L.N. 96 of 2022

GOVERNMENT LANDS ACT
(CAP. 573)

Grant of Emphyteutical Concessions to Authorised Providers Licensed to operate a Petroleum-Filling Station at a Retail Site Located on Government owned Property Regulations, 2022

IN EXERCISE of the powers conferred by article 31(g)(L) of the Government Lands Act, the Minister for the Economy and Industry has made the following regulations:-

Citation and scope.

1. (1) The title of these regulations is the Grant of Emphyteutical Concessions to Authorised Providers Licensed to operate a Petroleum Filling Station at a Retail Site Located on Government owned Property Regulations, 2022.

(2) The scope of these regulations is to allow the Authority to award direct emphyteutical concessions to eligible applicants in possession of a license to operate petroleum filling stations that are wholly or partially located on Government owned property.

(3) These regulations shall provide for a strong title over properties licensed and permitted to carry out the activity of a petroleum filling station, and shall facilitate the obligatory refurbishment projects being imposed by the authorities.

Interpretation.

2. In these regulations, unless the context otherwise requires:

Cap. 573.

"Act" means the Government Lands Act;

Cap. 563.

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

"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;

"petroleum filling station" means an authorised facility which has been approved by the regulator to store petroleum at a retail site, and which may be subject to any such conditions as the regulator may

establish in the applicable authorisation;

"REWS" or "regulator" means the Regulator for Energy and Water Services.

Eligibility.

3. (1) Applications for the awarding of an emphyteutical concession for a period of fifty (50) years shall be accepted from authorised providers licensed to operate a petroleum filling Station at a retail site located on Government owned property, as defined in regulation 2 of the Petroleum for the Inland (Retail) Fuel Market Regulations. S.L. 545.22.

(2) The main criteria for eligibility shall be the following:

(a) stations that are in the list of REWS authorised providers for operating a petroleum filling station;

(b) the applicant shall be the person or legal entity holding the relative REWS license as an authorised provider as defined in regulation 2 of the Petroleum for the Inland (Retail) Fuel Market Regulations; S.L. 545.22.

(c) stations shall become eligible only upon being awarded executable full development permission for the refurbishment project:

Provided that any statutory period for the submission of an appeal to the Environment and Planning Review Tribunal has also elapsed.

Duration of concession.

4. (1) The emphyteutical concession shall be for a temporary period of fifty (50) years.

(2) Those stations that are certified by REWS as having carried out the refurbishment project as approved by the Planning Authority shall become immediately eligible for the awarding of the emphyteusis.

(3) Stations that are as yet to carry out the refurbishment project, or are in the stages of relocating to a different site which is also Government owned, shall become eligible upon obtaining the development permission aforementioned:

Provided that the emphyteutical deed shall be conditional to the completion of the project, and their obtaining an operating license from REWS within two (2) years of the signing of the deed, and failing which, the concession shall be deemed terminated forthwith.

(4) In all cases, the concession shall be terminated within six (6) months of the withdrawal of the operating license by REWS or any subsequent licensing by the Authority:

Provided that in those cases where the property is subject to any form of existing title, this shall be terminated on the same day as the signing of the emphyteutical concession deed.

Computation of ground rent.

5. (1) Fuel stations are typically composed of a forecourt, with relative above-ground filling areas and sales area, complimented by below ground fuel storage tanks and pipework. The proposed rates for the computation of the total annual ground rent, which are based on standard rates for encroachment permits, are as follows:

(a) above ground areas (including forecourt, footprint of buildings, and filling areas): forty-six euro per square metre every year (€46/sq.m./annum)

(b) below ground areas (including storage tanks, water separators, and pipework): twenty-three euro per square metre every year (€23/sq.m./annum):

Provided that in the case of buildings which include basements and/or upper levels, only the footprint of the largest level shall be taken into consideration, and this at the higher rate of forty-six euro per square metre every year (€46/sq.m./annum):

Provided further that canopies and other shading structures shall not be construed as built-up areas.

(2) If the amount of the current concession, lease or encroachment permit exceeds the ground rent computed as proposed in these regulations, then the current rate shall be retained in the new emphyteutical deed:

Provided that in no case, shall the new amount exceed three (3) times the value of any current concession, lease or encroachment permit.

(3) The ground rent shall become payable from the date of the signing of the deed and shall be payable in two equal instalments every six (6) months in advance.

(4) Over the fifty (50) year concession the ground rent shall increase by ten percent (10%) every five (5) years *pro tempore*.

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