

SUBSIDIARY LEGISLATION 573.03

PURCHASE OF GARAGES OWNED BY GOVERNMENT IN A GOVERNMENT HOUSING ESTATE IN LIEU OF THOSE GRANTED UNDER A TITLE OF TEMPORARY EMPHYTEUSIS OR LEASE REGULATIONS

25th May, 2018

LEGAL NOTICE 165 of 2018.

1. The title of these regulations is the Purchase of Garages Owned by Government in a Government Housing Estate in Lieu of those Granted Under a Title of Temporary Emphyteusis or Lease Regulations. Title.
2. In these regulations unless the context otherwise requires:
 - "Authority" means the Lands Authority established under article 5 of the Lands Authority Act or any person or other entity which by law or contract is entrusted with the administration of Government land; Cap. 563.
 - "Board of Governors" means the Board of Governors of the Authority set up under article 10 of the Lands Authority Act; Cap. 563.
 - "Garage" means a building in which only a vehicle or vehicles are placed but does not include its air space. This definition does not include a building/garage used as a store room or for commercial purposes of whatever nature.
3. Any person recognized having a title of lease or temporary emphyteusis over a garage/site may apply by virtue of these regulations to rescind, revoke and annul the contract in force with the Authority and have it substituted by another garage/site as specified in these regulations. Qualification.
4. (1) Garages used as store rooms or for commercial purposes of whatever nature are excluded from these regulations. Application.

(2) The airspace, situated on top of a garage for which an application to purchase has been made under these regulations, is excluded from the scope of these same regulations.
5. The Applicant must: Eligibility.
 - (a) be a citizen of the European Union;
 - (b) be recognized by the Authority as the user or

lessee of the site/garage or has made a request to be recognized as such and is still awaiting such recognition. The application process shall not commence before the Authority recognizes the applicant;

(c) provides proof that there are no arrears on payments due to the Authority on the property for which an application is being made under these regulations.

(2) Saving what is stated in paragraph (b), persons who are eligible to apply under these regulations must be:

(i) recognised as lessees by the Authority;

(ii) recognised as emphyteuta by the Authority.

Rights emanating from the site's position.

6. The Authority reserves all rights to build additional floors on the garage's airspace and/or to create reasonable servitudes over and within the property being sold.

Consent and approval by Board of Governors.

7. (1) Every contract made under these regulations shall be subject to the approval of the Authority's Board of Governors and in accordance with the conditions imposed by the said Board. These conditions must be published in the said contract.

(2) Prior to approval of the transfer of a garage by the Authority's Board of Governors, saving what is stated in regulation 11(2), for the granting of the contract a sworn declaration must be made stating that the garage is used solely for placing of a vehicle or vehicles therein. This declaration must be accompanied by all necessary documentation to prove this to the Authority's satisfaction, including any further documents or details as the case may be.

Value of sale when garage/site was granted under title of temporary emphyteusis.

8. The sale value of a garage shall be calculated according to the fixed rate of two hundred euro (€200) per cubic metre of the garage (internal volume in m³) with a reduced price where the multiplier factor set out below applies:

Number of years remaining for expiry of temporary emphyteusis	Applicable Factor
0 to end of the 5 th year	1
From the 6 th year to the end of the 10 th year	0.9
From the 11 th year to the end of the 15 th year	0.8
From the 16 th year to the 20 th year	0.7
From the 21 st year to the 40 th year	0.6
From the 41 st year or more	0.5

9. The sale value of a garage granted under title of lease shall be calculated according to a fixed rate of two hundred euro (€200) per cubic metre (internal volume in m³) of the garage.

Value of sale when garage is granted under title of lease.

10. (1) When the garage granted under title of lease/temporary emphyteusis or built on a site granted on temporary emphyteusis is higher or larger in size than that at the time of the original lease or original temporary emphyteusis the applicant can still apply under these regulations to purchase the said garage after paying an additional one-time amount of one thousand euro (€1,000) besides the acquisition value. Provided that any extension or additional area does not encroach on third party rights:

When garage granted under title of lease or temporary emphyteusis is higher or larger than under original lease.

Provided that if an applicant under these regulations applies within a period of one year from the date on which these regulations come into force to regularise his position according to the same regulation or to correct the original contract, the said payment does not apply.

(2) In such case, the sale is undertaken without prejudice to any other permits that need to be obtained by the same applicant from the Authority concerned so as to regularize his position in accordance with national laws and saving any third party civil rights.

(3) Any lessee or temporary emphyteuta who occupies a garage/site granted by contract with the Authority which does not fit within the precise borders of the original contract, and who does not apply under these regulations to regularise his position within one year from the entry into force of these regulations, shall be subject to rescission of the original contract.

11. No garage acquired by virtue of these regulations may be sold or transferred *inter vivos*, under any title whatsoever, except to the applicant's descendants, prior to the lapse of a period of two (2) years from the date of the deed of acquisition of the said garage. This two (2) year rule also binds the applicant's descendants and/or successors in title and the time limit, in the latter case, shall be deemed to have commenced from the date of the deed of acquisition whereby the applicant acquired the garage.

Garage acquired from the Authority and later sold to third parties.

12. The following documents shall accompany all applications filed under these regulations:

Documents required with applications under these regulations.

(a) a copy of the last receipt of payment of rent or ground rent;

(b) a detailed plan on the scale of 1:100 done solely on the basis of a template available at the Authority in strict accordance with the guidelines for the use of this form. This plan shall include the property interiors on all levels and the

distance from the furthest corner of the neighbouring street. In addition, a scanned plan duly certified by an architect shall also be submitted;

(c) a copy of a building or site plan (property plan), duly certified by an architect;

(d) a survey indicating the property and existing road alignment;

(e) a copy of the applicant's or applicants' identity card;

(f) photographs, showing the date and time when taken, of the actual state of the building or site;

(g) applicants submitting an application under these regulations must provide the requested information together with a sworn declaration that the content of the application is true and that no information or other relevant facts have been omitted, which had they been known to the Authority would have caused the denial or refusal of said application. Applicants may not justify such omission on the basis that the omitted information or facts were known to the Authority.

Payment of arrears.

13. Prior to any application being processed under these regulations, the applicant must pay any arrears due by him in accordance to paragraph (c) of regulation 5.

Reservations.

14. The Authority has absolute and sole discretion to refuse any application made pursuant to these regulations. Such refusal or denial shall be made in writing accompanied by detailed reasons for such decision.

The Authority shall have the right to file an action in court where it deems that there is a breach of any of the provisions of these regulations.

15. The Authority is empowered to file an action before the First Hall, Civil Court against any person, where it deems that there is a breach of any of the provisions of these regulations, even after the signing of the relative contract, and to request the Court to declare null and void any transfer made by virtue of these regulations or any other transfer which is not undertaken in accordance with these regulations.

In such case, the court shall order the eviction of every person from the garage and order that such garage, including any improvements made therein, be returned to the Authority without any right of compensation for damages which might be sustained by such person, or any kind of compensation for any improvements which have or could have been undertaken in that tenement.

Expenses.

16. The Authority shall ensure that all expenses incurred in relation with the above-mentioned transfer are paid by the person who

is to acquire the garage and that no transfer of garage to which the application pertains can be made before such costs are settled in full.

17. Every request concerning the purchase of garages in a Government Housing Estate granted under title of temporary emphyteusis or lease which occurred prior to the coming into force of these regulations must be examined and decided pursuant to these regulations.

Transitory provisions.

18. All contracts of sale and, or rescission pertaining to garages or garage sites within Government Housing Estates undertaken by the Authority prior to the entry into force of these regulations, whether they were garages or garage sites under title of lease or under contract of temporary emphyteusis, are validated for all purposes and effects of law by virtue of these regulations.

Regularisation of contracts made prior to the coming into force of these regulations.