

SUBSIDIARY LEGISLATION 545.25**BUNKERING (AUTHORISATION) REGULATIONS**

7th May, 2010

LEGAL NOTICE 270 of 2010, as amended by Legal Notices 184 of 2012 and 133 of 2014; and Act XXV of 2015.

1. (1) The title of these regulations is the Bunkering (Authorisation) Regulations. Citation and scope.

(2) The scope of these regulations is to regulate the bunkering operations and activities, and to safeguard the public interest and public safety. Any requirement contained therein, including those relating to authorisations and to services, are made for overriding reasons relating to the public interest.

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

Interpretation.
Amended by:
L.N. 133 of 2014;
XXV. 2015.41.
Cap. 545.
Cap. 381.

(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;

"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 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 marine fuel 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 marine fuels;

"authorised provider" means a provider issued with an authorisation by the Regulator under the Act and 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:

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;

"bunkering" shall have the same meaning as provided for in the Bunkering (Fuels) Tax Act, and shall include the importation, wholesale and retail sale of fuels offshore; Cap. 381.

"bunkering operations and activities" shall have the same meaning as "bunkering";

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

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

Cap. 321.

- (a) practises the profession of an inginier under the Inginiera Act; and
- (b) is suitably trained, has sufficient knowledge, experience and capability as approved by the Regulator to:
 - (i) carry out assessment inspections of a marine fuel station;
 - (ii) supervise the material alterations made at a marine fuel station;
 - (iii) certify in writing that a marine fuel station is designed, constructed, tested and maintained as prescribed in any authorisation conditions and direction given by the Regulator and according to guidelines and Codes of Practice duly approved by the Regulator; and
- (c) can 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;

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"marine fuel" shall have the same meaning as under the Quality of Fuels Regulations;

"marine fuel station" means an authorised facility which operates through dispensers operated in the proximate vicinity of the shoreline at a retail site or at a commercial site and operating exclusively for ships which has been approved by the Regulator to store petroleum, and which may be subject to any such conditions as the Regulator may establish in the applicable authorisation;

"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 reasons include any of the following grounds:

- (a) public policy, public health and public safety, provided that these reasons shall be interpreted in accordance with Article 46 and Article 55 of the Treaty;
- (b) consumer protection, and, or protection of recipients

of service; and

(c) protection of the environment.

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

"petroleum" shall have the same meaning as under the Petroleum (Production) Act: Cap. 156.

Provided that "petroleum" may be interpreted differently in any authorisation issued by the Regulator as the case may be;

"recipient" means any physical 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 offshore storage facilities, the Regulator shall act in collaboration with the authority responsible for maritime matters;

"retail" means the sale of marine fuels to final consumers;

"retail site" means a site where the final customers can purchase marine fuel;

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

"service provider" means any physical 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" means and includes, any transfer of authorisation to carry out bunkering operations and activities which is effected between a person known as the transferor and another, known as the transferee, and which transfer of authorisation shall be issued and granted by the Regulator in terms of these regulations and other procedural requirements for authorisation which the Regulator may from time to time require:

Provided that such transfer of authorisation shall only be effected upon the fulfillment of all requirements included in the application for the transfer of an authorisation and if the Regulator is satisfied that all legal requirements together with the necessary documentation have been submitted to the Regulator by both parties and, or by third parties, if the case may be, in terms of these regulations and other procedural requirements;

"transferee" means and includes any person in favour of whom a transfer of authorisation to carry out bunkering operations and activities has been issued by the Regulator in terms of these regulations;

"transferor" means and includes any person whose authorisation for the carrying out of bunkering operations and activities is

transferred in favour of the transferee, upon the granting and issuing of an authorisation by the Regulator for such transfer to be carried out;

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

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

Cap. 379.

Operations and activities requiring an authorisation.
Amended by:
L.N. 133 of 2014.

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

- (a) the operation of a marine fuel station through dispensers operated in the proximate vicinity of the shoreline and operating exclusively for ships;
- (b) the loading, discharging and transferring of fuels between a bunker barge or a marine terminal or a marine facility or any two or more of the preceding, and a receiving ship where those fuels are for fuelling the same ship or its machinery; and
- (c) the loading, discharging and transferring of fuels between a road tanker and a receiving ship.

Authorisations granted by the Regulator.
Amended by:
L.N. 133 of 2014;
XXV. 2015.41.

4. (1) The Regulator may, in terms of these regulations, issue an authorisation and, or authorisations for the following bunkering operations and activities:

- (a) the operation of a marine fuel station through dispensers operated in the proximate vicinity of the shoreline and operating exclusively for ships;
- (b) the loading, discharging and transferring of fuels between a bunker barge or a marine terminal or a marine facility or any two or more of the preceding, to a receiving ship where those fuels are for fuelling the same ship or its machinery; and
- (c) the loading, discharging and transferring of fuels between a road tanker and a receiving ship:

Provided that such authorised provider 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) Notwithstanding the generality of the foregoing, the Regulator may issue such other types of authorisations as may be necessary.

Transitory provisions in respect of existing operators.
Amended by:
XXV. 2015.41.
Cap. 381.
Cap. 545.

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 Bunkering Fuels Tax Act or under the Regulator for Energy and Water Services Act, may continue to perform such activities as authorised under existing licence conditions for one calendar year from the entry into force of these regulations or the grant of a new authorisation:

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

(2) In the period between the date when these regulations or parts thereof come into force and the date when the new authorisations come into effect, the authorised provider shall follow all directions and conditions that the Regulator may set.

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

(3) Any fees applicable to the new authorisation shall apply *pro rata temporis* from the date of issue till the 31st of December 2010.

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:

General conditions
of authorisations.
Amended by:
L.N. 133 of 2014;
XXV. 2015.41.

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, shall continue in force for such period as may be specified in, or determined by or under 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 for the operation of a marine fuel station through dispensers operated in the proximate vicinity of the shoreline and operating exclusively for ships;
- (b) ten years in the case of an authorisation for the loading, discharging and transferring of fuels between a bunker barge or a marine terminal or a marine facility or any two or more of the preceding, to a receiving ship where those fuels are for fuelling the same ship or its machinery;
- (c) ten years in the case of an authorisation for the loading, discharging and transferring of fuels between a road tanker and a receiving ship.

(5) 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.

Special cases.
Amended by:
L.N. 133 of 2014;
XXV. 2015.41.

7. (1) Any person who wishes to carry out the following bunkering operations and activities:

- (a) the operation of a marine fuel station through dispensers operated in the proximate vicinity of the shoreline and operating exclusively for ships;
- (b) the loading, discharging and transferring of fuels between a bunker barge or a marine terminal or a marine facility or any two or more of the preceding, to a receiving ship where those fuels are for fuelling the same ship or its machinery; and
- (c) the loading, discharging and transferring of fuels between a road tanker and a receiving ship,

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 First Schedule shall be paid to the Regulator with the authorisation application.

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

8. (1) The Regulator shall establish its procedure for the purposes of determining an application for the following bunkering operations and activities

- (a) an authorisation for the operation of a marine fuel retail station through dispensers operated in the proximate vicinity of the shoreline and operating exclusively for ships;
- (b) an authorisation for the loading, discharging and transferring of fuels between a bunker barge or a marine terminal or a marine facility or any two or more of the preceding, to a receiving ship where those fuels are for fuelling the same ship or its machinery;
- (c) an authorisation for the loading, discharging and transferring of fuels between a road tanker and a receiving ship.

(2) The Regulator shall communicate to the applicant in writing within a reasonable time, which reasonable time shall not be of more than two 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.

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

9. (1) 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, three months prior to the date on which the authorisation expires.

(2) The Regulator may modify, amend, replace, or delete any authorisation condition in the renewed authorisation relevant to each individual authorisation as the Regulator considers to be reasonably justified in the circumstances:

Provided that the Regulator shall not add new authorisation conditions in the renewed authorisation to those which are already contained therein unless the adding of new specific authorisation conditions are owed to overriding reasons relating to public interest.

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

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

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

(3) If any authorisation fee to be payable under sub-regulation (2) is not paid within fifteen 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.

11. (1) If any authorisation fee is not paid within fifteen days after the date upon which the aforesaid communication 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 the authorisation was granted wishes again to carry out the operation of a marine fuel station through dispensers operated in the proximate vicinity of the shoreline and operating exclusively for ships, the loading, discharging and transferring of fuels between a bunker barge or a marine terminal or a marine facility or any two or more of the preceding, to a receiving ship where those fuels are for fuelling the same ship or its machinery, and the loading, discharging and transferring of fuels between a road tanker and a receiving ship, he shall then be required to apply for a new authorisation.

Requirement to re-apply in case of failure to pay an authorisation fee.
Amended by:
L.N. 133 of 2014;
XXV. 2015.41.

(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.

12. (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.

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

(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) the private and professional integrity of the applicant;
- (d) protection of the environment;
- (e) record of compliance with these regulations and any other relevant laws by the person with regard to whom the decision shall be made;
- (f) the facility convenience with regard to security, health, safety, hazardous substances, environment, land use and planning requirements;
- (g) the need for facilities and services which shall be provided for consumers in the facility in question and to the extent of which the interests of consumers may be safeguarded;
- (h) the possibility of a monopolistic or an oligopolistic condition in the bunkering market, 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; and
- (i) compliance by the applicant with the requirements contained in the Authorisations (Suspension, Refusal and Revocation) Regulations.

S.L. 545.19

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

13. The Regulator shall have the right to refuse a request for 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 criteria referred to in regulation 12; 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 the 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.

13A. (1) Authorised providers who are authorised to operate a marine fuel retail 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 10. Such a compliance certificate shall be in such form and manner as the Regulator may prescribe.

Compliance certificate.
Added by:
L.N. 133 of 2014.
Amended by:
XXV. 2015.41.

(2) 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).

14. (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.

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

(2) Each of the individual authorisations described 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 provider shall at all times comply with these regulations and with the conditions of his authorisation.

(4) 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.

(5) 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) monitoring and recording of the authorised operations;
- (e) reporting, auditing and submission of information to the Regulator;
- (f) 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;
- (g) assessment and auditing of operations, activities and practices and their compliance to authorisation conditions;
- (h) regulation of subsidiary companies and, or companies executing part of the regulated operations, activities and practices:

Provided that the Minister may give directions of a policy nature to the Regulator in relation to any of the above.

(6) 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.

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

15. (1) Authorised providers shall keep records of all transactions in respect of each authorisation they hold and other information about all petroleum transactions permitted under the authorisations being in force and shall 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:

Provided that the Regulator shall treat as confidential any information obtained from the authorised provider which such 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.

(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 and shall be in accordance with data protection laws.

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

16. 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:

- (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 12:

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.

16A. (1) Without prejudice to any other provisions of these regulations or any other law, marine fuel stations 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,
construction etc.,
according to
standards.
Added by:
L.N. 133 of 2014.
Amended by:
XXV. 2015.41.

(2) Once the design and construction of a marine fuel station have been carried out, a competent person shall submit in writing a certification that all standards and safety requirements required by the authorised provider in regard to the marine fuel station have been observed.

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

Material alterations
require consent.
Added by:
L.N. 133 of 2014.
Amended by:
XXV. 2015.41.

(2) The consent of the Regulator to the material alterations mentioned in sub-regulation (1) shall not exempt 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 a marine fuel station.

(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 provider to perform the material alterations shall submit in writing to the Regulator a certification that all safety requirements imposed on the marine fuel station have been complied with.

(6) The Regulator may, subsequent to the carrying out of material alterations referred to in sub-regulation (5), send an

inspector or official to perform an assessment inspection on the marine fuel retail station.

Modification of
authorisations.
Amended by:
XXV. 2015,41.

17. (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, or delete the conditions of the authorisation as it considers requisite or suitable:

Provided that the Regulator shall not add new authorisation conditions in the renewed authorisation to those which are already contained therein unless the adding of new specific authorisation conditions are owed to overriding reasons relating to public interest.

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

- (a) in accordance with the provisions of sub-regulation (3) communicate such amendments, replacements, or deletions to the authorisation it proposes to make;
- (b) state the reasons why such amendments, replacements, or deletions are being proposed;
- (c) specify the period (not being less than fifteen days 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 authorisation holders;
- (b) brought to the public's attention by the publication of a notice in the Gazette.

Transfer of
authorisation.
Amended by:
XXV. 2015,41.

18. (1) An authorisation issued by the Regulator under these regulations shall not be validly transferred *inter vivos* to any other physical 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 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 physical 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 13 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 *decujus*.

19. Authorisations issued in terms of these regulations may be required to be accompanied by an insurance policy taken by the authorised provider to the satisfaction of the Regulator.

Requirement of insurance.
Amended by:
XXV. 2015.41.

20. In the event of a crisis in the supply of petroleum, the Regulator, in performance of its mandate to secure all reasonable demands for the provision of such resource, may take possession of, or compulsorily acquire, such petroleum stocks as it may deem fit or order the possessor to dispose of them as directed:

Security of supply.
Amended by:
XXV. 2015.41.

Provided that possessors of such petroleum stocks shall be compensated in the ordinary course of events.

21. 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.

22. (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.

23. The Regulator may, for the purpose of the legal nature and effect of these regulations, require the applicant to produce, within a reasonable time which shall not be prior to the acceptance of his application by the Regulator, a bank guarantee in favour of the Regulator, provided that, such guarantee shall be submitted to the Regulator concurrently with the issuing and granting of the authorisation to the applicant, in terms of these regulations.

Requirement of a bank guarantee.
Amended by:
XXV. 2015.41.

24. (1) Any person who -

- (a) willfully or through negligence acts in breach of any provision of these regulations;

Offences and penalties.
Amended by:
XXV. 2015.41.

- (b) willfully or through negligence breaches any condition listed in the authorisations regulated by these regulations;
- (c) carries out any activity requiring an authorisation without being in possession of a valid authorisation;
- (d) 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;
- (e) hinders, obstructs, molests, 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; or
- (f) makes a declaration for any of the purposes of these regulations which is false, misleading or incorrect in any material respect,

shall be guilty of an offence against these regulations and shall, on conviction, be liable to a fine of not more than a fine (*multa*) of not more than sixty-nine thousand euro (€69,000), or of one thousand and three hundred euro (€1,300) for each day during which the offence persists.

(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) During 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 or to secure evidence concerning any such offence.

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

Administrative
fines.
Amended by:
XXV. 2015.41.

25. Saving the provisions of regulation 24(1)(f), the Regulator may impose an administrative fine not exceeding one hundred thousand euro (€100,000) for each contravention and, or six hundred euro (€600) for each day of non-compliance, from the date of the decision given by the Regulator 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.

FIRST SCHEDULE

*Amended by:
L.N. 133 of 2014.*

Regulation 7(2)

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

Authorisation for the operation of a marine fuel station through dispensers operated in the proximate vicinity of the shoreline and operating exclusively for ships.

The applicable fee for applying for an authorisation is of €500.

Authorisation for the loading, discharging and transferring of fuels between a bunker barge or a marine terminal or a marine facility or any two or more of the preceding, to a receiving ship where those fuels are for fuelling the same ship or its machinery.

The applicable fee for applying for an authorisation is of €500.

Authorisation for the loading, discharging and transferring of fuels between a road tanker and a receiving ship.

The applicable fee for applying for an authorisation is of €500.

SECOND SCHEDULE

*Amended by:
L.N. 133 of 2014.*

Regulation 10(2)

1. For the operation of a marine fuel station through dispensers operated in the proximate vicinity of the shoreline and operating exclusively for ships there shall be paid an authorisation fee of €500 and €50 per nozzle per annum and of 0.20 euro per tonne of fuel released for marine bunker purposes.

2. For the loading, discharging and transferring of fuels between a bunker barge or a marine terminal or a marine facility or any two or more of the preceding, to a receiving ship where those fuels are for fuelling the same ship or its machinery there shall be payable an authorisation fee of €2,329 per annum and of 0.20 euro per tonne of fuel released for marine bunker purposes.

3. For the loading, discharging and transferring of fuels between a road tanker and a receiving ship there shall be payable an authorisation fee of €500 and of €50 per tanker per annum and of 0.20 euro per tonne of fuel released for marine bunker purposes.