B 1308

L.N. 196 of 2024

GOVERNMENT LANDS ACT
(CAP. 573)

Amendment or Revocation of a Condition Imposed in a Contract of a Property Transferred by the Government, the Lands Authority or Ecclesiastical Entities by means of a Sale or Emphyteusis Regulations, 2024

IN EXERCISE of the powers conferred by articles 31(g)(L) and 77 of the Government Lands Act, the Minister responsible for the Lands Authority and the Minister responsible for justice have made the following regulations:-

Citation.

1. The title of these regulations is the Amendment or Revocation of a Condition Imposed in a Contract of a Property Transferred by the Government, the Lands Authority or Ecclesiastical Entities by means of a Sale or Emphyteusis Regulations, 2024.

Interpretation.

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

Cap. 573.

"Act" means the Government Lands Act;

Cap. 563.

"Authority" means the Lands Authority as established in accordance with article 5 of the Lands Authority Act;

"applicant" means any natural or legal person who applies to the Authority to amend or revoke a condition imposed in the original contract in accordance with these regulations;

Cap. 563.

"Board" means the Board of Governors of the Lands Authority composed in accordance with article 10 of the Lands Authority Act;

"condition" means a requirement or term stipulated and defined in the contract with which one or both of the parties shall comply:

Provided that a condition may vary in importance within the context of the contract and which can be categorised as being of minor, medium or major level of importance:

Provided further that the Board or any such other member or officer of the Authority as may be authorised by the Authority shall decide on a case-by-case basis the level of importance of the said condition;

"core conditions" mean any of the following:

(a) the title by virtue of which the land was granted;

(b) the date of revision of the emphyteusis;

(c) the *canone* in cases of emphyteusis; and

(d) the term of emphyteusis;

"person" means a natural or juridical person;

"site" means the footprint of the property granted by direct sale or emphyteusis, irrespective of the current development state.

Qualification.

3. (1) Any person who has a title of acquisition by virtue of a public deed or emphyteusis on property that would have been passed to the applicant by the Government or the Authority, or by an ecclesiastical entity, which subsequently transferred the title to the Government, whether registered in the name of the Government or shall be registered in the name of the Government may, save as provided in the other provisions of these regulations, request the Authority to amend or revoke a condition imposed in the original contract:

Provided that any amendment and, or revocation of the condition may only be done after the written acceptance of such change by the Authority:

Provided further that no amendment or revocation of a condition shall be allowed to the core conditions of any contract:

Provided further that no modification to or removal of a condition shall be accepted in a contract resulting from a Parliamentary resolution, or a tender or an auction.

(2) The Authority shall have the sole discretion on the acceptance or otherwise in cases of requests of an amendment or a revocation to any other condition of the contract:

Provided that the Authority shall decide on requests of an amendment or a revocation of any condition of the contract only in case where the contract does not specify the remedies available.

(3) Any person who has a title of acquisition by virtue of a public deed or emphyteusis on property that would have been

transferred to the applicant by the Government or the Authority, or by an ecclesiastical entity which subsequently transferred the title to the Government, whether registered in the name of the Government or shall be registered in the name of the Government and has breached the conditions in the contract may, save as provided in the other provisions of these regulations, pay the amount determined by the Authority to compensate for the breach as established in accordance with regulation 5.

Eligibility.

4. The applicant shall be recognised by the Authority as an owner or emphyteuta of the land or building:

Provided that in the case of an emphyteusis, the applicant shall prove that there are no arrears of ground rent due to the Authority on the property in respect of which the application is being submitted in accordance with these regulations.

Payment due for the amendment or the revocation of a condition in the original contract.

5. The value for the amendment or revocation of a condition in the original contract of sale or emphyteusis shall be established by the Authority in accordance with regulations 6 and 7, after determining whether the condition in the contract is of a minor, medium or major level of importance:

Provided that any contractual condition shall be considered as an encumbrance over the entire site even when it may appear that it is only applicable to a part thereof:

Provided further that in the case where an amendment or a revocation of more than one condition in the contract is being requested, the payment due as fees and administrative penalties as the case may be, shall be considered in accordance with the provisions of these regulations for each condition whose amendment or revocation is being requested.

Fees for sites not exceeding one thousand and five hundred metres squared ($1,500m^2$).

6. Fees in relation to sites having a footprint not exceeding one thousand and five hundred metres squared ($1,500m^2$) shall be in the amount established in Table A of the Schedule according to the level of importance of the condition as determined by the Authority.

Fees for sites exceeding one thousand and five hundred metres squared ($1,500m^2$).

7. (1) The value for the revocation of a condition in relation to sites with a footprint in excess of the one thousand and five hundred metres squared ($1,500m^2$) shall be established by a Perit appointed by the Authority, which estimate shall be carried out in accordance with article 79 of the Act:

Provided that the valuation shall reflect the freehold value of the land on the date of the application, with all its potential

development according to the planning plans and policies in force, and in any case no regard shall be had to any building, development or other improvement already developed or made thereon by the owner or the emphyteuta:

Provided further that all valuation related costs shall be calculated in accordance with article 79(5) of the Act and shall be borne by the applicant.

(2) The amount payable by the applicant for the removal of a condition of minor importance as determined by the Authority shall be equivalent to two point five percent (2.5%) of the value determined in accordance with sub-regulation (1) provided that it may never be less than twelve thousand and five hundred euro (€12,500).

(3) The amount payable by the applicant for the removal of a condition of medium level of importance as determined by the Authority shall be equivalent to five percent (5%) of the value determined in accordance with sub-regulation (1), provided that it may never be less than twenty five thousand euro (€25,000).

(4) The amount payable by the applicant for the removal of a condition of a major level of importance as determined by the Authority shall be equivalent to ten percent (10%) of the value determined in sub-regulation (1), provided that it may never be less than fifty thousand euro (€50,000).

Administrative penalty.

8. If it results that during the verification of the application, the relevant condition is already being breached, the applicant shall be liable to an administrative penalty that shall be equivalent to twenty-five percent (25%) of the value determined in regulations 6 and 7 as the case may be.

Multi-ownership site.

9. The provisions of regulation 5 shall be applied if an application for the removal of a condition is submitted by an owner and, or a recognised emphyteuta of a unit forming part of an existing multi-storey development that was built over a site that is encumbered by a specific contractual condition:

Provided that the Authority shall claim payment from the applicant in an amount equivalent to the total payable sum as divided by the number of units built thereon on the date of the application.

Public contract for amendment or revocation of a condition.

10. Any modification to, or removal of, a condition, in the original contract shall be made by a public contract.

In the case of death of the applicant.

11. There may be no change in the applicant, after an application has been submitted in accordance with these regulations, unless it results from a declaration *causa mortis* that the rights over that property, in respect of which an application is submitted, have been transferred to the person requesting such amendment.

Documents required with the application.

12. (1) Any application submitted to the Authority in accordance with these regulations shall be considered valid only after all the necessary requirements stipulated in the application form have been satisfied.

(2) The Authority shall have the right to request any other information or documentation which it deems necessary to process the application.

(3) The Authority shall have the right to suspend, and where it deems necessary deny, any application submitted in accordance with these regulations where it results that there is a legal challenge in respect of the land to which the application relates.

Payment of arrears.

13. Before the processing of any application may commence in accordance with these regulations, the applicant shall pay all the arrears due by him in accordance with regulation 4.

Sworn declaration.

14. Any applicant who submits an application in accordance with these regulations shall submit the information requested together with his sworn declaration declaring that the entire content of the application is true and that he has not omitted any other relevant information or facts whereby, if known to the Authority, the application would have been refused and rejected:

Provided that the applicant may not justify such an omission on the basis of the fact that the Authority was already aware of this information or of these facts.

Payment due to the Authority.

15. The payment of five hundred euros (€500) shall accompany every application submitted under these regulations.

Expenses.

16. The Authority shall ensure that all expenses incidental to the request are collected from the applicant and that no contract in respect of which the application has been submitted may be published unless all these expenses have been collected.

Reservations.

17. (1) The Authority shall reserve the right to refuse and reject any application made in accordance with these regulations in its absolute sole discretion:

Provided that the rejection and, or refusal shall be made in writing and shall contain the detailed reasons for its decision.

(2) The Authority shall reserve the right to terminate the processing of an application made by virtue of these regulations at any stage or to refuse to accept any application made by virtue of these regulations if, in its opinion, such property is located in a place of national interest:

Provided that the applicant shall only be entitled to any reimbursements in relation to expenses incurred in accordance with these regulations:

Provided further that no action shall be taken against the Authority for any claim of damage and, or award for compensation.

(3) These regulations shall not apply in the case that such property has been transferred to the Housing Authority.

Action before the courts.

18. The Authority shall have the right to file a case before the Civil Court, First Hall, if it considers that there has been a breach of any provision of these regulations, even after the relative contract has been published, against any person involved and request the court for the reinstatement of any amendment or any revocation of a condition imposed in the original emphyteusis contract and which was amended or revoked by virtue of these regulations, even if the property has been transferred to a third party:

Provided that no person against whom the Authority files a case may have the right to claim or be awarded damages of any kind or nature, or compensation of any kind, for all the improvements they have obtained or could have obtained over such building.

Expenses.

19. The Authority shall ensure that all expenses incurred in relation to, or incidental to an application submitted in accordance with these regulations are borne by the applicant, and no transfer shall be made before the Authority is satisfied that all the expenses were collected in their entirety.

Appeal.

Cap. 563.

20. An applicant shall have a right of appeal from a decision of the Authority taken pursuant to these regulations in accordance with article 57 of the Lands Authority Act.

Repeal and saving.
S.L. 573.09.

21. The Modification to, or Removal of, a Condition or Conditions imposed in a Contract of a Property Transferred by the Government, the Lands Authority or Ecclesiastical Entities through a Sale or Emphyteusis Regulations are hereby repealed without prejudice to anything done or omitted to be done thereunder.

Transitory provisions.

22. Any request for the amendment or revocation of any condition imposed in an original contract of a property owned by the

Government or an ecclesiastical entity which is pending before the Authority prior to the entry into force of these regulations, shall be examined and decided by the Authority in accordance with these regulations.

SCHEDULE
Schedule of payments and administrative penalties
(regulation 6)

Table A

Site Area (Footprint)	1m² - 300m²	301m² - 600m²	601m² - 900m²	901m² - 1200m²	1201m² - 1500m²
Amendment or revocation of a minor condition*	€2,500	€5,000	€7,500	€10,000	€12,500
Amendment or revocation of a medium condition*	€5,000	€10,000	€15,000	€20,000	€25,000
Amendment or revocation of a major condition*	€10,000	€20,000	€30,000	€40,000	€50,000

*In case of breach of a condition, an administrative penalty equivalent to 25% of the amount indicated, as the case may be, shall be imposed.

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