1) When an authorised person or the authorised provider, as the case may be, decides either to suspend or terminate his authorisation to operate a petroleum filling station or to operate a secondary storage facility of petroleum or to carry out the activity of a fuel distributor, the authorised person or authorised provider shall promptly notify the Regulator in the form prescribed by the Regulator, to notify such a termination or suspension.

Termination of authorisation.
Amended by:
XXV. 2015.41.

(2) Upon acknowledgment by the Regulator to the authorised person or authorised provider of the notification mentioned in sub-regulation (1), the authorisation shall be considered to have ceased to be in force and with immediate effect from the date of such acknowledgment the operation of the petroleum filling station or the operation of the secondary storage facility of petroleum or fuel distributor's business, shall be deemed to be unauthorised.

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

26. (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:

Transfer of authorisation.
Amended by:
XXV. 2015.41.

- (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 conditions as listed in regulation 13 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 conditions as listed in regulation 13 are being 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 authorisations issued in terms of these regulations shall be an indivisible right:

Provided also 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 *decurus*.

Retail price
display.
Amended by:
L.N. 134 of 2014.

27. (1) All petroleum filling stations shall have at their entry a notice which is legible and visible from both sides of the road, exhibiting the retail price for all the petroleum and, or biofuel products retailed from that authorised facility:

Provided that such retail price display shall not be required at petroleum filling stations which are classified by the Regulator as commercial sites.

(2) The retail price described in sub-regulation (1) shall be shown in euro per litre and shall show up to three places of a decimal:

Provided that the number appearing to the left of a decimal point shall be not less than twenty centimetres in height, whilst those appearing on the right hand side shall not be less than fifteen centimetres in height.

Dormant
petroleum filling
stations.
Amended by:
XXV. 2015.41.

28. A petroleum filling station which remains inoperative or is otherwise not in use for a period of twelve consecutive months, shall be considered as being dormant and its authorisation shall be revoked by the Regulator:

Provided that if a petroleum filling station remains so inactive for reasons independent from the action or inaction of the authorised provider, such a petroleum filling station shall not be considered as being dormant.

Public service
obligations.
Amended by:
XXV. 2015.41.

29. The Regulator may, in the public interest, impose as an authorisation condition on any authorised provider, a public service obligation under these regulations to supply any service in any

specified form, to any final consumer or specific groups of final consumers, at specified prices or to impose conditions with respect to the provision of such services:

Provided that any additional costs incurred as a result of these obligations may be identified by the authorised provider and approved by the Regulator and that such costs may be recovered as specified by the Regulator or by any other competent body.

30. Authorised persons or authorised providers may be required to insure, to the satisfaction of the Regulator, the authorised facility or the activity to which their authorisation refers.

Requirement of insurance.
Amended by:
XXV. 2015.41.

30A. The Regulator shall ensure that, when available, the data indicating the geographic location of the refuelling points accessible to the public of alternative fuels covered by Directive 2014/94/EU are accessible on an open and non-discriminatory basis to all users.

Geographic location of refuelling points.
Added by:
L.N. 38 of 2017.

31. The authorised person or the authorised provider shall co-operate in any scheme promoted by other Government Departments, relevant authorities or bodies, and to be carried out in collaboration with the Regulator.

Co-operation with authorities.
Amended by:
XXV. 2015.41.

32. 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.

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

33. (1) Any person who -

- (a) wilfully or through negligence acts in breach of any provision of these regulations;
- (b) wilfully or through negligence breaches any condition listed in the authorisations issued under 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 made by an inspector, employee or officer of the Regulator in the performance of his duties;
- (f) hinders, obstructs, molests or interferes or attempts to hinder, obstruct, molest or interfere with the performance of the duties of any inspector, any employee or officer of the Regulator; or
- (g) makes a declaration for any of the purposes of these regulations which is false, misleading or incorrect in any material particular,

Offences and penalties.
Amended by:
XXV. 2015.41.

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 sixty-nine thousand

euro (€69,000) or to one thousand three hundred euro (€1,300) 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 article, may order the convicted offenders to close their activity and, or to undo anything which was done without an authorisation.

(4) In prosecution for 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) Officials of the Regulator may assist the Police in the exercise of any of their powers to prevent the commission of an offence against these regulations.

(6) The Police are to secure evidence concerning any offence against these regulations.

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

Register of
authorisations.
Amended by:
XXV. 2015.41.

34. (1) The Regulator shall keep a register or registers of authorisations which shall include records of:

- (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.

Administrative
fines.
Amended by:
XXV. 2015.41.

35. 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.

Commencement of
proceedings.

36. 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.

FIRST SCHEDULE

Regulation 2

Product	CN CODE	Comment as Listed in CN CODE
Benzol (benzene)	2707 10 90	For purposes other than as a power or heating fuel
Toluol (toluene)	2707 20 90	For purposes other than as a power or heating fuel
Xylol (xylenes)	2707 30 90	For purposes other than as a power or heating fuel
Other aromatic hydrocarbon mixtures of which 65% or more by volume (including losses) distils at 250°C by the ASTM D 86 method	2707 50 90	For purposes other than as a power or heating fuel
Phenols	2707 60 00	
Creosote oils	2707 91 00	
Sulphuretted toppings	2707 99 30	
Basic products	2707 99 50	
Anthracene	2707 99 70	
Light oils and preparations	2710 11 11	For undergoing a specific process
Light oils and preparations	2710 11 15	For undergoing chemical transformation by a process other than those specified in respect of subheading 2710 11 15
White Spirit	2710 11 21	
Medium oils	2710 19 11	For undergoing a specific process
Gas oils	2710 19 31	For undergoing a specific process
Gas oils	2710 19 35	For undergoing chemical transformation by a process other than those specified in respect of subheading 2710 19 31
Lubricating oils; other oils	2710 19 71	For undergoing a specific process
Lubricating oils; other oils	2710 19 75	For undergoing chemical transformation by a process other than those specified in respect of subheading 2710 19 71
Liquids for hydraulic purposes	2710 19 81	
Motor oils, compressor lube oils, turbine lube oils	2710 19 83	
White oils, liquid paraffin	2710 19 85	
Gear oils and redactor oils	2710 19 87	
Metalworking compounds, mould-release oils, anti-corrosion oils	2710 19 91	
Electrical insulating oils	2710 19 93	

Product	CN CODE	Comment as Listed in CN CODE
Other lubricating oils and other oils	2710 19 99	
Propane	2711 12 11	For purposes other than as a power or heating fuel
Butanes	2711 13 10	For undergoing a specific process
Butanes	2711 13 30	For undergoing chemical transformation by a process other than those specified in respect of subheading 2710 13 10
Ethylene, propylene, butylene and butadiene	2711 14 00	
Petroleum jelly; Crude	2712 10 10	
Petroleum jelly; Other	2712 10 90	
Paraffin wax containing by weight less than 0,75% of oil	2712 20 10	Synthetic paraffin wax of a molecular weight of 460 or more but not exceeding 1 560
Paraffin wax containing by weight less than 0,75% of oil	2712 20 90	Other
Bitumen and asphalt, natural; bituminous or oil-shale and tar sands; asphaltites and asphaltic rocks	2714 10 00	Bituminous or oil-shale and tar sands
Bitumen and asphalt, natural; bituminous or oil-shale and tar sands; asphaltites and asphaltic rocks	2714 90 00	Other
Bituminous mixtures based on natural asphalt, on natural bitumen, on petroleum bitumen, on mineral tar or on mineral tar pitch (for example, bituminous mastics, cut-backs)	2715 00 00	

SECOND SCHEDULE

Regulation 8 (2)

Application fee payable in respect of an application for:

Notification to operate a secondary storage facility of petroleum

The applicable fee for a notification for operating a secondary storage facility of petroleum with a capacity not exceeding 3,000 litres is €50.

Authorisation to operate a secondary storage facility of petroleum

The applicable fee for applying for an authorisation for operating a secondary storage facility of petroleum with a capacity exceeding 3,000 litres is €50.

Authorisation to operate a petroleum filling station

The applicable fee for applying for an authorisation for operating a petroleum filling station is €500.

Authorisation to carry out the activity of a fuel distributor

The applicable fee for applying for an authorisation for the carrying out of the activity of fuel distributor is €500.

THIRD SCHEDULE

Regulation 11(2)

Authorisation fee payable in respect of an:

Authorisation to operate a secondary storage facility of petroleum

The applicable authorisation fee for operating a secondary storage facility of petroleum with a capacity exceeding 3,000 litres is €50 per annum.

Authorisation to operate a petroleum filling station

The applicable authorisation fee for operating a petroleum filling station is €500 per annum and €50 per nozzle.

Authorisation to carry out the activity of a fuel distributor

The applicable authorisation fee for the carrying out of the activity of a fuel distributor is €500 per annum and €50 per fuel distributor vehicle. .
