Chairman, Malta Resources Authority	Minister of Resources and Infrastructure	Minister for Investment, Industry and Information Technology

L.N. XXX of 2006

MALTA RESOURCES AUTHORITY ACT
(CAP. 423)

ENEMALTA ACT
(CAP. 272)

Petroleum for the Inland Fuel Market Regulations, 2006

IN exercise of the powers conferred by sub-article (1) of article 28 of the Malta Resources Authority Act and in exercise of the powers conferred, by article 39 of the Enemalta Act the Minister for Resources and Infrastructure and the Minister for Investment, Industry and Information Technology, after consultation with the Malta Resources Authority have made the following regulations:

Citation

1. (1) The title of the these regulations is the Petroleum for the Inland Fuel Market regulations, 2006.

(2) These regulations shall come into force on such date as the Minister responsible for resources may by notice in the Gazette appoint, and different dates may be so appointed for different provisions and different purposes of these regulations.

Interpretation

2. (1) Unless stated otherwise in these regulations, the definitions in the Malta Resources Authority Act shall apply.

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

"the Act" the Malta Resources Authority Act;

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

"audit inspection" means an inspection carried out by a competent person to check that the licenced premises, the fuel distributor vehicles and the LPG cylinders distribution vehicles are constructed and are being operated and maintained according to any guidelines as the Authority may from time to time issue;

"the Authority" means the Malta Resources Authority provided that whenever the Authority is required to exercise its functions under these Regulations in relation to a "fuel distributor vehicle" or an "LPG cylinders distributor vehicle", the Authority shall act in collaboration with the authority responsible for transport, and in relation to offshore

storage facilities the Authority shall act in collaboration with the authority responsible for maritime matters;

“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. For the avoidance of doubt it is being clarified that Biofuels for transport may be made available in any of the following forms:

(a) as pure biofuels or at high concentrations in mineral oil derivatives, in accordance with specific quality standards for transport applications;

(b) as biofuels blended in mineral oil derivatives, in accordance with the appropriate national standard norms describing the technical specifications for transport fuels (MSA EN 228 and MSA EN 590):

(c) as liquids derived from biofuels, such as ETBE (ethyly-tertio-butyl-ether), where the percentage of biofuel is as specified in sub-regulation 2(2):

Provided that Biofuels for any use other than transport shall be made available in any of the following forms:

(a) as pure biofuels or at high concentrations in mineral oil derivatives, in accordance with specific quality standards pertinent to the particular application;

(b) as biofuels blended in mineral oil derivatives, in accordance with the appropriate national standard norms describing the technical specifications for fuels;

(c) as liquids derived from biofuels, such as ETBE (ethyly-tertio-butyl-ether), where the percentage of biofuel is as specified in sub-regulation 2(2):

Provided further that at least the products listed below shall be considered biofuels:

(a) "biodiesel": a methyl-ester produced from vegetable or animal oil of diesel quality, to be used as biofuel;
(b) "biodimethylether": dimethylether produced from biomass, to be used as biofuel;
(c) "bioethanol": ethanol produced from biomass and, or the biodegradable fraction of waste. to be used as biofuel;
(d) "biogas": a fuel gas produced from biomass and, or from the biodegradable fraction of waste, that can be purified to natural gas quality, to be used as biofuel or wood gas;
(e) "biohydrogen": hydrogen produced from biomass, and, or from the biodegradable waste, to be used as biofuel;
(f) "biomethanol": methanol produced from biomass, to be used as biofuel;
(g) "bio-ETBE (ethyl-ertio-butyl-ether)": ETBE produced on the basis of bioethanol. The percentage volume of bio-ETBE that is calculated as biofuel is 47%;

(h) "bio-MTBE (methyI-tertio-butyl-ether)": a fuel produced on the basis of biomethanol. The percentage by volume of bio- MTBE that is calculated as biofuel is 36%;
(i) "pure vegetable oil": oil produced from oil plants through pressing, extraction or comparable procedures, crude or refined but chemically unmodified when compatible with the type of engines involved and the corresponding emission requirements;
(j) "synthetic biofuels": synthetic hydrocarbons or mixtures of synthetic hydrocarbons, which have been produced from biomass.

"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;

“bottling” means the putting of LPG into portable cylinders;

“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;

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“competent person” means a person approved by the Authority who holds a warrant to practice the profession of an engineer under the Engineering Profession Act or the equivalent professional qualification as provided under the Mutual Recognition of Qualifications Act, and who has suitable training, sufficient knowledge, experience and skill as approved by the Authority to carry out audit inspections and judge the safety of licenced premises, fuel distributor vehicles and LPG cylinders distributor vehicles, carry out material alterations on the licenced premises, the fuel distributor vehicles and LPG cylinders distributor vehicles and certify in writing that the licenced premises, the fuel distributor vehicles and LPG cylinders distributor vehicles are operated as prescribed in the licence conditions:

Provided that during the first calendar year following the entry into force of these regulations, the Authority may also approve as competent persons, persons who do not hold the warrant to practice the profession of an engineer under the Engineering Profession Act or who have the equivalent professional qualification as provided under the Mutual Recognition of Qualifications Act;

“final customer” means any natural or legal person purchasing petroleum for private use;

“fuel distributor” means a person who in terms of a licence issued by the Authority is empowered to transport and distribute petroleum to licenced storage facilities and petroleum filling stations;

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“fuel distributor vehicle” means a vehicle (including its contents) as defined in Motor Vehicle (Carriage of Dangerous Goods by Road) Regulations, 2003 designated for the purpose of transporting and distributing petroleum to licenced storage facilities and petroleum filling stations provided that in this case the word “petroleum” shall have the same meaning as that for a fuel distributor;

“importer” means a person who in terms of a licence issued by the

Authority is responsible for the entry into Malta of petroleum transported from any other country;

"inspector" means any employee or officer of the Authority or any other person duly appointed and authorised in writing by the Authority in accordance with the provisions of the Act to inspect and check compliance with these regulations and any licence condition;

"licence" means any licence granted under these regulations;

"licensed premises" means a premises in respect of which a licence has been issued and includes all buildings, tanks, pipework, pumps, dispensers, electrical equipment, drainage, ancillary equipment, forecourt area and any other asset within that part of the premises relevant to the importation, wholesale, storage, bottling, delivery, dispensing and retail of petroleum;

"licencee" means the holder of a licence issued by the Authority under these regulations;

"LPG" means liquefied petroleum gas;

"LPG cylinders distributor" means a person who in terms of a licence issued by the Authority is empowered to carry, retail, and distribute portable cylinders of LPG;

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"LPG cylinders distributor vehicle" means a vehicle (including its contents) as defined in Motor Vehicle (Carriage of Dangerous Goods by Road) Regulations, 2003 designated for the purpose of transporting, distributing and retailing portable cylinders of LPG;

"material alterations" means any alteration, which within the limits of the application of the licence, may in the opinion of the Authority reasonably affect the safe operation of the licenced premises, the fuel distributor vehicles and LPG cylinders distributor vehicles 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 licenced premises, the fuel distributor vehicles and LPG cylinders distributor vehicles;

"the Minister" means the Minister responsible for resources;

"person" includes a body or other association of persons, whether such body or association is corporate or unincorporate;

"petroleum" has the same meaning as under the Act:

Provided that:

(i) for the purpose of a secondary storage licence, the word petroleum excludes motor spirit and aviation fuel (aviation spirit and jet-fuel of the gasoline type);
(ii) for the purpose of a fuel distributor licence, the word petroleum excludes LPG contained in portable cylinders; and
(iii) for the purpose of a petroleum filling station, the word petroleum excludes autogas:

Provided further that "petroleum" shall not have any such meaning if in the licence it is specifically stated that "petroleum" has a different meaning;

"petroleum filling station" means a licenced premises which has been approved by the Authority to store and retail petroleum and which may be subject to any such conditions as the Authority may establish in the applicable licence;

L.N. 331 of 2002

"portable cylinders" or "cylinders" means transportable, refillable containers suitable for use with LPG and which conform to the Transportable Pressure Equipment Regulations, 2002;

"retail" means the sale of petroleum to customers;

"storage facility" means a licenced premises whether onshore or offshore approved by the Authority to store petroleum products. Storage facilities are classified as follows:

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(i) "primary storage facility" means a storage facility falling within the scope of the Control of Major Accident Hazard Regulations, 2003 and, or any storage facility used for wholesale purposes;

(ii) "secondary storage facility" means a storage facility not being a primary storage facility, and which is in excess of 300 litres, provided that in the case of LPG the lower limit is defined as either 75 kg or any three interconnected portable cylinders;

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

"wholesaler" means any person who in terms of a licence issued by the Authority acquires, possesses, blends or handles petroleum for the purposes of re-sale in bulk to retailers and excluding final customers.

Prohibition of certain operations and activities

3. (1) No person shall, unless he has been granted a valid licence in accordance with these regulations, carry out any of the following operations and, or activities:

(i) the acquisition, importation, transfer, possession, keeping, blending, bottling, offering for sale or the lending or giving to a person any petroleum products, and

(ii) the carrying out of the activity of an importer and, or wholesaler of petroleum or operating a storage facility or operating a petroleum filling station or carrying out of the activity of a fuel distributor or bottling LPG or carrying out of the activity of an LPG cylinders distributor.

(2) The provisions of subregulation (1) shall not apply to any of the following activities or operations:

(i) the bona fide possession and keeping by any one person of a quantity of less than 300 litres of petroleum for private use provided that in the case of quantities of motor spirit and aviation fuel (aviation spirit and jet-fuel of the gasoline type) exceeding 60 litres he shall notify the Authority his intention to store the aforesaid types of petroleum;

(ii) the bona fide possession and keeping by any one person of a quantity of less than 75 kg of LPG or three interconnected portable cylinders;

(iii) the bona fide possession and keeping by any one person of petroleum in the holding tank of a vehicle exclusively for the purposes of propelling such vehicle; and

(iv) the bona fide importation and keeping by any one person of a quantity of less than 25 litres of petroleum for the exclusive use of testing in a laboratory.

Licence granted by the Authority

4. (1) The Authority may, grant a licence and, or licences for the:

(i) carrying out of the activity of an importer and, or wholesaler of petroleum;
(ii) operation of a primary storage facility;
(iii) operation of a secondary storage facility;
(iv) operation of a petroleum filling station;
(v) carrying out of the activity of a fuel distributor;
(vi) bottling of LPG; and
(vii) carrying out of the activity of an LPG cylinders distributor:

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

(2) Notwithstanding the generality of the forgoing the Authority may grant such other types of licences as it deems fit.

Transitory provisions in respect of existing operators

G.N. 337 of 1955, L.N. 9 of 1974 and 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 Petroleum (Petrol Stations) Regulations and, or the Control of Kerosene Regulations and, or Petroleum Storage Regulations, may continue to perform such activities as licenced under existing licenced conditions for the earlier of a calendar year from the entry into force of these Regulations or the grant of a new licence:

Provided that any such person shall apply for a new applicable licence as listed in regulation 4(1) to the Authority within eight months of the coming into force of these regulations. In the case of a licence to operate a secondary storage facility, such a period shall be of sixteen months which may be extended for up to twenty months from the coming into force of these regulations:

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

(2) 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 issued at law to conduct the business of a fuel distributor or conduct the business of an LPG cylinders distributor may continue to perform such activities as licenced under existing licences for the earlier of a calendar year from the entry into force of these Regulations or the grant of a new licence:

Provided that any such person shall apply for a new applicable licence as listed in regulation 4(1) to the Authority within eight months of the coming into force of these Regulations:

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

(3) Any person who prior to the entry into force of these regulations was conducting the business of an importer and wholesaler of petroleum and bottle LPG and, or operated a primary storage facility:

(i) may continue to perform the business of an importer and wholesaler of petroleum and bottle LPG and, or operate a primary storage facility provided such person applies for a licence under these regulations within one month from the coming into force of these regulations, and

(ii) shall comply with such licence conditions as established in the new licence that may be issued by the Authority with effect from the date that the Authority may establish.

(4) In the period between the date when these regulations or parts thereof come into force and the date when the new licences come into effect, the licencee shall follow all directions and conditions that the Authority may set:

Provided that when such conditions are inconsistent with the licence 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 Authority may require existing operators to upgrade their licenced premises, fuel distributor vehicles, LPG cylinders distributor vehicles and activities up to approved standards and codes of practice, according to a mutually-agreed time-table concluded with each licencee:

Provided that if there exists an imminent or severe safety hazard, the licencee shall of its own motion remove such hazard, and thereafter notify the Authority of such removal:

Provided further that the Authority may in its

discretion prescribe special transitory licence conditions after taking due regard of the existing situation.

(7) The licence to operate a petroleum filling station which is not in use for five consecutive years from the entry into the force of these regulations, and which has also been not in use prior to such time, shall cease to be valid.

(8) Any fees applicable to the new licence shall apply pro-rata temporis from the date of issue till the 31st December 2006.

General conditions of licences

6. (1) Licences shall be issued by the Authority 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.

(2) A licence issued by the Authority 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 licence.

(3) Nothing in these regulations shall prohibit the Authority from issuing a single licence incorporating more than one licence.

(4) Licences unless revoked shall be valid for a period of years equal to:

(i) six years in the case of a licence to carry out the activity of an importer and, or wholesaler of petroleum;
(ii) twenty years in the case of a licence to operate a primary storage facility;
(iii) two years in the case of a licence to carry out the activity of a secondary storage facility;
(iv) ten years in the case of licence to operate a petroleum filling station;
(v) six years in the case of a licence to carry out the activity of a fuel distributor;
(vi) twenty years in the case of a bottling of LPG licence; and
(vii) six years in the case of a licence to carry out the activity of an LPG cylinders distributor.

(5) A licence issued by the Authority under these regulations shall not exempt the licencee from the requirement of obtaining any other licence or permit as may be required under any other law.

Special cases

7. (1) In the case of a licence to operate a petroleum filling station or a licence to operate a storage facility, each licenced premises will be separately licenced. Each separate licence shall clearly be referable to the location and address where the licenced premises is situated and issued in the name of any owner of the licenced premises. The licencee shall be responsible for the licence and for observance of the licence conditions.

(2) In the case of a licence to carry out the activity of a fuel distributor and, or a licence to carry out the activity of an LPG cylinders distributor, the licence will cover the complete fleet of vehicles used for fuel and, or LPG cylinders distribution.

(3) In the case of a bottling of LPG licence, the licence shall authorise the licencee to store LPG in bulk, bottle and retail LPG contained in portable cylinders from the licenced premises.

(4) The grant of a licence in accordance with these Regulations shall not be construed as authorising the licencee to conduct any activity or operation however so described in relation to biofuels:

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

Applications for a licence and application fee

8. (1) Any person who wishes to:

(a) carry out the activity of an importer and, or wholesaler of petroleum; or
(b) operate a storage facility; or
(c) operate a petroleum filling station; or
(c) carry out the activity of a fuel distributor; or
(d) bottle LPG; or
(e) carry out the activity of a LPG cylinders distributor,

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

(2) A non-refundable application fee as established in the First Schedule shall be paid to the Authority with the licence application.

Determination procedure of applications

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

(i) a licence to carry out the activity of an importer and, or wholesaler of petroleum;
(ii) a licence to operate a primary storage facility;
(iii) a licence to operate a secondary storage facility;
(iv) a licence to operate a petroleum filling station;
(v) a licence to carry out the activity of a fuel distributor;
(vi) a bottling of LPG licence;
(vii) a licence to carry out the activity of an LPG cylinders distributor.

(2) The Authority shall communicate to the applicant in writing within a reasonable time, which reasonable time shall not be less than one month from the date of receipt of a valid application, any decision taken concerning an application for a licence or an application for renewal of a licence.

Renewal, modification etc. of a licence

10. (1) Upon expiry, a licence may be renewed, and an application for renewal of the licence in such form and manner as the Authority may require shall be submitted in writing to the Authority, XXX months prior to the date on which the licence expires.

(2) The Authority may modify, amend, replace, add or delete any licence condition in the renewed licence and add specific conditions relevant to each individual licence as the Authority considers to be reasonably justified in the circumstances.

Payment of licence fees

11. (1) The first licence fee shall be paid by the licencee within XX days upon granting of the licence and thereafter every year on the anniversary of the grant of such licence or any other date as the Authority may reasonably establish.

(2) The amount of the licence fee shall be according to the Second Schedule of these Regulations and shall be paid to the Authority together with an application for a licence.

(3) If any licence fee payable under subregulation (2) is not paid within XX days, the Authority shall after the lapse of such time communicate to the person whose licence fee has not so been paid informing him about his failure to pay such fee.

(4) The Authority 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 person whose licence fee has not so been paid.

Requirement to reapply in case of failure to pay a licence

12. (1) If any licence fee is not paid within XX days after the date upon which the communication aforesaid has been sent by registered post, the licence to which it relates shall cease to be in force, and if the person to whom it was granted wishes again to carry out the activity of an importer and, or wholesaler of petroleum, operate a storage facility, operate a petroleum filling station, carry out the activity of a fuel distributor, bottle LPG and carry out the activity of an LPG cylinders distributor, he shall then be required to apply for a new licence.

(2) In considering any such application, the Authority may take into consideration the previous failure of the applicant to pay the licence fee and of any explanation regarding that failure which the applicant may submit to the Authority.

Conditions for decisions relating to the granting and renewal of licences

13. (1) The Authority shall adopt fair, objective and transparent conditions relating to the granting of a licence 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 a licence issued under these regulations, the Authority may take account of the following:

(i) compliance by applicant with all other relevant permits and licences however so described issued by any other public authority;
(ii) the capability of the applicant to ensure health and safety in the context of the licence being applied for;
(iii) private and professional integrity of the applicant;
(iv) protection of employees and public safety and health;
(v) protection of the environment;
(vi) record of compliance with these regulations and any other relevant laws by the person with regard to whom the decision shall be made;
(vii) suitability of the premises and, or vehicles with regard to safety, health, security, hazardous substances, environment, land use and planning requirements;
(viii) the need for facilities and services to be provided for customers at the premises concerned and the extent to which the interests of customers shall be served;
(ix) the possibility of a monopolistic or an oligopolistic condition in the petroleum inland 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;
(x) any other matter relevant to the orderly provision, distribution and retail of petroleum in Malta;
(xi) the public interest in general; and
(xii) the protection of life and public safety.

Grounds of refusal for a licence

14. (1) The Authority has the right to refuse a request for a licence or, if a licence has been issued, a request for the renewal of a licence, on the grounds that:

(i) the Authority considers that the request does not meet one or more of criteria referred to in regulation 13; or
(ii) the application does not contain all such information requested by the Authority in the application form or any other additional information that the Authority may request from the applicant for the purpose of determining the application for the licence; or
(iii) the application is not accompanied by such application fee as specified in accordance with these regulations.

Powers to impose conditions of licence

15. (1) The Authority shall have the power to include in a licence issued under these regulations any such conditions as the Authority considers requisite or suitable.

(2) Each of the individual licences described in regulation 4(1) shall have a minimum set of general conditions:

Provided that special conditions may be established on the activities occurring at the licenced premises, fuel distributor vehicles and, or LPG cylinders distributor vehicles as the case may require.

(3) The licencee shall at all times comply with these Regulations and with the conditions of the licence.

(4) The conditions included in the licence may contain, but not necessarily be limited to, provisions regarding:

(i) the grant and term of the licence;
(ii) suspension, variation and transfer conditions of the licence;
(iii) compliance requirements to conditions, directions, management letters, standards, guidelines, codes or rules given by the Authority or as may be established at law;
(iv) the obligations of the licencee including but not limited to customer service obligations and holding of minimum security stocks of petroleum;
(v) the supply of designated geographical areas in the country;
(vi) support to the long term energy plan of the country;
(vii) the promotion of the efficient operation of the petroleum market and protection of the customers in terms of the lowest possible prices combined with the highest quality of the products;
(viii) monitoring and recording of the licenced operations;
(ix) reporting, auditing and submission of information to the Authority;
(x) inspection, making copies and taking extracts from books and records held by the licencee and carrying out measurements and tests in relation to any premises, assets or plant provided these are carried out by an approved inspector;
(xi) assessment and auditing of operations, activities and practices and their compliance to licence conditions;
(xii) 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 Authority in relation to any of the above.

(5) Any person granted a licence under these regulations shall:

(i) comply with any direction given by the Authority as to such matters as are specified in the Licence or are of a description so specified;

(ii) execute the regulated operations, activities and practices in accordance with such licence conditions;

(iii) act in accordance with any requirements as are specified in the licence or are of a description so specified; and

(iv) comply with the decisions or directions issued by the Authority for the purposes of complying with any international obligation of Malta.

Inspection of licenced premises, fuel distributor vehicles and LPG cylinders distributor vehicle

16. (1) Inspectors shall be authorised to enter and check any licenced premises, fuel distributor vehicles and LPG cylinders distributor vehicles in which petroleum is being imported, stored, blended, bottled, dispensed, retailed or is under transport and 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 licence conditions in order to ascertain if they are in accordance with the conditions as prescribed in the licence.

(2) Every inspector of the Authority shall at all reasonable times be allowed unrestricted access to the licenced premises, fuel distributor vehicles and LPG cylinders distributor vehicles for the purpose of ascertaining whether the conditions attached to the licence are being duly observed. The licencee shall give all reasonable assistance which such inspector may require for that purpose.

Keeping of accounts and petroleum transactions

17 (1) Licence holders shall keep annual accounts in respect of each licence they hold and other information about all petroleum transactions permitted under the licences being in force and to keep copies of these accounts at their principal place of business for the purpose of auditing by the Authority:

Provided that the Authority shall treat as confidential any information obtained from the licencee which the licencee communicates to the Authority as being commercial sensitive and which the Authority accepts to be so, and in doing so the Authority shall not divulge any such information unless required to do so by law or by a court order.

(2) The Authority 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 petroleum licencee and shall be in accordance with data protection laws.

Quality and the testing of petroleum

18. (1) No person can burn, combust or offer for sale or lend or transfer, petroleum products other than those permitted by law.

(2) Inspectors shall be authorised to enter and check the petroleum contents in any licenced premises, fuel distributor vehicles and LPG cylinders distributor vehicles in which petroleum is being imported, stored, blended, bottled, dispensed, retailed or is under transport and to inspect and take samples for testing of any petroleum found therein.

(3) The Authority may issue guidelines:

(i) relating to the taking of samples of petroleum for testing;
(ii) determining the cases for and which payment shall be made for value of samples taken, and the mode of payment; and
(iii) relating to the procedure of inspectors exercising powers under this regulation.

Design and construction of licenced premises

19. (1) Without prejudice to any other provisions of these regulations

or any other law, all new licenced premises have to be designed and constructed according to standards prescribed by the Authority and, or any other authority competent at law.

(2) Once the design and construction have been carried out a competent person must submit in writing a certification that all standards and safety requirements imposed on the licenced premises have been abided to.

Material alterations

20. (1) The licencee shall not undertake or permit to be undertaken any material alterations to the licenced premises, fuel distributor vehicles or LPG cylinders distributor vehicles unless the written consent of the Authority has been obtained.

(2) The approved consent to the material alterations by the Authority under these regulations shall not exempt the licencee 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 a person:

(i) approved in writing by the Authority; and
(ii) supervised by a competent person,

shall carry out any material alteration on a licenced premises, a fuel distributor vehicle or an LPG cylinders distributor vehicle.

(4) In conducting the material alterations the competent person shall follow any guidelines that the Authority may from time to time issue.

(5) Once the material alterations have been carried out the competent person commissioned by the licencee to perform the material alterations must submit in writing a certification that all safety requirements imposed on the licenced premises, fuel distributor vehicle and LPG cylinders distributor vehicles as the case may be have been complied with.

(6) The Authority may subsequent to the material alterations referred to in subregulation (5) send an inspector to perform an audit inspection on the licenced premises, fuel distributor vehicle or LPG cylinders distributor vehicle as the case may be.

Suspension, revocation or cancellation of licences

21. The Authority may, at any time in the course of the period for which the licence is valid, order its suspension, revocation or cancellation where the Authority is satisfied that:

(i) the licencee has failed or is failing to abide by any conditions of the licence or by these regulations; or
(ii) the licencee does not possess all other relevant permits and licences that are issued by any other public authority; or
(iii) the licencee is contravening any requirement imposed by law; or

(iv) the licencee fails to comply with any directive given by the Authority as to such matters as are specified in the licence or are of a description so specified; or
(v) any information submitted in the application for a licence or the application for renewal of a licence and for which the licence has been issued or renewed, as the case may be, is determined to be false; or
(vi) the licencee does not meet the acceptable criteria with respect to one or more of the criteria referred to in Regulation 13;

Provided that in exercising the powers for suspension, revocation or cancellation of licences the Authority may take into account the nature of the failure, or the fact that the licencee is taking the appropriate steps which the Authority considers are necessary in order to comply with the conditions of the licence or any other requirement that the Authority may deem relevant.

Modification of licences

22. (1) Subject to the following provisions in this regulation, the Authority may at any time in the course of the period for which the licence is valid, modify, amend, replace, add or delete the conditions of the licence as it considers requisite or suitable.

(2) Before making any amendments, replacement, additions or deletions to the licence, the Authority shall:

(i) in accordance with the provisions of subregulation (3) communicate such amendments, replacement, additions or deletions to the licence it proposes to make;
(ii) state the reasons why such amendments, replacement, additions or deletions are being proposed;
(iii) specify the period (not being less than one month from the date of publication of the notice) within which representations or objections have to be made with respect to the proposals being made:

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

(3) The notice referred to in sub-regulation (2) shall be:

(i) brought to the attention of the Minister and the licence holders;
(ii) brought to the public attention by publication of a notice in the Gazette.

Termination of licence

23. (1) Where a licencee decides either to suspend or terminate his licence to operate a secondary storage facility he shall promptly notify the Authority in the form as prescribed by the Authority.

(2) Upon notification of any such suspension or termination the licence will be considered to be no longer operative and with immediate effect from such a date the secondary storage facility shall be deemed to be unlicenced.

(3) In the case of a licence to carry out the activity of an importer and, or wholesaler of petroleum or a licence to operate a primary storage facility or a licence to carry out the activity of a fuel distributor or a licence to operate a petroleum filling station licence or a bottling of LPG licence or an LPG cylinders distributor licence, the licencee is obliged to notify the Authority and to continue to operate for a minimum period of:

(i) XX days in the case of licence to carry out the activity of an importer and, or wholesaler of petroleum;
(ii) XX days in the case of a licence to operate a primary storage facility;
(iii) XX days in the case of a licence to operate a petroleum filling station;
(iv) XX days in the case of a licence to carry out the activity of a fuel distributor licence;
(v) XX days in the case of a Bottling of LPG licence; and
(vi) XX days in the case of licence to carry out the activity of an LPG cylinders distributor licence,

from the date of notification.

(4) Upon termination of the period described in subregulation (3) the licence to carry out the activity of an importer and, or wholesaler of petroleum, the licence to operate a primary storage facility, the licence to operate a petroleum filling station, the licence to carry out the activity of a fuel distributor, the bottling of LPG licence and the licence to carry out the activity of an LPG cylinders distributor shall be considered to have ceased and with immediate effect from such a date the importer and, or wholesaler's business, the primary storage facility, the petroleum filling station, the fuel distributor's business, the bottling of LPG business and the LPG cylinders distributor's business, shall be deemed to be unlicenced.

(5) Notwithstanding any notification for cessation listed in subregulations (2) and (3), the licencee shall remain liable for the payment of any licence fees due prior to such notification.

Transfer of licence

24. (1) A licence issued by the Authority under these regulations shall not be validly transferred *inter vivos* to any other natural or legal person unless:

(i) the transferor informs in writing the Authority at least xx months before the transfer date, and in such form and manner as the Authority shall prescribe;
(ii) the Authority is satisfied that at least the same conditions as listed in regulation 13 are complied with;
(iii) the transfer is subject to the conditions prescribed in the licence; and
(iv) the Authority approves in writing the transfer of the licence:

Provided that the leasing of the licenced premises shall require the issue of a new licence in the name of the person leasing the licenced premises.

(2) A licence issued by the Authority under these regulations shall not be validly transmitted *causa mortis* to any other natural or legal person unless:

(i) the transferee informs in writing the Authority in such form and manner as the Authority shall prescribe;
(ii) the Authority is satisfied that at least the same conditions as listed in Regulation 13 are abided by;
(iii) the transfer is subject to the conditions prescribed in the license; and
(iv) the Authority approves in writing the transfer of the licence:

Provided the licences issued in terms of these Regulations shall be an indivisible right:

Provided further that in the event that the Authority approves the transfer of the licence as aforesaid transfer shall have retrospective effect from the date of the decujus's death.

Dormant petroleum filling stations

25. A petroleum filling station which remains inoperative or is otherwise not in use for a period of 12 consecutive months, shall be considered as being dormant and its licence shall be revoked by the Authority.

Public service obligations

26. The Authority may in the general interest impose as a licence condition on any licencee granted a licence to provide a public service obligation under these regulations, to supply any service, in any specified form, to any final customer or specific groups of final customers, 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 licencee and approved by the Authority and that these costs may be recovered as specified by the Authority.

Economic regulation

27. The Authority shall establish a reasonable mark-up per litre of fuel. Such mark-up shall be decided upon, as a result of a continuous monitoring exercise based on market conditions.

Requirement of insurance

28. All licences issued in terms of these regulations are to be accompanied by a policy of insurance taken by the licencee to the satisfaction of the Authority.

Co-operation with Authorities

29. The licencee shall co-operate in any scheme promoted by a competent Authority, designed to ensure that the maximum

fire-fighting efficiency for the sector at a national co-operative level is achieved.

Performance guarantees

30. The Authority may impose as a licence condition that the licencee enters into a performance guarantee payable to the Authority regarding, but not limited to, environmental damage.

Obligation of non-discrimination between operators

31. The holder of a licence to carry out the activity of an importer and, or wholesaler of petroleum cannot discriminate between petroleum filling station owners solely on the basis of any particular method or technology of distribution of petroleum to the public, if the aforementioned method or technology is of a good and safe service to the public.

Security of supply

32. In the event of a crisis in the supply of petroleum, the Authority, 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 owner to dispose of them as directed:

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

Sanctions

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 licences regulated by these regulations;
(c) is a party to a boycott;
(d) carries out any activity requiring a licence without being in possession of a valid licence;
(e) fails to comply with any lawful order by an Inspector, employee or officer of the Authority in execution of his duties in terms of these regulations;
(f) hinders, obstructs, molests or interferes or attempts to hinder, obstruct, molest or interfere with any Inspector, any employee or officer of the Authority in execution of his duties in terms of these regulations;
(g) 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 (*multa*) not exceeding XXXXXX liri or imprisonment for a term, of not more than XXXXXX or to both such fine and imprisonment.

(2) The liability of an offender under subregulation (1) shall be without prejudice to the liability of the offender to pay to the Authority any cost incurred in removing the cause of the offence and to undo anything which was done without a licence 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 a licence.

(4) In prosecution for offences against these regulations officials of the Authority shall have the right to assist the police, and to plead the case before the Court.

(5) Officers from the Authority may assist the Police in the exercise of any of their powers to prevent the commission of an offence against these regulations and, or to secure evidence concerning any such offence.

(6) 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 licences

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

(i) all licences granted under these regulations, and
(ii) all applications for a licence received and refused.

(2) The register or registers of licences shall be kept under review and up to date.

Repeal of G.N. 337 of 1955, L.N. 12 of 1978 and L.N. 40 of 1986

35. The Petroleum Storage Regulations, 1955, the Enemalta Exclusivity (Exemption) Regulations, 1978 and the Petroleum (Petrol Stations) Regulations, 1986, are hereby being repealed.

First Schedule

Regulation 8(2)

Licence application fee payable in respect of an application for a:

Licence to carry out the activity of an importer and, or wholesaler of petroleum

1. The applicable fee for applying for a licence for carrying out the activity of an importer and, or wholesaler of petroleum in the inland market is of Lm XXXX.

Licence to operate a primary storage facility

2. The applicable fee for applying for a licence for operating a primary storage facility is of Lm XXXX.

Licence to operate a secondary storage facility

3. The applicable fee for applying for a licence for operating a secondary storage facility is of Lm XXXX.

Licence to operate a petroleum filling stations

4. The applicable fee for applying for a licence for operating a petroleum filling station is of Lm XXXX.

Licence to carry out the activity of a fuel distributor

5. The applicable fee for applying for a licence for carrying out the activity of fuel distributor of petroleum is of Lm XXXX.

Bottling of LPG licence

6. The applicable fee for applying for a licence to bottle LPG is of Lm XXXX.

Licence to carry out the of an activity LPG cylinders distributor

7. The applicable fee for applying for a licence for carrying out the activity of an LPG cylinders distributor is of Lm XXXX.

Second Schedule

Regulation 11(2)

Licence fee payable in respect of a:

Licence to carry out the activity of an importer and, or wholesaler of petroleum

1. The applicable licence fee for carrying out the activity of an importer and, or wholesaler of petroleum in the inland market is of Lm XXXX.

Licence to operate a primary storage facility

1. where the storage facility exceeds XXXX litres but does not exceed or is equal to XXXXX litres, the applicable licence fee is of Lm XX;
2. where the storage facility exceeds XXXX litres but does not exceed or is equal to XXXXX litres, the applicable licence fee is of Lm XX;
3. where the storage facility exceeds XXXX litres, the licence fee is of LM XX.

Licence to operate a secondary storage facility

1. The applicable licence fee for an LPG installation is of Lm XX.

In the case of all other petroleum storages:

1. where the storage facility exceeds XXXX litres but does not exceed or is equal to XXXXX litres, the applicable licence fee is of Lm XX;
2. where the storage facility exceeds XXXX litres but does not exceed or is equal to XXXXX litres, the applicable licence fee is of Lm XX;
3. where the storage facility exceeds XXXX litres but does not exceed or is equal to XXXXX litres, the applicable licence fee is of Lm XX;

Licence to operate a petroleum filling stations

1. The applicable licence fee for operating a petroleum filling station is of Lm XX per pump.

Licence to carry out the activity of a fuel distributor

1. The applicable licence fee for carrying out the activity of a fuel distributor is of Lm XXXX per fuel distributor vehicle.

Bottling of LPG Licence

1. The applicable licence fee for a licence to bottle LPG is of Lm XXXX.

Licence to carry out the of an activity LPG cylinders distributor

1. The applicable licence fee for carrying out the activity of an LPG cylinders distributor is of Lm XXXX.